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INTRODUCTION

The *Yearbook on Human Rights* for 1979 is the first one to be issued according to the directives laid down by the Economic and Social Council in its resolution 1979/37 of 10 May 1979. By this resolution, the Council decided that:

“Henceforth, the part of the *Yearbook* devoted to national developments shall consist of extracts from reports made by the States under such instruments as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination or the International Convention on the Suppression and Punishment of the Crime of *Apartheid* and from the periodic reports submitted by States under the reporting procedure established under Economic and Social Council resolution 1074 C (XXXIX):

“States will no longer be invited to submit separate contributions for inclusion in the *Yearbook*; however, individual States wishing to provide a contribution intended specifically for the *Yearbook* shall be free to do so.”

The Council further decided that the *Yearbook* shall be issued annually.

In accordance with the text of Council resolution 1979/37, and in conformity with the “Guidelines for the contents and format of the *Yearbook on Human Rights*” annexed to it, the present volume consists of three parts. Part I covers national developments; part II contains information on activities of the supervisory bodies; part III concerns international developments. An annex is included at the end of the present volume.

Part I contains two sections:

Section A consists of a selection of material reflecting legislative, administrative, judicial and other national measures and court decisions, taken from government reports submitted under the international human rights instruments, periodic reports submitted by States under the reporting procedure established under Council resolution 1074 C (XXXIX) of 28 July 1979, and contributions submitted by States intended specifically for the *Yearbook* and covering the year 1979.

Extracts from reports made by the following States under relevant international instruments in the field of human rights were reflected in the present *Yearbook*: Argentina; Australia; Austria; Barbados; Belgium; Brazil; Bulgaria; Burundi; Byelorussian Soviet Socialist Republic; Canada; Chile; China; Colombia; Costa Rica; Cuba; Cyprus; Czechoslovakia; Democratic Yemen; Denmark; Ecuador; Egypt; El Salvador; Ethiopia; Finland; France; German Democratic Republic; Germany, Federal Republic of; Ghana; Greece; Holy See; Hungary; Iceland; India; Iraq; Islamic Republic of Iran; Israel; Italy; Ivory Coast; Jamaica; Japan; Kenya; Madagascar; Mali; Mexico; Mongolia; Morocco; Nepal; Netherlands; New Zealand; Nicaragua; Nigeria; Norway; Pakistan; Panama; Papua New Guinea; Peru; Philippines; Poland; Portugal; Romania; Rwanda; Senegal; Seychelles; Spain; Sri Lanka; Suriname; Sweden; Syrian Arab Republic; Togo; Trinidad and Tobago; Tunisia; Ukrainian Soviet Socialist Republic; Union of Soviet Socialist Republics; United Kingdom of Great Britain and Northern Ireland; United Republic of Tanzania; Uruguay; Venezuela; Yugoslavia; Zaire.

The following States specifically contributed to the present *Yearbook*: Byelorussian Soviet Socialist Republic; Canada; Cyprus; Gambia; German Democratic Republic; Germany, Federal Republic of; Iraq; Ireland; Japan; Philippines; Ukrainian Soviet Socialist Republic; Union of Soviet Socialist Republics; United Kingdom of Great Britain and Northern Ireland; United States of America.

INTRODUCTION

The material has been arranged under country headings with subject subheadings relating to the pertinent articles of the Universal Declaration of Human Rights as well as to relevant articles of the international instruments under which the State reports used as source of information have been submitted.

Section B contains information relating to the exercise, in certain Trust and Non-Self-Governing Territories, of the right to self-determination. It gives a brief account of developments in territories that attained independence in 1979 as well as in Trust and Non-Self-Governing Territories. Information contained in this section is essentially based on the Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples* and on working papers prepared by the Secretariat containing information on developments concerning the Territories.

Part II consists of two sections:

Section A reflects the practice of the supervisory bodies concerning the examination of government reports and other tasks entrusted to these bodies under the relevant international instruments. It consists of extracts of the following reports of the supervisory bodies to the respective parent organs:

Report of the Committee on the Elimination of Racial Discrimination, Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 18 (A/34/18);

Report of the Human Rights Committee, Official Records of the General Assembly: Thirty-fourth Session, Supplement No. 40 (A/34/40);

Report of the Human Rights Committee, Official Records of the General Assembly: Thirty-fifth Session, Supplement No. 40 (A/35/40);

Report of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights (E/1979/64);

Report of the Group of Three Established under the Convention on the Suppression and Punishment of the Crime of *Apartheid* (E/CN.4/1328);

Report of the *Ad Hoc* Committee on Periodic Reports (E/CN.4/1304).

Section B includes relevant decisions, general recommendations, general comments and observations made by the supervisory bodies in connection with their examination of reports submitted and other tasks entrusted to them under the international instruments. Relevant decisions and resolutions of the parent bodies, namely, the General Assembly, the Economic and Social Council and the Commission on Human Rights have also been included in this section.

Part III contains a brief account of activities in the field of human rights in the United Nations system, and reflects major developments on questions of human rights in relevant United Nations organs and specialized agencies.

The text of rules of procedures adopted by the Human Rights Committee has been included as an annex to the *Yearbook*.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

*Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 23 (A/35/23/Rev.1).

PART I

NATIONAL DEVELOPMENTS

Section A. States

ARGENTINA

A. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them

*(article 2 of the Universal Declaration;
article 2.2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹*

Argentine legislation to eliminate racial discrimination has been strengthened by Decree No. 2697 of 10 November 1978, which partially amended Decrees Nos. 339/73 and 392/73. Article 5 of the Decree states that the Secretariat of State for Social Development and Welfare is responsible for promotion of the development and integration of the aboriginal communities.

This Secretariat of State thus remained in charge of the National Service for Indigenous Affairs established by Decree No. 3474 of 27 April 1973 which serves as the Indigenous Affairs Sector of "Area Co-ordination for Community Development".

In the course of 1979, professional workers in this sector, on the orders of their superiors, established contacts with authorities and officials of national organizations in the spheres of health, education, social welfare, and agricultural extension work. The preliminary conversations have served to discuss the question of co-ordinating future activities at national level. It should be pointed out that there are various provinces with indigenous populations which co-ordinate "in the field" with other provincial and national organizations such as the National Department for Adult Education (DINEA), the National Institute for Agricultural Extension, the Rural Health Programme, etc.

The Ministry of Social Development has budgetary allocations which are earmarked exclusively for indigenous communities, as well as infrastructural welfare and nutritional projects which extend to the entire population.

Among various projects intended for aboriginal communities in several provinces, the following should be noted:

Chaco Province

Ministerial decision 3883/79: encouragement of agricultural production in aboriginal communities in the interior of the province in the Bermejo area (already funded).

Decision 3874/79: equipment for craft school workshop Cacique Pelayo township (already funded).

Chubut Province

Ministerial decision 2936/79: increased sheep production, El Chalia (Stage II) (already funded).

¹ Reports submitted by State (CERD/C/66/Add.6 and CERD/C/91/Add.8).

Decision 2852/79: equipment for Cerro Centinela Social Welfare Centre (already funded).

Decision 3329/79: farming instruction in primary schools in the interior of the province and in frontier areas (already funded).

Decision 3712/79: construction of a community centre, Lago Rosario (Stage II) (already funded).

Formosa Province

Ministerial decision 2390/79: technical assistance for communities in various places.

Decision 2393/79: integrated development programme, J. B. Alberdi settlement.

Decision 3337/79: stage II of Our Lady of Peace Community Centre, Las Lomitas de Patiño.

Decision 3648/79: stage II, La Primavera Settlement, integrated programme.

Misiones Province

Construction of craft workshops, Santo Pipó (decision 1982/79); and

Stage II of Socioeconomic Development Programme for the Santo Pipó community (62 million pesos) (decision 4321/79).

Neuquen Province

A promotion and development programme for horticultural and animal feed production, Paraje Los Miches (ministerial decision 3335/79).

Social and economic rehabilitation of indigenous groups, Huiliches and Catan Lil Departments (decision 3872/79).

Stage I, Ancatruz Group socioeconomic development programme, Collón Cura Department (decision 4225/79).

Survey of Mellao Morales Reservation, Loncopué Department (decision 3710/79).

Survey of Millain Currical Reservation, Loncopué Department (decision 3926/79).

Drinking water supply, Paraje Chiquilhuin, Huiliches Department (decision 4298/79).

Stage II, indigenous group integrated social development programme, Aluminé Department (decree 4341/79).

Salta Province

Projects implemented in 1979, totalling more than 2,000 million pesos, included those executed with funds provided by the National Ministry of Social Development or by the Province, or both. The first category included vocational training courses: one in masonry and plumbing at Misión La Loma, four in carpentry at Embarcación, La Paz, Molinos and San Felipe and one for electricians and fitters at Misión Turyuntí (decision 3328/79); agricultural development pilot plan, Aboriginal Mission, San José de Yacuy (decision 3937/79); agricultural and community development, indigenous community of the Embarcación Public Domain (decision 2894/79); initial agricultural and community development activities for the indigenous mission, General Mosconi (decision 3707/79); agricultural and community development activities, Misión San Benito (decision 2273/79); and construction of an elevated drinking water supply tank, Misión La Puntana (decision 2106/79).

B. Right to form and to join trade unions

*(article 23 (4) of the Universal Declaration;
article 5(e) of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

Act No.22105 of 15 November 1979 on trade unions reads:

“Article 7: Trade unions shall not be constituted on the basis of political ideologies, religious beliefs, nationality, race or sex, and shall not differentiate among their members on such grounds, but shall admit to membership all workers in the business, occupation, profession or category concerned. Discriminatory contributions shall not be demanded.

“All members of a union shall enjoy the same rights and shall be subject to the same obligations, in accordance with the provisions of this Act.”

² *Ibid.* (CERD/C/66/Add.6).

AUSTRALIA

Introduction: general legal framework¹

Various laws have been enacted in 1979 by the Commonwealth, State Parliaments and Territories associated with the Commonwealth.

At the state level, the New South Wales Parliament has enacted the Ethnic Affairs Commission Act 1979 (No. 23 of 1979).

Within the general legal framework of the Territories, reference must be made to the Norfolk Island Act 1979 (No. 25 of 1979) and to the Singapore Ordinances Application Ordinance 1979.

The Norfolk Island Act 1979 equips Norfolk Island with responsible legislative and executive government to enable it to run its own affairs to the greatest practicable extent. The Act established a framework for Norfolk Island to achieve, over a period of time, internal self-government as a Territory under the authority of the Commonwealth. The law in force in Norfolk Island consists of laws and statutes in force in England on 25 July 1828; certain laws enacted by the Governor of Norfolk Island before the Island became a Territory of the Commonwealth; Commonwealth acts applicable to Norfolk Island, and enactments of the Territory. Since August 1979, the Legislative Assembly of Norfolk Island has exercised power, with the assent of the Administrator or the Governor-General, as the case may be, to pass acts for Norfolk Island. The courts of the Territory function in accordance with British and Australian court procedures.

The Singapore Ordinances Application Ordinance 1979, made by the Governor-General on 20 December 1979, had the effect of repealing all Singapore Ordinances in force in the Territory and applying the provisions of 95 selected Singapore Ordinances only (as specified in the Schedules to the Ordinance) to be laws of the Territory with effect from 27 December 1979. Ordinances are required to be tabled in the Commonwealth Parliament and are subject to disallowance in part or in whole by the Parliament.

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²*

Australia supports United Nations funds which provide educational and humanitarian assistance to refugees from southern Africa and to the victims of *apartheid*. Australia contributes to the United Nations Educational and Training Programme for southern Africa (A\$30,000 for the 1978/79 financial year), to the United Nations Trust Fund for South Africa (A\$20,000 for 1978/79) and the United Nations Fund for Namibia (A\$25,000 for the 1978/79 financial year). In addition Australia will give, during the 1978/79 financial year, A\$50,000 to the Special Commonwealth Programme for Zimbabwe.

¹ Reports submitted by State (E/1980/6/Add.22, CERD/C/63/Add.3 and CCPR/C/14/Add.1).

² *Ibid.* (CERD/C/16/Add.4).

B. Non-discrimination on the basis of sex

*(article 2 of the Universal Declaration;
article 3 of the International Covenant on Civil and Political Rights)*³

With regard to women employed outside the Commonwealth and state public services, whose conditions of work are largely governed by Commonwealth and state industrial awards, there is an increasing trend in awards away from separate provisions for males and females. Although sex-discriminatory provisions still prevail in certain respects in a number of awards, the principle of equal pay for work of equal value has been adopted by all Commonwealth and state tribunals. Since 1979, Federal awards have contained provisions for unpaid maternity leave for a prescribed maximum of 12 months and a minimum of six weeks after confinement, with a guarantee of return to work without loss of seniority after the period taken.

C. Prohibition of racial discrimination: right to freedom of movement and residence

*(articles 2 and 13 of the Universal Declaration;
articles 2 (1) (a), 2 (1) (b), and 4 (c) of the
International Convention on the Elimination of All Forms of Racial Discrimination;
articles 12 and 13 of the International Covenant on Civil and Political Rights)*⁴

Australia's Minister for Immigration and Ethnic Affairs recently announced that applicants for immigration to Australia will be considered in one of four new eligibility categories. As from 1 January 1979, these categories have included "Family Reunion" including immediate family reunion, special family reunion and fiancés (male and female); "General Eligibility" including independent applicants and employment nominees; "Refugees" and "Special Eligibility" including trans-Tasman arrangements, patrials, entrepreneurs and self-supporting retirees. When announcing the new policy the Minister stressed that it would be applied consistently to all applicants regardless of their race, colour, nationality, descent, national or ethnic origin or sex.

Also from 1 January 1979, Australia's new immigration policy is being administered under a numerical multi-factor assessment system (NUMAS). NUMAS is designed to ensure a consistent application of selection criteria to all people seeking to migrate to Australia.

On 18 December 1978, Australia and Papua New Guinea signed the Torres Strait Treaty which, *inter alia*, deals, on a reciprocal basis, with the movements of certain citizens of both countries across the boundaries established by the Treaty between the two countries in the Torres Strait area.

D. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them

*(articles 2 and 27 of the Universal Declaration;
article 2.2 of the International Convention on the
Elimination of All Forms of Racial Discrimination: article 27 of the International Covenant
on Civil and Political Rights)*⁵

All state Governments seek to provide Aboriginal families in need with a house suited to family size. The Commonwealth also continues actively to pursue its policies in the area of Aboriginal housing including the payment of special grants each year to State housing

³ *Ibid.* (CERD/C/14/Add.1).

⁴ *Ibid.* (CERD/C/16/Add.4 and CCPR/C/14/Add.1).

⁵ *Ibid.* (CERD/C/16/Add.4 and CCPR/C/14/Add.1).

authorities for the construction and purchase of houses for Aborigines. In the course of the 1978/79 financial year, the Commonwealth Government approved funds for a new pilot scheme of low-interest loans to Aboriginal tenants of homes owned by Community Housing Associations to encourage Aboriginal home ownership. These loans, as with other loans for housing purchase, are made available through the Aboriginal Loans Commission.

The Education Research and Development Committee has established four areas of priority for its activities over the 1978-1980 triennium. The top priority among these four areas is Multicultural Education and a group of experts has been selected to advise the Committee on a co-ordinated sequential research and development, research training and dissemination programme over the triennium. The Committee will review its priorities in 1979. The Committee is also focusing attention on Aboriginal education, as is the national curriculum body, the Curriculum Development Centre.

The Australian Institute of Multicultural Affairs has been established this year under Commonwealth legislation with the following aims in view: (a) to develop among members of the Australian community both an awareness of the diverse existing cultures and an appreciation of the contribution that those cultures can make; (b) to encourage tolerance and understanding among the different cultural groups; (c) to promote a cohesive Australian society through a sharing of cultures; and (d) to assist in bringing about an environment affording members of cultural groups and ethnic communities full opportunities to participate in Australian society and to achieve their own potential.

Most jurisdictions have enacted legislation relating to Aborigines and Commonwealth legislation includes the Aboriginal Land Rights (Northern Territory) Amendment Act 1979 (No. 189 of 1979).

E. Protection against arbitrary interference with privacy

*(article 12 of the Universal Declaration;
article 17 of the International Covenant on Civil and
Political Rights)⁶*

The interception of communications over the telephone system is prohibited under the Commonwealth *Telecommunications (Interception) Act 1979* (No. 114 of 1979), unless permitted by warrant issued by a prescribed authority in the interests of national security, or in circumstances concerning the commission of narcotics offences. Where such a warrant has been issued, a report must be made to the responsible Minister on the assistance which use of the warrant has afforded to the security or customs organization concerned.

Most jurisdictions now also contain legislation to prohibit the monitoring of personal conversations, unless the person using the listening device is a party to the conversation or a duly authorized person acting in the public interest.

F. Freedom of opinion and expression

*(article 19 of the Universal Declaration;
article 19 of the International Covenant on Civil and
Political Rights)⁷*

All Australian jurisdictions require their public servants to keep confidential information relating to their work, duties and responsibilities, and some jurisdictions impose restrictions on public comment by public servants. Information in the possession of the

⁶ *Ibid.* (CCPR/C/14/Add.1).

⁷ *Ibid.* (CCPR/C/14/Add.1).

Commonwealth Government may also be withheld on broad grounds of national security, under the Commonwealth Australian Security Intelligence Organization Act 1979 (No. 113 of 1979).

G. Political rights

*(article 21 of the Universal Declaration;
article 25 of the International Covenant on Civil and
Political Rights)*⁸

In regard to voting for the Commonwealth Parliament, the All-Aboriginal Council for Aboriginal Development, which advises the Commonwealth Minister for Aboriginal Affairs, recently reviewed the need for retaining the optional enrolment provisions. Following a recommendation made by the Council in the current year to the effect that the provisions relating to optional enrolment should be removed, the Commonwealth Government has indicated its intention to introduce legislation making enrolment for Commonwealth elections compulsory for all Aboriginals.

H. Right to an adequate standard of living (right to health)

*(article 25 (1) of the Universal Declaration;
article 12 of the International Covenant on
Economic, Social and Cultural Rights)*⁹

From 1 July 1979 provision was made for long-term patients accommodated in hospitals who no longer required hospital treatment to be reclassified as nursing-home-type patients and to contribute towards their care and accommodation in the same way as patients in nursing homes. A "nursing-home-type patient" is an in-patient whose hospitalization exceeds 60 days, unless a certificate has been issued by a medical practitioner to certify that a patient is in need of intensive care.

The actual introduction of this arrangement will depend on formal acceptance by state Governments.

From 1 September 1979 the Commonwealth no longer meets 40 per cent of doctors' schedule fees for lower-cost medical items. The Commonwealth Government meets all costs over \$20 for each medical service up to the limit of the schedule fee.

I. Right of motherhood and childhood to special care and assistance

*(article 25 (2) of the Universal Declaration;
article 10 of the International Covenant on
Economic, Social and Cultural Rights)*¹⁰

In March 1979 the Australian Conciliation and Arbitration Commission made a determination in respect of unpaid maternity leave covering all employees under Federal Awards.

Victoria, Queensland, Tasmania and the Northern Territory are all re-examining different aspects of their procedures for dealing with children in trouble and on 18 February 1979 the Commonwealth Attorney-General announced that he had referred to the

⁸ *Ibid.* (CCPR/C/14/Add.1).

⁹ *Ibid.* (E/1980/6/Add.22).

¹⁰ *Ibid.* (E/1980/6/Add.22).

Australian Law Reform Commission the question of the laws and practices relating to the welfare of children in the Australian Capital Territory (ACT).

Legislation enacted in 1979, which dealt with these matters, included the following:

Children's Protection and Young Offenders Act 1979 (SA);

Status of Children Act 1979 (NT).

In conjunction with the International Year of the Child, the Federal Government has undertaken a programme concerned with the introduction of mandatory safety standards for a wide range of children's products.

J. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic,
Social and Cultural Rights)¹¹*

The principal laws enacted in 1979 in relation to the right of everyone to education in each State and Territory (with the exception of tertiary institutions) are the Tertiary Education Authority Act of South Australia and the Education Act of the Northern Territory.

K. Right to participate in cultural life

*(article 27 of the Universal Declaration;
article 15 of the International Covenant on Economic,
Social and Cultural Rights)¹²*

The pre-eminent role of government in the area of cultural development made it logical that there should be co-operation and communication at a political level and in 1979 the first conference of Federal and State Ministers with responsibility for arts and cultural matters was convened.

In 1979 the Government established the Trust which is responsible for policy advice in relation to the conservation, development and efficient operation of the buildings and grounds of Australia's Official Establishments. The Official Establishments comprise Government House (ACT) and Admiralty House (NSW) which are the official residences of the Governor-General; The Lodge (ACT) which is the official residence of the Prime Minister; and Kirribilli House (NSW) which is the official accommodation facility for Heads of Government, Ministers and other visiting statesmen and dignitaries visiting Australia as official guests of the Federal Government.

Members of the Trust are also members of the Australian Fund, a registered corporate body established by the Government in 1978 to encourage private gifts, donations and loans of works of art, antiques, furnishings and material of historical interest and importance to the Official Establishments. The Trust also receives cash donations for the purchase of items for the Australian Collection which reflects Australian cultural achievement and heritage. The Trust is an eligible donee for the purposes of the Federal Government's Taxation Incentives for the Arts Scheme.

In 1979 the Federal Government funded the establishment of the International Cultural Corporation of Australia Ltd. whose objects include the promotion of international exchanges.

¹¹ *Ibid.* (E/1982/3/Add.9).

¹² *Ibid.* (E/1982/3/Add.9).

AUSTRIA

Right to an effective remedy

*(article 8 of the Universal Declaration;
article 6 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹*

A new institution of the type of “Ombudsman” must be mentioned, which was recently introduced into Austria. The new institution under the name of “Volksanwaltschaft” (“People’s advocate”) is a board of three persons, appointed by Parliament for a term of six years and entitled to investigate, upon the request of individuals, grievances caused by the federal administration. The authority examined has to furnish all relevant information and files. The board generally makes proposals for solving the problem under examination, in severe cases the board may issue official recommendations. If the authority concerned does not comply with such recommendations, a written statement must be given explaining the reasons for not doing so. The people’s advocate may report to Parliament on such questions.

¹ Report submitted by State (CERD/C/48/Add.6).

BARBADOS

Protection of children

*(article 25 (2) of the Universal Declaration;
article 10 of the International Covenant on
Economic, Social and Cultural Rights)¹*

Legislation to provide for the equal status of children whether they are born to married or unmarried parents, was brought into effect in 1979, and other legislation affecting children and young persons has been the subject of recommendations made to the Government in 1978 and 1979. These recommendations cover a comprehensive range of legislative measures aimed at guaranteeing the care and protection of children and improving the provisions relating to their education and correction and the prevention of social, economic or other exploitation.

¹ Report submitted by State (E/1980/6/Add.27).

BELGIUM

**Condemnation of racial segregation and *apartheid*;
promotion of understanding, tolerance and friendship
among all nations, racial and ethnic groups**

*(articles 1, 2 and 26 (2) of the Universal Declaration;
articles 3 and 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

In the context of the International Year of the Child and on the occasion of the closure of International Anti-*Apartheid* Year, the Belgian authorities held an exhibition in Brussels in March 1979 on "The Child, Victim of the *Apartheid* System", in collaboration, *inter alia*, with the United Nations Information Centre, Office of the United Nations High Commissioner for Refugees, and the Belgian Committee to Combat Colonialism and *Apartheid*. This exhibition was shown in several Belgian towns and also at the headquarters of the United Nations Educational, Scientific and Cultural Organization in Paris and at the Palais des Nations in Geneva. In that connection, the Ministry of Foreign Affairs circulated, as a follow-up to the exhibition, a pamphlet on "Belgium and *Apartheid*" which also set forth the programme of action against *apartheid*.

¹ Report submitted by State (CERD/C/88/Add.5).

BRAZIL

A. Protection against incitement to discrimination

*(article 7 of the Universal Declaration;
article 4 (a) of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

Law No. 6620, of 17 December 1978, in defining "crimes against the national security", includes incitement to hatred and racial prejudice among punishable acts, providing for penalties of from 2 to 12 years in prison.

"Law No. 6620

"Art. 36: To incite:

"VI—Hatred or race discrimination.

"Penalty: from 2 to 12 years' imprisonment.

"Sole paragraph—If serious bodily harm or death occurs as the result of the incitement:

"Penalty: Imprisonment from 8 to 30 years."

B. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

The information contained below refers to the activities provided for in article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination

Students—international agreements

Based on Cultural Exchange Agreements signed with all countries in Latin America and several in Africa, every year about 3,000 placements at Brazilian Universities are offered to students from abroad through the Ministry for External Relations and the Ministry for Education and Culture.

Under the conditions established, every year there are about 15,000 foreign students in Brazil. They are offered the same facilities Brazilian students enjoy, and they are completely exempt from any tax or college entrance examination.

Scholarships or grants

Universities and other institutes of higher learning in Brazil, upon request from the Ministry for External Relations, accept African and Latin American students for post-graduate or professional specialization courses. The students are supplied with their airfare, and a monthly allowance. The financial grants which are made every year to about 120 students are for the duration of the school term, but they can be extended in cases of master's degrees or doctorates, or at the request of the Institute where the student is enrolled.

¹ Report submitted by State (CERD/C/66/Add.1).

² Report submitted by State (CERD/C/66/Add.1).

Technical co-operation

The Brazilian Government is seeking to work out programmes of co-operation with other developing countries, particularly in the field of transfer of technology and professional training.

In the spirit of the principles and recommendations formulated by international bodies, technical co-operation with other developing countries has been programmed and diversified. The level of Brazilian development, together with the special characteristics of its territorial expanse which embraces a variety of climates, the existence of diversified industry and the founding of new universities and scientific and research institutes opens the door to an increase in the possibilities for technical co-operation with the countries of Latin America, Asia and Africa.

Institutes of higher learning have been accepting each year about 6,000 students from developing countries for university or specialization courses. About 250 trainee students a year are admitted to post-graduate courses.

Approximately 900 foreign technicians have received their training in Brazil over the past three years.

BULGARIA

A. Right to a just and favourable remuneration

*(article 23 (3) of the Universal Declaration;
article 11 of the International Covenant on
Economic, Social and Cultural Rights)¹*

One of the most important steps within the system of general and specific measures is the establishment of a national minimum monthly wage, which rises constantly as the economy grows and the social productivity of labour increases. In 1956, the minimum wage was 40 leva; in 1960 it was increased to 50 leva, in 1966 to 65 leva and in 1973 to 80 leva. The minimum wage was raised most recently in 1979, when the wages and earnings of workers were increased by Decree No. 50 of the Central Committee of the Bulgarian Communist Party and the Council of Ministers, dated 10 November 1979. By that Decree, the minimum wage was raised from 80 to 100 leva a month. According to development projections, it is expected to reach 120 leva by 1985.

In essence, the minimum wage is the statutory wage paid to the least skilled manual and non-manual workers in normal working conditions, and is the basis of the wage system. It is established for the normal work time specified by law or for the fulfilment of the planned production norm. According to Decree No. 50 of 10 November 1979, for unpleasant and other specific working conditions, overtime work, production exceeding the norm, lengthy periods of work and others, in addition to remuneration, including the minimum wage, an increment for specific conditions of work, length of service, etc. is received. Consequently, there are few manual and non-manual workers receiving only the minimum statutory wage.

B. Right to health

*(article 25 (1) of the Universal Declaration;
article 12 of the International Covenant on
Economic, Social and Cultural Rights)²*

The years of the seventh five-year plan (1976-1980) were especially fruitful as regards the reduction of the stillbirth rate and of infant mortality and the healthy development of the child—particularly 1979, which was the International Year of the Child. In 1979, child mortality dropped to a record low—19.8 per cent. During the seventh five-year plan, perinatal child mortality (the number of stillborn children and the number of children who die before reaching the age of seven, expressed as a figure per thousand) declined by 2.9 points and amounted to 146 in 1979, compared with a decline of 1.5 points over the previous five-year period. Bulgaria has the lowest perinatal mortality of all the Balkan countries. Child mortality is one of the indicators showing the state of health of the population and provides important evidence of the success of the general health care provided for children.

A number of major events in 1979—the International Year of the Child—and 1980 had a particular bearing on child health care. In 1979, pursuant to Council of Ministers Decree No. 38 of 31 July 1979 for the further improvement of child health care (*Official Gazette*, No. 63, of 1979), free medical care was introduced for pregnant women and children aged up to three

¹ Report submitted by State (E/1980/6/Add.29).

² *Ibid.* (E/1980/6/Add.29).

years. Bulgaria hosted the twentieth conference of Ministers of Health from the socialist countries, which was devoted to perinatal problems, in addition to meetings of experts from the socialist countries on the problems of the healthy child. A third seminar was held on the organization of maternal and child health care, with the participation of senior officials from health ministries in Algeria, Chad, Congo, Ecuador, the Lao People's Democratic Republic, Mali, Mauritania, Nigeria, Portugal, Tunisia, Viet Nam, Zaire, etc.

BURUNDI

A. Equitable judicial system

*(articles 6-11 of the Universal Declaration;
articles 5-6 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹*

In accordance with the terms of article 5 of the Convention concerning the measures taken to guarantee the right of everyone to equality before the law without any distinction of any kind whatsoever in the enjoyment of his rights, the Republic of Burundi has promulgated and is applying the following measures:

In keeping with its policy of promoting social justice, the Second Republic is taking appropriate measures, in particular, to bring justice closer to the people. During the period under review alone, 18 courts were set up throughout the national territory. By article 1 of Decree No. 100/119, of 21 September 1979, "two Courts of Appeal sitting at Bujumbura and Gitega" were established. Article 1 of Decree No. 100/120 of 21 September 1979 provides that there shall be High Courts at Bujumbura, Bururi, Gitega and Ngozi.

Chapter I, of Decree-Law No. 1/24 of 28 August 1979, entitled ("The ordinary courts") which provides for a new code on the organization and jurisdiction of the courts, lists the different courts at all levels in Burundi: section 1: Local courts; section 2: Provincial courts; section 3: High Courts; section 4: Courts of Appeal; section 5: the Supreme Court. Chapter II entitled "The specialized courts", contains a limitative enumeration of the specialized courts, namely: section 1: labour courts; section 2: courts martial; section 3: the Military Court.

Decree-Law No. 1/24 of 28 August 1979, also contains some very specific provisions which embody the rule on the collegial composition of the bench (arts. 15, 19, 23, 26, 30 and 38 deal with the composition of the bench in the ordinary courts and the specialized courts).

In the case of criminal proceedings before the ordinary courts, judgements delivered by the local courts and judgements delivered at first instance by the provincial courts are subject to appeal and stay of execution (arts. 91 and 96).

In civil proceedings, articles 138 and 141 form the counterpart of articles 91 and 96 referred to above. Article 97 provides that appeals concerning judgements delivered by the local courts are heard in the provincial courts. In civil proceedings, article 140 applies. Article 99 provides that the High Courts shall hear appeals against judgements delivered by the provincial courts within their jurisdiction. In civil proceedings, article 147 applies.

Article 101 provides that the Courts of Appeal shall hear appeals against judgements delivered at first instance by the High Courts and by Labour Courts within their jurisdiction. In civil proceedings, article 150 applies to judgements delivered at first instance by the High Courts and by labour courts on matters within their jurisdiction.

Lastly, the Supreme Court hears appeals against decisions and judgements delivered at last instance in criminal proceedings (art. 105). In civil proceedings, the Supreme Court hears appeals against decisions and judgements delivered at last instance in all proceedings other than criminal proceedings (art. 152).

With regard to specialized courts that deal with criminal matters, the last paragraph of article 108 provides that "decisions of the Courts Martial are subject to stay of execution and appeal". Article 109 provides that "the Military Court shall hear appeals against decisions delivered at first instance by the Courts Martial".

¹ Report submitted by State (CERD/C/62/Add.1).

B. Political rights

(article 21 of the Universal Declaration;
 article 5 of the International Convention on the
 Elimination of All Forms of Racial Discrimination)²

The resolutions adopted by the First National Congress (26-29 December 1979) with regard to the constitution of the Republic of Burundi solemnly proclaimed that "to ensure that the Democratic National Revolution is supported by the guarantee of laws that have been adopted by the nation as a whole . . . to ensure that the people are cognizant of the powers of the authorities and understand that power must be at the service of the people and, lastly, to ensure that power is clearly apportioned among the institutions and that those responsible fulfil their duty in the manner stipulated in the Constitution . . .", the Republic of Burundi should have a constitution. The question has been under consideration by a Constitutional Commission for some months and an initial draft constitution will be submitted to the Central Committee of the Party for examination at the beginning of 1981.

If it is adopted, the Central Committee will decide to submit the draft to a referendum or to an extraordinary Congress. These same resolutions of the First National Congress on the constitution also recognized and solemnly proclaimed the principle of the single party, which has been adopted in Burundi; . . . the separation of legislative, executive and supervisory powers, and the right of every citizen to take part in the conduct of the affairs of the nation, are recognized and guaranteed in Burundi.

C. Economic, social and cultural rights

(articles 22-27 of the Universal Declaration;
 article 5 (e) of the International Convention on the
 Elimination of All Forms of Racial Discrimination)³

With regard to legislation passed during the period under review, reference should be made, *inter alia*, to Decree No. 100/6 of 15 January 1979 providing for special measures to apply the Civil Service Statutes to persons employed in the administration of justice. Articles 5, 6 and 7 state that the criteria for admission shall be the possession of diplomas or certificates.

Since, by building and improving housing, a significant contribution is made to bettering the standard of living of the people, the Second Republic has concentrated its efforts on an extensive building programme in urban and rural areas.

In rural areas, the Second Republic has embarked upon a dynamic and consistent policy to group people together in villages; with a view to improving the rural environment and establishing the necessary social infrastructures.

In this connection, we would mention that, by Decree No. 100/139 of 25 October 1979, the Secretariat of State for Rural Development has become a Ministry for Rural Development.

In urban areas a similar policy has been adopted, concerning housing for civil servants, which takes account of the possibilities open to the Government and of the requirements of justice.

Decree No. 100/69 of 7 May 1979 lays down statutes for the National Estate Agency. Under article 2, this Agency will be responsible for building, ordinary letting, and instalment plan sales and it may grant mortgages to civil servants.

² *Ibid.* (CERD/C/62/Add.1).

³ *Ibid.* (CERD/C/62/Add.1).

Decree No. 100/57 of 12 April 1979, amending Presidential Decree No. 1/68, established the Committee on Equivalence of Diplomas and University Degrees.

In addition, with a view to the training of persons who have not had the opportunity to continue their studies, the Republic of Burundi, giving practical expression to its efforts in the field of non-formal education, has established: a Department of Parascholastic Education; a Department of Social Promotion, within the Social Affairs Services which consists *inter alia* of a service responsible for eliminating illiteracy (article 5 of Departmental Order No. 630/89 of 18 April 1979 on the organization of the Social Affairs Services); and, lastly, a Department of Socio-educational questions and Popular Culture, within the Permanent Secretariat of the Party.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article VI of the International Convention on the
Suppression and Punishment of the Crime of Apartheid)*¹

A wide range of public activities are carried out in the Republic in condemnation of manifestations of racism and *apartheid* and in support of peoples struggling against *apartheid*, racism, colonialism and national oppression.

Public meetings and gatherings to mark the International Day for the Elimination of Racial Discrimination, African Independence Day, the Week of Solidarity with the Peoples of Southern Africa and other such occasions, are held every year in the Byelorussian SSR.

Exhibitions, radio and television programmes, newspaper articles, lectures and reports designed to familiarize the broad masses of the population with the struggle of the peoples against the practice and policy of colonialism, racism and *apartheid*, are organized regularly in the Republic.

B. Protection of the family, motherhood and childhood

*(articles 16 (3) and 25 (2) of the Universal Declaration;
article 10 of the International Covenant on
Economic, Social and Cultural Rights)*²

At its session in June 1979, the Supreme Soviet of the Byelorussian Soviet Socialist Republic considered the work of the Standing Commission on Women's Working and Living Conditions, Maternity and Child Welfare, which is attached to the Supreme Soviet of the Byelorussian SSR and consists of 17 deputies. It also considered the Commission's monitoring of the state of health care and education for children and of the fulfilment of planned targets for the construction of schools, kindergartens and day nurseries, hospitals and polyclinics. At that session, the Supreme Soviet of the Byelorussian SSR adopted a decision commending the work of the Standing Commission and establishing further targets for the implementation of measures for health and labour protection, the improvement of medical and communal services for women and the enhancement of living conditions for children, with particular regard to their studies, education, health care and organized leisure activities.

At the end of 1979, the Presidium of the Supreme Soviet of the Byelorussian SSR considered the question of the implementation of measures in connection with the observance of the International Year of the Child. It was noted that a considerable amount of work had been done in the Republic to improve mother and child care, strengthen child health and improve the education and upbringing of children.

Measures were adopted to increase production and improve the quality of children's goods and items, develop the network of children's pre-school institutions, schools and extra-curricular institutions, improve the system of medical services for mothers and children, construct new children's medical institutions, develop the material base for leisure activities for children and their families and improve the system of physical education for children and young people.

¹ Report submitted by State (E/CN.4/1415/Add.4).

² *Ibid.* (E/1980/6/Add.18).

C. Political rights

*(article 21 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*³

During the period under review, the principle of equal rights of citizens without distinction as to race or nationality was steadfastly applied in the daily activities of all State bodies and public organizations.

Evidence of the practical implementation of this principle in the field of political rights is provided, in particular, by the results of the latest elections to the Supreme Soviet of the Byelorussian SSR and to regional, district, urban, urban district, settlement and village soviets of people's deputies.

The elections took place on the basis of the Act on elections to the Supreme Soviet of the Byelorussian SSR and the Act on elections to Local soviets, which were drafted and adopted, in accordance with the (new) Constitution of the Byelorussian SSR, on 12 December 1978 and 20 June 1979 respectively. The Acts are based on provisions of the Constitution of the USSR and the Constitution of the Byelorussian SSR defining the most important electoral principles. In accordance with the Constitution of the Byelorussian SSR, elections of deputies to the Supreme Soviet of the Byelorussian SSR, as stated in article 1 of the Act on elections to the Supreme Soviet of the Byelorussian SSR, are conducted on the basis of universal, equal and direct suffrage by secret ballot. The Act also develops the constitutional principle of equal suffrage. Thus, its article 3 provides that at elections of deputies to local soviets of People's Deputies every voter has one vote; all voters exercise the franchise on an equal footing; men and women have equal electoral rights.

In accordance with the Constitution of the Byelorussian SSR, the Act establishes that elections of deputies of local soviets are direct. This means that deputies to all Soviets are elected by citizens by direct vote.

The Act guarantees the secrecy of the vote by stipulating that no control over the expression of the voters' will is permitted.

The procedure for nominating election candidates is democratic: everyone present at a meeting for the nomination of candidates is guaranteed the right to participate in the discussion of candidacies, to support nominations or to submit proposals for their rejection.

All in all, the Act on elections to local soviets opens up wide possibilities for active participation by citizens in the political life of society.

During 1979, legislation was enacted to amend the law on the recalling of deputies to the Supreme Soviet of the Byelorussian SSR. Acts regarding district, urban, urban districts and village soviets of People's Deputies were also adopted.

D. Economic, social and cultural rights

*(article 22 of the Universal Declaration;
article 5 (e) of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

In June 1979 the Supreme Soviet of the Byelorussian SSR adopted the Act on the Council of Ministers of the Byelorussian SSR. Among the principal activities of the Council of Ministers of the Byelorussian SSR it lists "raising the well-being and culture of the people, protecting the rights and freedoms of citizens and creating favourable conditions for the

³ *Ibid.* (CERD/C/66/Add.18); Contribution submitted by State.

⁴ *Ibid.* (CERD/C/66/Add.18); Contribution submitted by State.

all-round development of the personality” and “further strengthening the unity of all the nations and nationalities of the country with a view to building communism jointly and guaranteeing the combination of the interests of the Byelorussian SSR and the USSR and those of the Byelorussian SSR and other Union Republics”.

A law was adopted on 21 June 1979 concerning forest legislation.

Additional measures were also taken in April 1979 to ensure further improvement of the living conditions of war veterans.

A decree was adopted on 28 June 1979 by the Council of Ministers concerning the protection of nature.

E. Right to an adequate standard of living (right to health)

(article 25 (1) of the Universal Declaration)⁵

A decision of the Central Committee of the Communist Party of Byelorussia and of the Council of Ministers of the Byelorussian SSR “On additional measures for the further improvement of the material living conditions of participants in the Great Patriotic War” was approved in 1979.

A decree of the Presidium of the Supreme Soviet of the Byelorussian SSR “On amendments and additions to the Public Health Act of the Byelorussian SSR” was also adopted in 1979.

F. Right to education

(article 26 of the Universal Declaration)⁶

A decree of the Presidium of the Supreme Soviet of the Byelorussian SSR “On amendments and additions to the Public Education Act of the Byelorussian SSR” was approved in 1979.

G. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁷*

The press, radio, television and public organizations of the Byelorussian SSR systematically provide the Republic’s population with information which unmask the practice and inhuman policies of colonialism, racism and *apartheid*. The International Day of Struggle Against Racism and Racial Discrimination, the Week of Solidarity with Peoples Struggling against Racism and Racial Discrimination (21 to 27 March), the Day of Solidarity with Political Prisoners in Southern Africa (11 October), the Week of Solidarity with the Struggle of the Peoples of Southern Africa (16 June), and Namibia Day (26 August) are marked every year in the Byelorussian SSR.

⁵ Contribution submitted by State.

⁶ *Ibid.*

⁷ Report submitted by State (CERD/C/66/Add.18).

CANADA

Introduction: general legal framework¹

British Columbia

Under the Ombudsman Act designed to protect the rights of individuals an ombudsman was appointed with effect from 1 July 1979, and two offices were opened for the purpose of receiving complaints as of 1 October 1979.

Ontario

A Cabinet Committee on Race Relations was established in the fall of 1979 chaired by the Attorney-General, and including among its membership the Ministers of Labour, Education, Citizenship and Culture, and the Solicitor-General. The Committee has recently been expanded to include the Ministers of Consumer and Commercial Relations, and Community and Social Services, and the Provincial Secretary for Social Development. The establishment of this Committee, which places authority over race relations at the very highest level of Government, is a significant recognition of the need to respond to racism.

The second important development in the fall of 1979 was the appointment of a Commissioner for Race Relations. This senior official, a full time member of the Ontario Human Rights Commission, has a responsibility to develop and focus the policies of the Human Rights Code in the field of race relations. His appointment demonstrates a clear governmental commitment to race relations, and a clear desire to ensure that other evolving grounds of discrimination, while important, do not diminish the province's efforts in the field of race relations.

The Attorney-General established in 1979 an advice service for the victims of racially motivated offences.

Saskatchewan

The new Saskatchewan Human Rights Code was proclaimed on 7 August 1979. The Code prohibits discrimination based on race, creed, religion, nationality, ancestry and place of origin in the areas of employment, education, housing, sale or purchase of property, public services and accommodation, contracts and membership in unions and professional associations. It also prohibits the publication or display of materials which "expose, or tend(s) to expose to hatred . . . any person, or class of persons . . . because of his or their race . . .". The Code is paramount legislation and is binding upon the Government of Saskatchewan.

Complaints alleging violation of The Saskatchewan Human Rights Code may be filed by any person whose rights have been contravened, by an individual or organization acting on behalf of a class of persons, or by the Saskatchewan Human Rights Commission. Investigations and conciliation services are provided by the Saskatchewan Human Rights Commission, free of charge. If a complaint cannot be resolved, the Commission may direct a board of inquiry to be convened by the Attorney-General and the board of inquiry hears and decides the matter complained of.

¹ Contribution submitted by State and report submitted by State (CERD/C/76/Add.6).

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

Successive Canadian Governments have condemned *apartheid* in South Africa and the violation of fundamental human rights which the practice of *apartheid* entails. In July 1979, the Government of Canada notified the Government of South Africa of its intention to terminate the Canada-South Africa Trade Agreement according South African exports preferential tariff access to the Canadian market.

B. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2.1 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 2.2 of the International Covenant on Economic,
Social and Cultural Rights)*³

Yukon Territory

Since the fall of 1979, the Government of the Yukon has been conducting a review of the Fair Practices Ordinance 1976, the provisions of which prohibit discrimination based on race, religion, religious creed, colour, ancestry, sex, marital status or ethnic or national origin in employment, accommodation and public services. The Government of the Yukon has indicated its hope of being able, in the course of 1980, to report on a new Human Rights Ordinance and Human Rights Commission in the Yukon Territory.

Ontario

In its decision of December 1979, the Ontario Appeal Court stated that discrimination based on race, creed, colour, sex, marital status, nationality, ancestry or place of origin was contrary to public policy in Ontario and that any person who was the victim of such discrimination had a right to a remedy under the common law. The case involved an East Indian woman who claimed that she had not been hired as a teacher by Seneca College in Toronto on account of her race. The decision states nothing concerning the actual value of her complaints, but allows her to continue her suit against the college as well as to file a complaint for violation of the Ontario Human Rights Code. This decision of the Ontario Appeal Court was appealed to the Supreme Court of Canada.

Nova Scotia

The Nova Scotia Human Rights Act 1979 was amended twice during the period under review, the first amendment introducing marital status as a prohibited ground for discrimination in employment and related areas, and the second introducing administrative changes with respect to boards of inquiry. Under the second amendment, members and employees of the Nova Scotia Human Rights Commission cannot be compelled to give evidence before any board of inquiry or court of law or to provide access to information obtained during the course of an investigation. The amendment also provides for an appeal on a question of law from a decision of a board of inquiry to the Supreme Court of Nova Scotia (Appeal Division).

² Report submitted by State (CERD/C/50/Add.6).

³ *Ibid.* (CERD/C/50/Add.6 and E/1978/8/Add.32).

Saskatchewan

The Saskatchewan Human Rights Code, which came into force on 7 August 1979, enshrines the enjoyment of certain rights without discrimination because of the race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin of any person. This Act states, in section 3, that its objects are:

- “(a) To promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family; and
- “(b) To further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination.”

**C. Elimination of racial discrimination:
development and protection of certain racial
groups or individuals belonging to them**

*(article 2 of the Universal Declaration;
article 2.2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

Ontario

The fall of 1979 witnessed the implementation of three major government initiatives in the race relations field, each designed to respond more effectively to the growing number of issues that have arisen in this sensitive area. They are the establishment of:

- A Commissioner for Race Relations;
- A Race Relations Division;
- A Cabinet Committee on Race Relations.

Saskatchewan

In the cultural field, the Minister of Education instituted in 1979 a Minority Culture Action Group to advise on minority education policy. Two of the group's recommendations have been acted upon. A full-time multicultural Education Consultant has been hired in the Department and inter-provincial co-operation in heritage-language education has been expanded.

**D. Right to liberty and security of person;
right not to be subjected to arbitrary arrest or detention**

*(articles 3 and 9 of the Universal Declaration;
article 9 of the International Covenant on
Civil and Political Rights)*⁵

Prisoners suffering from more or less acute mental disorders or from emotional troubles may be transferred to a regional psychiatric centre. A centre has been established in each of the five regions of the Canadian Correctional Service (Maritime, Quebec, Ontario, Prairies, Pacific). Being medical institutions, they must meet the criteria established by the Canadian Council on Hospital Accreditation, and must also conform to the norms established for these

⁴ *Ibid.* (CERD/C/76/Add.6).

⁵ *Ibid.* (CCPR/C/1/Add.62).

institutions (Commissioner's Directive No. 105 on Regional Psychiatric Centres, dated 9 September 1979, Sects. 7 and 8).

Under The Provincial Offences Act, 1979 of Ontario, it is necessary to satisfy a Justice of the Peace that a person accused of a provincial offence must be detained under arrest.

E. Treatment of offenders

*(article 5 of the Universal Declaration;
articles 10 and 14 (4) of the
International Covenant on Civil and Political Rights)⁶*

Ontario

Although primary jurisdiction for juveniles is federal, falling under the Juvenile Delinquents Act (Canada), there are several provincial statutes which govern the treatment of juveniles, as follows:

- (a) The new Child Welfare Act 1978, repealing the Child Welfare Act 1970, came into force in 1979. Section 56 (1) of the new Act specifies that a child who is charged with an offence or brought before a judge under this Act shall not, before his trial or hearing, be confined in a place used for persons charged with crime.
- (b) The Provincial Courts Act 1970 established observation and detention homes as part of a Provincial Court (Family Division). The diverse nature of juvenile detention services in the province stimulated proposals for new legislation which would empower the Minister to establish, operate and maintain detention homes (including those currently in existence); accordingly, the Provincial Courts Amendment Act 1978 came into force in 1979. Similarly, the Children's Residential Services Act 1978, which came into force in 1979 applies to detention homes the same conditions and standards of care as those applicable to other children's residences licensed by the Government.
- (c) The Training Schools Act 1970 regulates institutions established to provide children with training and treatment, as well as with moral, physical, academic and vocational education.

The above-mentioned Child Welfare Act 1978 established new rules which allow both greater judicial discretion and more public access to juvenile court processes. The court decides whether the child who is subject to the proceedings shall be present or excluded, using the presumptions that a child of 10 or more years of age is entitled to be present unless the court is satisfied that the effect would be injurious to his emotional health, and that a child of under 10 years of age shall not be present unless the court is satisfied that the hearing or any part thereof would be understandable to the child and not injurious to his or her emotional health (Sect. 33).

The Child Welfare Act also conforms to article 14 (4) of the International Covenant on Civil and Political Rights with respect to procedures that shall take account of the age of juvenile persons and the desirability of promoting their rehabilitation. Where the parent of a child is under 18 years of age, the official guardian or some other person appointed by the judge shall be guardian *ad litem* of the parent (Sects. 19 (4) and 20 (4) of the new Act). A decision granting or refusing an order that a child is in need of protection may be appealed by a parent or other person who has had immediate charge of the child, the local child welfare director, or a next friend on behalf of the child, and the appeal shall be heard at the first court sitting held after the notice of appeal has been filed and served (Sects. 36 and 43). In addition

⁶ *Ibid.* (CCPR/C/1/Add.43, Vol. II).

to the right of appeal, the new Act contains rights of review of temporary care agreements (Sect. 25 (13)), supervision orders (Sect. 32 (1 and 4)), access orders (Sect. 35 (1)), orders for a society wardship (Sect. 37 (1 and 2)) and Crown wardships (Sect. 38 (1 and 2)). These rights belong basically to the parent or child in question.

Quebec

The rights recognized in article 10, paragraphs 1 and 2 of the International Covenant on Civil and Political Rights, are protected, *inter alia*, by section 106 of the Courts of Justice Act 1964 which provides that: "The Social Welfare Court is authorized to take cognizance of cases of juvenile delinquents within the meaning of the Juvenile Delinquents Act (R.S.O. 1952, chap. 160)." Section 106 was recently replaced by section 140 of the Youth Protection Act 1977, which was proclaimed on 15 January 1979.

Social Welfare Court Judges are further authorized to decide, *inter alia*, on the admission of children to youth protection schools and on infringements of provincial laws or municipal by-laws committed by young persons of less than 18 years of age (Sect. 106 (a) *et seq.*).

F. Right to recognition as a person before the law

*(article 6 of the Universal Declaration;
article 16 of the International Covenant on
Civil and Political Rights)*⁷

In British Columbia the principle whereby a child conceived is considered to be born is recognized provided that the conceived child is born alive as is defined under the Family Relations Act, R.S.B.C. 1979, c. 121 and applied to the Wills Act, R.S.B.C. 1979, c. 434.

G. Right to a public trial

*(article 10 of the Universal Declaration;
article 14 of the International Covenant on
Civil and Political Rights)*⁸

The Provincial Offences Act, 1979 of Ontario permits exclusion of the public at the power of the court when necessary to: maintain order; protect the reputation of a minor; or to remove influences which might affect the testimony of a witness. To protect the reputation of a minor the court can also prohibit publication or broadcasting of his or her identity or of certain pieces of evidence. A defendant can be excluded if his or her behaviour is so disruptive that continuation of the trial is not feasible or if the defendant's presence, at a trial the issue of which is the defendant's capacity to stand trial, would adversely affect the defendant's mental health.

⁷ *Ibid.* (CCPR/C/1/Add.62).

⁸ *Ibid.* (CCPR/C/1/Add.62).

H. Non-retroactivity of criminal law

*(article 11 of the Universal Declaration;
article 15 of the International Covenant on
Civil and Political Rights)*⁹

In Canada, retroactive legislation is the exception rather than the rule. This type of legislation is rare in practice. Ordinarily, such legislation is enacted because it is required in the circumstances, or because its adoption brings some benefit. Thus, following the decision of the Supreme Court of Canada in *Attorney General of Québec v. Blaikie et al.* (1979) 2 S.C.R. 1016, in which it was held that the French and English versions of the legislation enacted by the National Assembly of Québec, together with the regulations passed under these laws, had the force of law, the National Assembly enacted the Act respecting a judgement rendered in the Supreme Court of Canada on 13 December 1979 on the language of the legislature and the courts in Québec. This Act gives the force of law retroactively to the English versions of the statutes and regulations enacted since the Charter of the French Language, R.S.Q. 1977, c. C-11, took effect. However, it should be noted that taxation statutes are frequently retroactive. A number of taxation provisions take effect when they are announced, even though they are only enacted later. In addition, if the legislature considers it necessary, it may at times remedy defects or weaknesses in taxation legislation by amending it retroactively.

I. Right of asylum

*(article 14 of the Universal Declaration;
articles 2 and 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹⁰

British Columbia

In 1979, the Provincial Government passed the Refugee Settlement Programme of British Columbia Act, S.B.C. 1979, c. 27. The Act provides for: the establishment by the Minister of a programme for the settlement of refugees; the employment of a director to administer the programme; and the appointment of an Advisory Committee to assist the Minister.

J. Protection of the family, motherhood and childhood

*(articles 16 and 25 (2) of the Universal Declaration;
articles 23 and 24 of the International
Covenant on Civil and Political Rights)*¹¹

In British Columbia, under the Vital Statistics Act, S.B.C. 1979, c. 425, the child of a married couple has the husband's surname. An illegitimate child or an adulterine child may be registered under either the surname of the mother or the father. In Yukon, adulterine children are the children of the mother's marriage unless the contrary is proven.

In British Columbia, under the Legitimacy Act, R.S.B.C. 1979, c. 232, a person becomes legitimate once his or her parents intermarry. Once the parents intermarry the child

⁹ *Ibid.* (CCPR/C/1/Add.62).

¹⁰ *Ibid.* (CERD/C/50/Add.6).

¹¹ *Ibid.* (CCPR/C/1/Add.62).

is legitimate from birth for all purposes of the laws of British Columbia. From an administration point of view the parents must contact the Vital Statistics Branch and provide proof of paternity, such as a letter from a doctor, before legitimacy becomes official.

K. Political rights

*(article 21 of the Universal Declaration)*¹²

The Northwest Territories and the Yukon Territory

The two territories, established under the Temporary Government of Rupert's Land Act 1869 (various Acts applicable to the Northwest Territories were consolidated into a Northwest Territories Act in 1875) and the Yukon Act, 1898, are government structures unique to Canada in that their Governments are headed by appointed Canadian government officials, Commissioners (as chief executive officers), supported by fully elected Legislative Assemblies.

Legally speaking, this federal-territorial relationship differs from that with the provinces, where the provinces have full responsible government. Indeed, the Yukon Act requires the Commissioner to follow instructions issued from time to time by the Minister or the Governor in Council. However, on 9 October 1979, the Minister instructed the Commissioner to consider herself bound by the advice of the Yukon legislature. The Minister has also instructed the Commissioner to establish an Executive Council composed exclusively of elected representatives. This, in effect, has given the Yukon Territory a measure of responsible government short of provincehood.

L. Right to social security

*(article 22 of the Universal Declaration;
article 9 of the International Covenant on
Economic, Social and Cultural Rights)*¹³

The Family Allowance Programme pays maintaining parents or guardians a monthly allowance on behalf of each dependent child under the age of 18 years. Benefits are indexed annually to the cost of living and are considered income for tax purposes. Provincial Governments have the option of varying benefits—within certain limits—on the basis of the age of the child and/or family size, provided that the average benefit per child in the province equals the national benefit level. Alberta and Québec have used this option. One province, Québec, supplements the national benefits using its own funds.

On 12 December 1978, a bill to amend the Income Tax Act and the Family Allowances Act was given Royal Assent. The amendments have two main elements. The first is a reduction in family allowances to \$20 per child per month for 1979. However, these allowances continue to be paid to all mothers regardless of income. They also continue to be fully indexed annually to the cost of living. The second element is a refundable Child Tax Credit which, for the 1978 taxation year, will provide \$200 per child per annum to mothers in families with combined incomes of up to \$18,000 a year. For families with combined incomes over \$18,000, Child Tax Credits are payable on a gradually reduced basis: the amount payable is reduced by \$5 for every \$100 by which family income exceeds \$18,000. This credit will provide some benefits to two thirds of all families with children and, on balance, even taking into account the reduction in family allowances and the changes to other child-related tax provisions, these initiatives will mean increased federal child benefits for over half of all Canadian families with children.

¹² *Ibid.* (E/1978/8/Add.32).

¹³ *Ibid.* (E/1978/8/Add.32).

Old Age Security provides a universal pension to those aged 65 and over who meet certain residence requirements. The Old Age Security pension is subject to income tax. Added to this is the Guaranteed Income Supplement designed to complement Old Age Security pensions for those beneficiaries with little or no other income in order to ensure a minimum guaranteed income for the elderly. Eligibility for and the level of Guaranteed Income Supplement benefits payable are determined on the basis of an income test. Benefits are not taxable.

Recently, Spouses Allowances were added to the social security programmes for the elderly. This programme extends benefits equivalent to Old Age Security/Guaranteed Income Supplement to spouses aged 60-64 of Old Age Security/Guaranteed Income Supplement recipients, subject to an income test.

M. Right to work

*(article 23 of the Universal Declaration;
article 6 of the International Covenant on
Economic, Social and Cultural Rights)¹⁴*

Direct job creation: youth-specific job creation programmes

The introduction in 1979 of a new Employment and Immigration Commission was seen as a job-creation initiative. The new Youth Job Corps Programme, the underlying principles and philosophy of which were similar to those of the previous Summer Job Corps Programs, had as its objective the expansion of employment opportunities for unemployed youth. Federal departments and agencies were again solicited to create jobs through projects complementing ongoing government priorities and providing unemployed young people with the opportunity to obtain useful work experience. Wherever possible, the involvement of third parties was encouraged in order to contribute community expertise and support to the planning and implementation of activities. As with the Summer Job Corps, each project was administered by a Project Leader provided under a contribution arrangement with the sponsoring department.

Saskatchewan

The Saskatchewan Human Rights Code guarantees that workers shall not be discriminated against in regard to hiring, firing or in the terms or conditions of their employment on account of their race, religion, religious creed, colour, sex, marital status, age, physical disability, nationality, ancestry or place of origin. No employment agency can discriminate in placing people in employment, and no trade union can discriminate against a person seeking membership in the union or against any of its members.

N. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹⁵*

Ontario

The main components of the Ministry of Education's "Action Plan for Education in a Multicultural Society" have been implemented. In order to evaluate the influence of Ministry

¹⁴ *Ibid.* (E/1978/8/Add.32).

¹⁵ *Ibid.* (CERD/C/76/Add.6).

multicultural policies at the school-board level, a provincial review on multicultural education was initiated in 1979.

Through the teacher education programme offered by the University of Western Ontario, thirty native students obtained basic teacher qualifications in 1979.

Quebec

Educational Activities of the Québec Commission des droits de la personne (Human Rights Commission)

Under the Charter of Human Rights and Freedoms, the Commission is responsible for setting up an information and education programme designed to foster understanding and win acceptance for the goals and provisions of the Charter, which prohibit discrimination on the grounds of race, colour, and ethnic or national origin. The Commission also has the responsibility of co-operating with any Quebec or outside organization dedicated to the promotion of human rights and freedoms. In view of the indisputable impact of education in altering attitudes, the Commission has assigned a certain priority to the education sector. Two topics have received its special attention in the period covered by this report: the native people's situation and mutual acceptance of Quebecers of all origins.

The Commission and native people

During 1979, in the wake of complaints from the public that a false image was being conveyed by certain newspapers and magazines specializing in the outdoors, the Commission carried out an investigation of 117 articles published over the previous three years questioning native hunting and fishing practices. The Commission was moved by an initial analysis to approach the writers with its concerns about the tenor of the reports that cast doubts on the native people and might have vitiated the quality of relations between them and the whites. The goal in publishing this study was not only to condemn this demeaning and warped representation of native reality, but also to make a contribution that would upgrade the quality of discussion. The Commission released the results of its investigation at a press conference held at Sept-Îles in 1980.

In addition, the Commission took part in the October 1979 congress of the *Société des professeurs d'histoire du Québec* (Quebec History Teachers Association); part of the congress was given to an examination of the natives' place in history textbooks. This conference was especially useful as a setting for bringing out an important work entitled, *L'image de l'Amérindien dans les manuels scolaires du Québec* (The Image of the Amerindian in Québec Textbooks), which appeared with the Commission's co-operation.

Mention must be made of the meeting of 27 June 1979 that brought together more than 70 representatives of ethnic associations, groups and media from the Montréal region to voice to the Commission their expectations of Quebec society. This first large-scale encounter was a chance to exchange interesting ideas on the role the Commission ought to be playing in the area. Its study on mutual acceptance by Quebecers of all origins was thus widened and the co-operative work already begun with the ethnic associations and groups continued. Agreement has been reached that racism has to be addressed at its very source by general action if we want to eliminate the misconceptions that lie behind many problems experienced by the ethnic minorities.

CHILE

A. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them

*(article 2 of the Universal Declaration;
article 2.2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

The principal object of Decree-law No. 2568, concerning the descendants of the Mapuche, signed on 2 March 1979, is to facilitate access to individual ownership of land for the Mapuche, who currently only have usufruct of the so-called community reservations, which does not give them legal title of ownership to the land.

It is estimated that, under this Decree-law, title deeds will be granted to persons living in 300 reservations during 1979 and that the ownership of the Mapuche lands will be regularized within five years. The initiative for this process of regularization should come from the people concerned themselves. Accordingly, communities which prefer to remain undivided and without individual titles of ownership may retain the *status quo* without any State intervention.

Decree-law No. 2568 has been amended by Decree-law No. 2750 of 21 June 1979 to improve the wording and remove any ambiguities.

B. Right to life

*(article 3 of the Universal Declaration;
article 6 of the International Covenant on
Civil and Political Rights)*²

Decree-law No. 2460, which was published in the *Official Gazette* of 24 January 1979, contains the new organic law on the Chilean Investigations Service (Civilian and Judicial State Police). This law provides for a reorganization of the administrative structure of the Civilian Police and contains a series of provisions designed to guarantee detainees immunity from physical injury and safeguard their right to due process. Specifically, in relation to the right to life, article 19 states: "Officials of the Chilean Investigations Service shall not perpetrate any act of violence designed to secure statements from detainees. Violation of this provision is punishable by: (1) minimum or medium periods of long-term imprisonment, if the act of violence causes death."

C. Prohibition of torture and of cruel, inhuman or degrading treatment or punishment

*(article 5 of the Universal Declaration;
article 7 of the International Covenant on
Civil and Political Rights)*³

Article 19 of the Decree-law No. 2460 on the Chilean Investigations Service provides for penalties of imprisonment for officials of the Service who perpetrate an act of violence

¹ Reports submitted by State (CERD/C/18/Add.5 and CERD/C/65/Add.3).

² *Ibid.* (CCPR/C/1/Add.40).

³ *Ibid.* (CCPR/C/1/Add.40).

designed to secure statements from a detained person and, in so doing, cause severe or relatively serious injuries (art. 19 (2) and (3)) and short-term imprisonment if the injuries are minor or even if there are no injuries.

Furthermore, in order to prevent and if necessary punish any action which may cause physical harm to a detainee, article 20 provides that: "As soon as the Investigations Police arrests a person, it must place him at the disposal of the competent judge. If, because of the time at which the arrest is made, it is not possible to comply with this rule immediately, any detainee who so requests personally or through another person, before entering the premises of the Chilean Investigations Service under arrest, shall be examined by a forensic pathologist, who shall issue a health certificate making special note of any lesions, lacerations, bruises or other internal or external signs indicating that the detainee has been subjected to beatings, mistreatment, blows or any other type of violence. Furthermore, if the detainee so requests, a similar examination shall be carried out at the time of his entry into prison and a certificate shall be issued. Both medical certificates shall be transmitted to the judge in the case, so that they may be added to the dossier."

D. Right to work, to just and favourable remuneration and to an adequate standard of living

*(articles 23 (1), 23 (3) and 25 (1) of the Universal Declaration;
articles 6, 7 and 11 of the International Covenant on
Economic, Social and Cultural Rights)⁴*

Constitutional Act No. 3, article 1(20), as amended by Decree-law No. 2755, paragraph 3, states that every person shall have the right freely to choose his work and the right to fair remuneration ensuring him and his family at least a standard of living compatible with human dignity.

The above provision amended article 10 (14) of the 1925 Political Constitution of the State, introducing an important element—that of "human dignity"—which fully complies with the spirit and letter of article 11 (1) of the Covenant.

In the field of housing, the Supreme Government, through the Ministry of Housing and Urban Development, approved the so-called "National policy for housing and urban development" in March 1979 as part of its national policy of economic and social development.

E. Trade union rights

*(article 23 (4) of the Universal Declaration;
article 8 of the International Covenant on
Economic, Social and Cultural Rights;
article 22 of the International Covenant on
Civil and Political Rights)⁵*

On 9 February 1979, Decree-laws Nos. 2544 and 2545 were promulgated; they complement, modify and improve upon earlier provisions. Decree-law No. 2544 re-establishes full freedom to hold trade union meetings and abolishes the prohibitions which were temporarily imposed in that respect by Decree-law No. 198.

Decree-law No. 2545 regulates the system of trade union contributions on the basis of compulsory payments by all trade union members and compulsory deductions from pay-cheques if required by the majority of members and, in any case, if one member so requests. Similar norms have been established for associations of civil servants, whose right to join or not to join a trade union are expressly recognized. In view of the need to establish a suitable

⁴ *Ibid.* (E/1980/6/Add.4).

⁵ *Ibid.* (E/1978/8/Add.28 and CCPR/C/1/Add.40).

period of time to adjust to the new regulations, Decree-law No. 2545 provides that, during the transitional stage, the previously established systems of deduction will remain in force.

New provisions ensuring full trade union freedom and reopening collective bargaining in the labour sector became effective in the first week of July 1979.

One of the most important components of the new labour scheme in force, as contained in Decree-law No. 2756 (published in the *Official Gazette*, 3 July 1979), is a series of provisions whose purpose is to enable an increasing number of workers to enjoy the exercise of trade union rights.

Decree-law No. 2758 (published in the *Official Gazette*, 6 July 1979) acknowledges that collective bargaining is the right of all workers, whether they are organized or not. Thus, if there are workers who have still not formed a union or do not belong to the existing union or unions, they should form a bargaining group, a procedure which requires no major formalities.

The new provisions establish 16 August 1979 as the date on which trade unions and groups of workers in each company should start to submit their draft collective contracts.

In order to establish an organizational mechanism, a provisional timetable was drawn up. It contains different dates for the submission of draft collective contracts during the period 16 August 1979 to 6 May 1980, the sequence depending on the letter with which the company's name begins.

The provisional timetable for the first round of bargaining ends on 6 May 1980 and from that date onwards the permanent procedure will apply. This procedure consists in submitting the draft collective contract no more than 45 days and no fewer than 40 days prior to the date on which the current collective contract expires.

However, the timetable referred to above does not prevent the parties from entering into collective bargaining by mutual consent on dates other than those established in the timetable.

Arbitration

Chilean legislation recognizes that, in certain exceptional cases, arbitration is the most appropriate procedure when services vital to the country's population and economy are at stake. For this reason, it has established compulsory arbitration in respect of bargaining in companies: (a) "that render services of public utility", or (b) "the paralysation of which would cause grave damage to the health or supply of the population, or to the country's economy or national security". The law further establishes that "for subparagraph (b) to be effective, it is necessary that the company in question should represent a significant part of the respective activity of the country, or that its paralysation would mean that there was absolutely no possibility of a segment of the population receiving a service". The classification of companies falling into this category must be made in July every year by a joint resolution of the Ministries of the Economy, Defence and Labour. This resolution has already been adopted for the period July 1979-July 1980.

F. Right to health

*(article 25 (1) of the Universal Declaration;
article 12 of the International Covenant on
Economic, Social and Cultural Rights)*⁶

Health is a constitutional right guaranteed to all the inhabitants of the Republic. A major breakthrough in health legislation was achieved with the enactment of Decree-law No. 2763, published in the *Diario Oficial* on 3 August 1979.

⁶ *Ibid.* (E/1980/6/Add.4).

This Decree-law reorganizes the Ministry of Health and related institutions, establishing a national system of health services which will give the population effective access to health care in the manner provided for by the Constitution, permitting thorough and efficient implementation of policies in this area and the exercise of the State's responsibility for reallocating resources in accordance with the real needs of each region in the interests of homogeneous development.

G. Protection of children

*(article 25 (2) of the Universal Declaration;
article 10 of the International Covenant on
Economic, Social and Cultural Rights)⁷*

In the area of assistance, the country has numerous state and private institutions for protecting infants and adolescents, and has had extensive legislation on the subject for several decades. The current Government of Chile has taken an extremely important step in this regard by enacting new and progressive legislation on the matter. This legislation is contained in Decree-law No. 2465 published in the *Diario Oficial* of 16 January 1979. It establishes the National Service for Minors (*Servicio Nacional de Menores*), a body subordinate to the Ministry of Justice and "responsible for carrying out any measures necessary to assist or protect the young people covered under this law and for promoting, directing, co-ordinating and technically supervising the work of public or private entities that assist it in carrying out its functions" (art. 1 (1)).

⁷ *Ibid.* (E/1980/6/Add.4).

CHINA

Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them; political rights

*(articles 2 and 21 of the Universal Declaration;
articles 2 and 5 of the International Convention on the Elimination of
All Forms of Racial Discrimination)¹*

Article 15 of the Electoral Law adopted at the Second Session of the Fifth National People's Congress in 1979 specifies that in the quota of deputies to the National People's Congress, at least one shall be assigned to each of the minorities with exceptionally small populations.

¹ Report submitted by State (CERD/C/101/Add.3).

COLOMBIA

Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them

*(article 2 of the Universal Declaration;
article 27 of the International Covenant on Civil and Political Rights)¹*

The Government has put before Congress a draft law under which the President of the Republic would be vested with special powers to issue a National Statute for the Indians and adopt further measures to protect indigenous groups. The draft law includes the following provisions:

“Article 7. Colombian Indians shall enjoy the special protection of the State with a view to preserving their culture, guaranteeing the conservation and development of their communities and furnishing them with the material needs for their individual and collective welfare.

“Article 8. The rights of the Indians to use and preserve their native languages and dialects and their religious beliefs and practices is hereby recognized. Education in the Indian areas shall be bilingual.

“The authorities of the Republic shall be required to respond to requests and petitions by the Indians in their native language.

“Article 9. The indigenous communities may apply for and secure recognition of legal personality and shall be legally represented by their traditional authorities.

“The Administrative Department for the Development of Indian Community Affairs shall certify the existence of each indigenous community, its traditional authority and the persons exercising such authority.

“Additional clause. The Indians or the indigenous communities may be represented judicially or extrajudicially by officials from the Administrative Department for the Development of Indian Community Affairs established by the Government.”

¹ Report submitted by State (CCPR/C/1/Add.50).

COSTA RICA

Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them

*(article 2 of the Universal Declaration;
article 2.2 of the International Convention on the Elimination of
All Forms of Racial Discrimination)¹*

In the constant struggle to improve the status of the indigenous communities of the country, the first "Round-table on Indigenous Affairs in Costa Rica" was held in October 1979, with the participation of the President of the Republic.

Indigenous representatives from 15 communities were also present at the meeting, and they had an opportunity to explain their social and economic needs to government representatives.

One immediate result of this event was the signature, at the end of the round-table, of a protocol transferring the estates acquired by the Institute of Lands and Settlement (ITCO) to the indigenous communities.

The President of the Republic and the Minister for Security signed executive decrees establishing the boundaries of indigenous areas.

At the end of this first round-table, a protocol transferring the estates acquired by the Institute of Lands and Settlement (ITCO) to the indigenous communities was signed, as was a series of executive decrees which clearly delimit the area set aside for each indigenous reserve.

¹ Report submitted by State (CERD/C/66/Add.29).

CUBA

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the Elimination of
All Forms of Racial Discrimination;
articles I, IV, VI and XI of the International Convention on the Suppression and
Punishment of the Crime of Apartheid)*¹

The draft of a new Penal Code was submitted to the National Assembly of People's Power for consideration on 28 December 1978. The Penal Code, entered into force on 1 November 1979, replacing the legislation in force.

For a better understanding of the objectives of this law with regard to the elimination of racism, racial discrimination and *apartheid*, consideration should be given to the third preambular paragraph, to which the National Assembly drew particular attention during drafting as one of the essential features of the law:

“ . . . the inclusion of offences repudiated by the international legal conscience and condemned in international conventions to which our country is a signatory, such as mercenary activities, genocide and *apartheid*.”

Selected operative passages of the Penal Code are cited below. They indicate its scope and efficacy and show that it extends to persons guilty of offences involving discrimination, including *apartheid*.

The Penal Code is made up of a series of rules that have been developed and systematized; it makes use of advances in criminology, particularly in the form in which it is being continually perfected in the countries of the socialist community; it also takes into account the valuable experience acquired by our people in these years of constant struggle to build a socialist society.

Article 5 states:

“3. Cuban penal law is applicable to aliens and stateless persons not resident in Cuba who commit an offence abroad, if they are in Cuba and are not extradited, whether they reside in the territory of the State in which the act was perpetrated or in any other State, provided that the act is also punishable in the place where it was committed. This last requirement is not mandatory if the act constitutes an offence against the fundamental political or economic interests of the Republic, or against mankind, human dignity or the well-being of the community, or is subject to prosecution under international treaties . . .”.

In addition, article 18 (4) of the Penal Code contains a provision which prevents persons guilty of conduct constituting a violation of international law or a crime against humanity from evading justice.

Among its basic characteristics are the following: it establishes that the object of the penalty is not only to inflict punishment for the offence committed, but also to correct and re-educate the guilty party and prevent the commission of further offences; it penalizes crimes repudiated by the international community, such as genocide, the use of mercenaries and *apartheid*; it includes a new title dealing with offences against labour rights.

The penal Code provides the firmest guarantee in the penal system of the principle of equality of all citizens established in article 40 of the Constitution of the Republic and

¹ Reports submitted by States (CERD/C/48/Add.4; E/CN.4/1353/Add.7; CERD/C/75/Add.2 and E/CN.4/1983/24/Add.1).

complements the provisions of article 41 of the same, which prohibits discrimination by reason of race, sex or national origin and stipulates that it shall be punished by law.

In articles 349 and 128, respectively, the Penal Code prescribes severe penalties for racial discrimination and condemns the most brutal form of racial discrimination, namely *apartheid*.

Cuba is a party to the International Convention on the Suppression and Punishment of the Crime of *Apartheid* and accordingly has considered it appropriate to include the crime against mankind known as *apartheid* in the new Penal Code as a serious offence subject to the most severe penalties, even though this abhorrent crime cannot occur in the Republic of Cuba, where racial discrimination is prohibited. Article 128 of the Penal Code deals with this offence.

The Penal Code regulates all matters relating to extradition in article 6, subparagraphs 2 and 3 of which are relevant to the stipulations of the Convention.

In September 1979, Cuba sponsored the holding of the Sixth Summit Conference of Heads of State or Governments of Non-Aligned Countries at Havana, the first summit conference of the movement held in Latin America. Cuba helped to prepare statements condemning racial discrimination and *apartheid* which were incorporated into the Final Declaration.

B. Prohibition of incitement to racial discrimination

*(article 7 of the Universal Declaration;
article 4 of the International Convention on the Elimination of
All Forms of Racial Discrimination)²*

In the event that an association was formed whose objectives were contrary to the laws prohibiting discrimination, its members would be subject, under Criminal Code, chapter IX, articles 239 and 240, concerning unlawful associations, meetings and demonstrations, to penalties varying from three to nine months' imprisonment or to fines of 100 to 270 units.

Thus, any kind of organization, association or demonstration of racial discrimination or racial hatred will be included among the unlawful and punishable demonstrations covered in the above articles.

Article 238 of the Criminal Code, which sets penalties for those who associate to commit offences or whose purpose is to create disorder or commit other anti-social acts may also be applied.

In order to provide a penal safeguard for the rules laid down in the Constitution, the new Criminal Code establishes in chapter VIII, article 349, concerning offences against the right to equality, a penalty to be incurred by those who discriminate against another person and those who uphold ideas based on racial superiority or hatred.

C. Right to social security

*(article 22 of the Universal Declaration;
article 5 of the International Convention on the Elimination of
All Forms of Racial Discrimination)³*

Act No. 24 of 29 August 1979 on social security

The meaning and scope of this law, which offers appropriate protection to the worker, his family and the population in general, through the social security system and a social

² *Ibid.* (CERD/C/48/Add.4 and CERD/C/75/Add.2).

³ *Ibid.* (CERD/C/75/Add.2).

assistance scheme, are set forth in the first and second preambular paragraphs:

“Whereas in its unceasing quest for ways and means daily to better satisfaction of the growing material and spiritual needs of the people, socialist society offers extensive social protection, with emphasis on the preservation of life and health, education and social security, which are a primary responsibility and objective of the State.

“Whereas, since the triumph of the Revolution, considerable resources and efforts have been devoted to making this social protection practical, by giving social security a new meaning and a broader scope, as set forth mainly in Act No. 1100 of 27 March 1963, which, in addition to bringing about the legal unification of existing benefits and extending its field of application to new sectors of the working population, introduced many benefits which were subsequently broadened through complementary schemes and assistance plans, in a process in which the Cuban social security system has, in progressive stages, produced principles proper to the new society which is being built.”

Its provisions, and article 4 in particular, protect “all workers”, without racial discrimination or any other kind of discrimination.

Decree No. 59 of 29 December 1979 on Social Security Act Regulations

Issued by the State Committee on Employment and Social Security and drafted with the participation of the Cuban Workers' Head Office and the Organs of People's Power, these Regulations provide in article 2:

“The implementation of the social security system is ensured by the financial resources provided each year in the State budget and the appropriate administrative organization established for the purpose.”

Article 6 reads:

“Persons in the administration who are assigned functions relating to the social security system, shall bear administrative, labour or criminal responsibility, which they shall incur in the event of failure to discharge their duties. Similarly, the staff of social security organs shall be responsible, in keeping with the relevant provisions, for any violations they may commit in the exercise of their activities.”

As can be seen from the above article, the benefits and possibilities made available by the Social Security Law and their practical implementation through the Regulations are zealously guarded.

Article 7 of chapter II, concerning beneficiaries, states:

“Wage-earning workers in the State, co-operative and private sectors, political organizations, social and mass organizations, and associations, as well as those coming within the scope of article 4 (c) and (ch) of the Act, are entitled to protection in all cases covered by the social security system. Their families receive the pension prescribed by the Act in case of death.”

D. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the Elimination of
All Forms of Racial Discrimination)⁴*

Classes, textbooks and out-of-school activities give the pupils a complete education creating in them understanding and friendship among nations and with the various racial and ethnic groups. History instruction stresses the exploits of the slaves who fought for Cuban independence.

⁴ *Ibid.* (CERD/C/75/Add.2).

Thousands of students from African, Asian and other countries are studying in Cuba.

As provided for in article 42 of the Constitution, all, without distinction, are guaranteed the enjoyment of beaches, social centres, theatres, cinemas and other places of recreation and culture.

In keeping with chapter IV of the Constitution, cultural, artistic and musical activities of every kind are enjoyed by all equally.

Cuba's achievements in sport are well known. Enjoyment of the right to physical education and sport is guaranteed to all, without distinction, free of any trace of racial discrimination.

Radio, press and television report regularly on major events, conferences and acts concerning racial discrimination and *apartheid*. News and reports are disseminated on the acts perpetrated by racists abroad, which are condemned.

Visiting leaders of liberation movements of African peoples are interviewed.

Radio and television programmes adopt an educational approach to the subject in order to combat reactionary concepts of racial differences and develop fraternity among people.

Cuba has distinguished itself in disseminating and practising the purposes and principles of the Charter of the United Nations, of the Universal Declaration of Human Rights and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and of the International Convention on the Elimination of All Forms of Racial Discrimination, which have also been the subject of post-graduate courses in the legal sciences faculties of our universities and in the Higher Institute for Foreign Relations of Cuba's Foreign Ministry.

CYPRUS

A. Enjoyment of human rights and fundamental freedoms

(articles 1 and 2 of the Universal Declaration)¹

Despite the systematic and unremitting efforts which have been exerted by the Government of the Republic of Cyprus, it has not yet been possible to secure the enjoyment of human rights and fundamental freedoms by the Cypriot people as a whole. The reason for this is that Cyprus for the sixth year in succession is still suffering heavily from the effects of the Turkish invasion and the continued unlawful military occupation of 40 per cent of its territory, in spite of a series of United Nations resolutions demanding the immediate withdrawal of all foreign troops from the island, and calling for respect of human rights and the return of the refugees to their homes and properties under conditions of safety. Regrettably, in the case of Cyprus, political expedience and the use of force continue to prevail over justice and human dignity.

B. Right to liberty and security of persons

(articles 3 and 10 of the Universal Declaration)²

In the case of *Adamos Haritonos v. Chief of Police and Another* (1 C.L.R., 616 (1979)), the applicant escaped from the Central Prisons while serving a term of 14 years' imprisonment. After his arrest he was taken back to that prison and though his advocate repeatedly applied to the prison and police authorities for leave to visit him, he was not allowed to do so. Hence he applied for "an order of habeas corpus and/or mandamus ordering the production of Adamos Haritonos before the Supreme Court of Cyprus, the facilitating of his advocates to visit him daily and the provision of medical and pharmaceutical treatment in a nursing institution".

Counsel for the respondents stated before the Court that the advocate had not been allowed to see the applicant because, in consequence of the escape, he was in solitary confinement, during which time visits were prohibited, and added that, as he understood it, there was no intention to prosecute for the escape because he had been punished under the prison regulations with solitary confinement and he was in prison simply as a person serving a term of imprisonment.

Article 11, paragraphs 1, 4 and 5 of the Constitution read as follows:

"1. Everyone has the right to liberty and security of person.

...

"4. Every person arrested shall be informed at the time of his arrest, in a language which he understands, of the reasons for his arrest and is entitled to the services of an advocate of his own choice.

"5. The person arrested shall be brought before the Judge as soon as possible after his arrest, and in any event not later than 24 hours after the arrest, unless earlier released."

¹ Contribution submitted by State.

² *Ibid.*

It was held:

(a) That *habeas corpus* clearly lay only in cases of unlawful deprivation of liberty; that in the case in question the applicant was lawfully confined because the term of imprisonment to which he had been sentenced was still in force; and that, therefore, *habeas corpus* did not lie.

(b) That in escaping from prison the applicant had committed an offence under section 128(1) of the Criminal Code, the punishment for which was seven years' imprisonment, and for that offence he could be lawfully arrested and prosecuted; that even if an undertaking not to prosecute him had been given it would not have availed the respondents, for on his arrest following his escape he had become entitled, in respect of that offence, to the benefit of the safeguards laid down by paragraphs 1, 4 and 5 of article 11 of the Constitution; that since the subject-matter of that article was the right to liberty and security of the person, two fundamental human rights, it could not be within the power of the authorities to deprive him of those safeguards by the legal or procedural device of undertaking to forgo prosecuting him; that, therefore, the applicant was entitled to the safeguards of the provisions of article 11, paragraphs 4 and 5 of the Constitution; and since, as was stated in the applicant's affidavit and not denied on the other side, the authorities had refused to allow his advocate to see him with a view to giving him the benefit of his professional services, an order of *mandamus* compelling them to do so must issue.

(c) That with regard to the "medical care" there was nothing before the Court suggesting, let alone proving, that the applicant was in such need; and that, accordingly, the plea for such relief must fail.

C. Right to protection against arbitrary interference with privacy

*(article 12 of the Universal Declaration)*³

The Births and Deaths Registration Law 1979 (No. 46 of 1979) amends and consolidates the laws relating to the registration of births and deaths in the Republic, and provides that information contained in the register cannot be disclosed except as provided for by such Law.

D. Protection of the family, motherhood and childhood

*(articles 16 (3) and 25 (2) of the Universal Declaration)*⁴

The European Convention on the Legal Status of Children born out of Wedlock (Ratification) Law 1979 (No. 50 of 1979) ratified the relevant European Convention, which was signed by the Republic of Cyprus on 1 December 1978.

E. Right to own property

*(article 17 of the Universal Declaration)*⁵

The Missing Persons Provisional Orders Law 1979 (No. 77 of 1979) provides machinery for the administration of the estates of missing persons, establishing a statutory board for supervising such administration and laying down the duties of the administrators.

On account of the great number of missing persons following upon the Turkish invasion and the numerous consequent legal issues, it was decided that the most prudent way to resolve these was through temporary legislative provisions. Missing persons, in the absence of positive proof of death, are considered to be still living.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

F. Right to social security*(article 22 of the Universal Declaration)*⁶

By the Social Insurance (Amendment) Law (No. 56 of 1979) which came into force in June 1979, pensions and other social insurance benefits were increased by an average of approximately 14 per cent.

G. Right to work*(article 23 of the Universal Declaration)*⁷

The following improvements were effected to legislation concerning termination of employment by the Termination of Employment (Amendment) Law (No. 92 of 1979) which came into force in December 1979:

(a) The maximum period of notice to be given to an employee on termination of his employment was increased from four to six weeks.

(b) The maximum compensation for unlawful termination of an employee's employment was increased from one year's to two years' wages.

(c) The maximum redundancy payment for employees declared redundant was increased from 26 weeks' to 75½ weeks' wages.

By an Order of the Council of Ministers issued in May 1979, the minimum wage rates for clerks and shop assistants were raised to £40 per month upon engagement and £45 per month upon completion of six months' service with the same employer. (The rates previously in force had been £30 and £33 respectively.)

By an Order of the Minister of Labour and Social Insurance issued in July 1979, the weekly working hours of shop assistants were reduced from 50 to 45, and half-holidays increased from one to two per week.

H. Right to rest and leisure*(article 24 of the Universal Declaration)*⁸

By the Annual Holidays with Pay (Amendment) Law (No. 85 of 1979) which came into force in November 1979, the minimum period of annual holidays with pay was increased from nine days to two working weeks, while the minimum period of employment giving right to paid holidays was reduced from 25 to 13 weeks in each year.

I. Right to an adequate standard of living (right to health)*(article 25 (1) of the Universal Declaration;**articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)*⁹

RIGHT TO FOOD

During the months April-May 1979 a series of lectures covering food conservation and the utilization of preserved food were given to 120 villages by home economics officers and were attended by over 3,500 farmers' wives. The idea has been to explain methods and ways of preserving food in periods of peak production and of utilizing conserved food granted by FAO under the World Food Programme.

⁶ *Ibid.*⁷ *Ibid.*⁸ *Ibid.*⁹ Report submitted by State (E/1980/6/Add.3) and contribution submitted by State.

RIGHT TO AN ADEQUATE HOUSING

The Department of Town Planning and Housing under the Ministry of the Interior, taking into account not only the circumstances prevailing in the island, but also the Vancouver Declaration on Human Settlements (1976), has taken the following action in the course of 1979:

(a) In order to plan and regulate the use of land in accordance with general principle No. 10 of the Vancouver Declaration and, in particular, with recommendation D.2 (Control of land-use change), land-use zoning plans covering various parts of the island were prepared and published in the *Official Gazette* of the Republic. Land-use zoning, which is a means of controlling and constructively channelling development in line with the principles of the Island and Local plans, is enforced under article 14(1) of the Streets and Buildings Regulation Law. Further, with a view to preserving environmental values along the coastline by safeguarding it from the erection of high-rise buildings (with the attendant danger of excessive shadow) and creating open spaces for public use and enjoyment, the Department has designated certain protected zones along the coastline of Cyprus. Notices concerning these zones, which are defined under the Foreshore Protection Law (Cap. 59) and its Amendment (No. 8 of 1972), were published in the *Official Gazette* of the Republic in 1979.

(b) For the purposes of preserving and improving the man-made environment in accordance with the spirit of recommendation D.1 of the Vancouver Declaration, a Preservation Order under section 38(1) of the Town and Country Planning Law 1972 (No. 90 of 1972) was published both in the *Official Gazette* of the Republic in 1979 and in *Poleodhomika Themata* (volume 10). The Order provides for the preservation of the most valuable buildings found in the eastern part of the walled city of Nicosia. A plan is also being prepared, in co-operation with the Nicosia Municipality, for the rehabilitation of the Old Town of Nicosia.

(c) In order to provide, in accordance with recommendation C.9 of the Vancouver Declaration, adequate shelter and services for lower-income groups and in particular for persons displaced as a result of the 1974 Turkish invasion of the island, the Government of Cyprus proceeded in 1979 with its low-cost housing and self-help housing schemes.

The Government, after prolonged study and research in co-operation with United Nations housing experts, has approved draft legislation concerning the establishment in Cyprus of a Housing Finance Agency and a Land Development Corporation.

RIGHT TO HEALTH

During the year under review, the Ministry of Health had further strengthened the human and material resources of its services in order to enable them to raise the standard of health care provided. It has also commenced a detailed study on the introduction of a new integrated health care system, the aim of which is to place the provision of health care to the people on a more rational basis and to render the distribution of the burden involved even more equitable.

Regarding legislation relating to matters of health, mention should be made of the Psychotropic Substances Law of 1979.

J. Protection of children

(*article 25 (2) of the Universal Declaration;
article 10 of the International Covenant on Economic, Social and Cultural Rights*)¹⁰

Some very recent measures underline the keen interest of the Government of Cyprus in the handicapped. A law, the Law for Special Education of 1979, was enacted in June 1979 to

¹⁰ Report submitted by State (E/1980/6/Add.3).

regulate the establishment and functioning of schools for handicapped people. A nationwide survey was carried out in April 1979 by the services of the Ministry of Education in an effort to obtain up-to-date data about handicapped people. The analysis of the data provided by the survey will guide the Government in its effort to provide better educational opportunities to handicapped people. A new curriculum for schools for trainable children has also been developed.

K. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic,
Social and Cultural Rights)¹¹*

The Special Education Law (No. 47 of 1979), enacted in June 1979, provides for the establishment and functioning of state schools offering special education for those children who require it, namely those who are (a) maladjusted; (b) retarded; (c) physically incapacitated, or (d) educationally subnormal.

Industrial training courses continued to be offered in 1979 (a) to all groups of unemployed persons, enabling them to become better acquainted with labour requirements, and (b) to employed persons wishing to improve their skills or to change their occupation. It is important to note that with the full functioning of the Cyprus Industrial Training Authority, industrial training courses have been improved both in a qualitative and quantitative manner, thereby giving everyone, without discrimination, the chance to improve his or her skill or to learn a new trade.

The Cyprus Productivity Centre, through its regional/international department, the Mediterranean Institute of Management (M.I.M.) organizes annually, between September and July, a Post-Graduate Management Diploma Programme which is open to foreign participants; in 1979 these numbered 14, of whom six attended the 1978/1979 Programme, and eight the 1979/1980 Programme.

Finally, a significant number of Moslem and black students continued to attend the courses run by the Hotel and Catering Institute without any discrimination with regard to race, colour, religion or sex.

Measures to improve the material conditions of teaching staff

During the period under review, the negotiations between the Government and educational organizations were successfully completed and led to the signing of separate agreements which constitute the new structures and organization of primary education, secondary education and the inspectorate. The new structural reorganization adopts the general salary scales introduced for the whole civil service, provides for combined scales and posts for certain grades and generally allows access to higher remuneration and grades to a relatively greater number of teaching staff than before. The agreements were sanctioned by the House of Representatives with the enactment of laws. Salaries are composed of a basic salary and a cost-of-living allowance which is adjusted every six months. From time to time part of the cost of living is embodied in the basic salary on agreement between the Government and teachers' organizations.

Measures adopted for teaching staff

The new structure which came into effect on 1 January 1979 improved general working conditions, remuneration and career possibilities. In certain instances, the private sector has followed suit;

¹¹ Contribution by State and report submitted by State (E/1982/3/Add.19).

Teachers are protected against all risks contained in the International Labour Organisation Social Security (Minimum Standards) Convention. The level of protection granted to teachers in relation to all risks is satisfactory.

L. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the Elimination of All Forms of Racial
Discrimination)¹²*

Measures with a view to combating prejudices which lead to racial discrimination have been further promoted through the revision of the school syllabuses on History and Civics. The following objectives, as they are stated in the proposed Secondary School curriculum, are indicative of an educational policy which aims at combating racial discrimination:

(a) The world civilization is the result of collective human effort, struggle and sacrifice. Thus, while everyone is free to retain diversity in his own culture, this diversity does not justify the perpetuation of racial prejudice;

(b) Establishing attitudes for meaningful communication with other people so that egocentricism should be overcome and fanaticism defeated.

Measures with a view to promoting understanding, tolerance and friendship among nations and racial or ethnic groups have also been promoted by the curriculum change of the subjects of History and Civics. The spirit of understanding, tolerance and friendship is being fostered by the following objective in teaching History: "Understanding of interdependence and the necessity for communication among all the nations in the world". The celebration of the International Year of the Child by schools at all levels of education, in general and by associated schools, in particular, has also promoted international understanding in a number of ways.

The anniversaries of both the United Nations Day and the Human Rights Day are duly observed by the elementary and secondary schools, as well as institutes of higher education. Furthermore all UNESCO anniversaries are celebrated in an effective way by producing relevant teaching material and increasing children's awareness of UNESCO objectives. Articles from UNESCO Bulletins are circulated in schools for teaching purposes.

With a view to promoting the objectives of article 7 of the Convention, special programmes are broadcast over the radio and television. Wide publicity is also given by radio, television and newspapers to all United Nations resolutions and international conferences which condemn the policy of racial discrimination and *apartheid*.

M. Right to participate in the cultural life of the community and to share in scientific advancement and its benefits; right to protection of artistic works

*(article 27 of the Universal Declaration;
article 15 of the International Covenant
on Economic, Social and Cultural Rights)¹³*

The Berne Convention for the Protection of Literary and Artistic Works (Ratification) Law 1979 (No. 86 of 1979), ratifying the Berne Convention in question, was published in the *Official Gazette* of the Republic on 16 November 1979.

¹² Report submitted by State (CERD/C/66/Add.3).

¹³ Contribution by State; report submitted by State (E/1982/3/Add.19).

N. Right to a social and international order in which human rights can be realized
(*article 28 of the Universal Declaration*)¹⁴

The Additional Protocol (Protocol 1) to the Geneva Convention (Ratification) Law of 1979 (No. 43 of 1979) ratified the Protocol Additional to the Geneva Convention of 12 August 1949, providing for the protection of victims of international armed conflicts and signed by the Republic of Cyprus on 12 July 1978.

O. Duties of the community (suppression of terrorism)
(*article 29 of the Universal Declaration*)¹⁵

The Suppression of Terrorism (Ratification) Law 1979 (No. 5 of 1979) ratified the European Convention on the Suppression of Terrorism (European Treaty Series, No. 90). The Courts of Justice (Extension of Jurisdiction to try certain Offences of Terrorism) Law 1979 (No. 9 of 1979), published in the *Official Gazette* of the Republic on 26 January 1979, was enacted in order to conform with the international obligation undertaken by the Republic under article 6 of the European Convention on the Suppression of Terrorism which provides that the contracting parties must try the offences of terrorism mentioned in article 1 of the said Convention in cases where they do not extradite the offender to the contracting country which has applied for extradition.

¹⁴ Contribution submitted by State.

¹⁵ *Ibid.*

CZECHOSLOVAKIA

A. Protection of the family, motherhood and childhood

*(articles 16 (3) and 25 (2) of the Universal Declaration;
article 10 of the International Convention on Economic, Social and Cultural Rights)¹*

PROTECTION OF THE FAMILY

The principal legal regulations adopted during the period under review are as follows: Executive Measure No. 76/1979 and Act. No. 150/1979, especially sections 81, 82 and 98, which amended and supplemented Act No. 121/1975 concerning social security.

Among the important executive regulations, reference should be made to Decree No. 77/1979 of the Government of the Czechoslovak Socialist Republic on the increase of allowances for children and their upbringing; and Notice No. 80/1979 concerning the increase in the ceiling for personal income, which is decisive for the recognition of the dependants of those taxed on their wages.

PROTECTION OF CHILDREN AND YOUNG PERSONS

The principal laws and other legal regulations are as follows:

Act No. 50/1973 concerning foster care, contained in the text of Measure No. 68/1980 of the Government of the Czechoslovak Socialist Republic; and Notice No. 128/1975 promulgating the Act on social security, as contained in the texts of Notices No. 83/1979, No. 108/1979 and No. 164/1979.

Czechoslovak legal order and practice do not differentiate between children born in or out of wedlock; both have the same rights. The consequences which certain foreign legal systems associate with a child's birth outside lawful wedlock are unknown in Czechoslovak law.

B. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic, Social and Cultural Rights)²*

The granting of scholarships and other assistance has been provided for by Decree No. 94/1979 of the Ministry of Health and the Ministry of Education of the Czech Socialist Republic and Decree No. 96/1979 of the Ministry of Health and the Ministry of Education of the Slovak Socialist Republic, on the granting of scholarships and material assistance to the pupils of gymnasiums, vocational schools, secondary vocational schools, conservatoires and secondary schools for working people; Decree No. 93/1979 of the Ministry of Labour and Social Affairs and the Ministry of Education of the Czech Socialist Republic and Decree No. 95/1979 of the Ministry of Labour and Social Affairs and the Ministry of Education of the Slovak Socialist Republic, on remuneration and material assistance for pupils and apprentices who prepare themselves in the individual branches of apprenticeship to be employed as workers.

¹ Report submitted by State (E/1980/6/Add.21).

² *Ibid.* (E.1982/3/Add.18).

**C. Promotion of understanding, tolerance and friendship among all nations,
racial and ethnic groups**

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the Elimination of
All Forms of Racial Discrimination)*³

The explaining of the erroneous basis, unscientific character and harmfulness of racism and racial prejudice is in the Czechoslovak Socialist Republic part of the process of education and upbringing at all levels. In information media the Czechoslovak public is informed about deliberations and decisions of United Nations bodies aimed at the elimination of racism, racial discrimination and its most hideous form, *apartheid*. Public organizations in the Czechoslovak Socialist Republic also pay attention to the problem of the struggle against racism and racial discrimination. The malignancy of racism, racial discrimination and *apartheid* was emphasized also within the framework of actions organized in the Czechoslovak Socialist Republic in connection with the International Year of the Child and within the framework of the United Nations Decade for Women.

D. Protection of the interests of authors

*(article 27 (2) of the Universal Declaration;
article 15 of the International Covenant on Economic, Social and Cultural Rights)*⁴

The main law providing for the protection of moral and material interests involved in all scientific, literary or artistic activities of authors is Law No. 35/1965 on works of literature, science and the arts (law on copyright). In addition, there is Decree No. 25/1967 on rules governing the remuneration of authors for their published written works, which is valid as amended by Decree No. 142/1979 (Czech Socialist Republic) or Decree No. 156/1979 (Slovak Socialist Republic).

The law provides for all rights of copyright in full conformity with the Berne Convention for the Protection of Literary and Artistic Works, as revised (Paris 1971) and with the Universal Copyright Convention, as revised (Paris 1971), to which the Czechoslovak Socialist Republic is a party, the dates of accession being 11 and 18 April 1980, respectively.

³ *Ibid.* (CERD/C/66/Add.8).

⁴ *Ibid.* (E.1982/3/Add.18).

DEMOCRATIC YEMEN

Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the Elimination of
All Forms of Racial Discrimination)¹*

With regard to culture and information, the information media—press, radio and television—enlighten public opinion about the plots of the enemies of humanity and progress and give prominence to the struggles of the peoples for their liberation and social progress, according special attention to the struggle of the Palestinian Arab people—under the leadership of the Palestine Liberation Organization, the sole legitimate representative of the Palestinian people—for the restoration of their legitimate rights, foremost among these being the right to return to their homes, to establish their independent State and to determine their own future. The information media are also concerned with the struggle of the Arab population in the occupied Arab territories for the termination of such occupation and their enjoyment of their human rights, as well as with the struggles of the peoples of southern Africa against racism and the policies and practices of *apartheid* of the Pretoria régime in South Africa.

¹ Report submitted by State (CERD/C/48/Add.7).

DENMARK

A. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them

*(article 2 of the Universal Declaration;
article 2.2 of the International Convention on the Elimination of
All Forms of Racial Discrimination;
article 27 of the International Covenant on Civil and Political Rights)*¹

In June 1978, the Commission on Home Rule in Greenland submitted its second and final report (No. 837/1978), in which it recommended the introduction of home rule in Greenland as of 1 May 1979, the date of expiration of the term of the Provincial Council then in office.

By the Greenland Home Rule Act (Act No. 577) of 29 November 1978, a system of home rule for Greenland on the lines recommended by the Commission was adopted. Under that system, which is based on the same principles as those applicable to the home rule system for the Faroe Islands established in 1948, independent legislative and administrative competence in a number of fields will gradually be transferred to the home rule authorities, which will consist of a popularly elected assembly, the *Landsting* (legislature), and an administrative body, the *Landsstyre* (executive). The internal government of Greenland, taxation in Greenland, the Established Church, school education and cultural affairs are among the services and functions expected to devolve to the home rule authorities during the period up to 1 January 1981. Under the devolution scheme, the home rule authorities may take over the financing of the services and functions which have devolved to them, or financing may take the form of comprehensive government grants which the home rule authorities are free to use in accordance with the order of priorities they determine.

With particular regard to the exploitation of Greenland's natural, non-living resources, Denmark and Greenland are accorded equal status under section 8 of the Home Rule Act, in the sense that preliminary study, prospecting and exploitation of such resources shall be regulated by agreement between the central authorities and the home rule authorities.

On 17 January 1979 an advisory referendum was held in Greenland on the Greenland Home Rule Act (Act No. 577 of 29 November 1978). The Act was approved by 70 per cent of the voters participating in the referendum and was brought into force with effect from 1 May 1979 by a special Act (Act No. 56 of 21 February 1979).

On the introduction of home rule, the home rule authorities assumed responsibility for the administration of domestic Greenland affairs at the central and local level. It is expected that the production and sales activities of the Royal Greenland Trade Department and administration of the industrial support scheme will be transferred to home rule not later than 1 January 1984.

As to whether the Government of Denmark has complied with all its obligations under article 2 of the Convention by introducing home rule, it should be noted that the home rule arrangement, like all other special arrangements applicable to Greenland, covers Greenland as a whole and not any specific population group.

¹ Reports submitted by State (CCPR/C/1/Add.51; CERD/C/75/Add.5).

B. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 6 of the International Convention on the Elimination of
All Forms of Racial Discrimination)²*

According to information received from the Public Prosecutor, two cases of circumvention of section 266 (b) of the Penal Code have been heard in Danish courts during the period under review.

(a) The author of a letter to the editor of a local paper was punished for stating that “foreign workers ruin the lives of our young people by selling drugs to them for personal gain”.

(b) A person was punished for having written in a newspaper article:

“There are about 50,000 foreign workers in Denmark. They live in large settlements. Most of them do little work or none at all. Being unemployed, they live on hard-working and skilled Danish workers while, through immigration and begetting children, they multiply like rats.”

He was also punished for having said in an interview to a daily paper that foreign workers

“enter the country, many of them illegally, in patent leather shoes and jackets bringing hashish, drugs and prostitution in their wake. They sponge on our social system and are about to ruin the country. The Muslims are preparing to usurp power. They can’t be bothered to learn Danish and they are dishonest.”

The editor of the paper carrying the first-mentioned article was punished as being responsible for the article under the Press Act and, as such, guilty of circumvention of section 266(b) of the Penal Code.

Also the consumer ombudsman has received two communications about racial discrimination in advertising. In response to these communications he stated that advertisements presenting a ludicrous, stereotype or vulgar image of aliens are inconsistent with the principles of decent marketing practice.

C. Right to an adequate standard of living

(article 25 (1) of the Universal Declaration; article 11 of the International Covenant on Economic, Social and Cultural Rights)³

The Housing Allowance to Pensioners Act, No. 251, of 8 June 1978, entered into force on 1 January 1979.

D. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic, Social and Cultural Rights)⁴*

The principal acts relevant to the right to education enacted in Denmark in 1979 are the following:

Act No. 218 of 23 May 1979 on State educational support;

Act No. 257 of 8 June 1979 (amendment of the act on the *Folkeskole* which lays down that there have to be pre-school classes in all municipalities);

Executive order of 2 July 1979 on the transportation of sick pupils;

² *Ibid.* (CERD/C/75/Add.5).

³ *Ibid.* (E/1980/6/Add.15).

⁴ *Ibid.* (E/1982/3/Add.20).

Five executive orders of 22 October 1979 on special education of pupils with reduced vision, reduced hearing or physical handicaps and of pupils with language and speaking difficulties, and on the transportation of children and young people who receive special education.

The aim of these executive orders is, as far as possible, to make handicapped pupils equal with others of their age group.

**E. Promotion of understanding, tolerance and friendship
among all nations, racial and ethnic groups**

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the Elimination of
All Forms of Racial Discrimination)⁵*

In observance of the International Year of the Child (1979), many schools all over the country staged educational programmes on the children of other countries, other cultures, human rights and development assistance work, in order to encourage understanding of other nations, races and cultures among school children. The local authorities of Copenhagen also staged a comprehensive programme in which immigrant children from 20 nations performed songs and dances from their countries of origin before audiences of their Danish school friends and playmates.

There are many associations of people of foreign nationality in Denmark. Most of them are national associations of aliens resident in Denmark and many have established youth groups which, in contrast to the associations as such, are entitled to subsidies on the same terms as Danish youth associations and interest groups.

⁵ *Ibid.* (CERD/C/75/Add.5).

ECUADOR

A. Condemnation of racial segregation and apartheid

(articles 1 and 2 of the Universal Declaration;

*article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination; articles IV and VI of the International Convention on the Suppression and Punishment of the Crime of Apartheid)*¹

Article 4 of the Ecuadorian Constitution affirms that: "The Ecuadorian State condemns all forms of colonialism, neo-colonialism and racial discrimination or segregation. It recognizes the right of peoples to free themselves from these oppressive systems."

The Constitution of Ecuador was approved by the people of Ecuador in full exercise of their sovereign right through a referendum held on 15 January 1978 and has been in force since 10 August 1979.

In order to give effect to constitutional provisions as well as those contained in the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of *Apartheid*, a number of reforms of the Penal Code were promulgated on 4 July 1979, expressly prohibiting any incitement to or the commission of acts favouring racial discrimination and laying down appropriate penalties for persons violating the Code as amended.

B. Elimination of racial discrimination

(article 2 of the Universal Declaration;

*article 2.1 of the International Convention on the Elimination of All Forms of Racial Discrimination)*²

Under Decree No. 3194 of 29 January 1979, provisions to implement the rules laid down in the International Convention on the Elimination of All Forms of Racial Discrimination have been incorporated in the Penal Code and are part of the law of the Republic. The amendments to the Penal Code clearly state that acts that encourage racial discrimination are forbidden. The penalties for infringing these provisions are set out in the amendments.

C. Protection of human rights and freedoms

(article 2 of the Universal Declaration;

*article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination)*³

Article 19 of the Constitution which embodies the rights of the individual, states that: "Every person shall enjoy the following guarantees: 1. Inviolability of life and personal integrity and the right to full material and moral development. Torture and all inhuman or degrading treatment are forbidden." "Freedom of conscience and religion, both individual and collective, in public or in private. Persons may freely practise the religion they profess, with only those limitations prescribed by the law to protect public security, public morals or the fundamental rights of other persons."

¹ Reports submitted by State (CERD/C/91/Add.2; E/CN.4/1983/24/Add.2).

² *Ibid.* (CERD/C/20/Add.35).

³ *Ibid.* (CERD/C/91/Add.2).

Article 44 of the Political Constitution of Ecuador guarantees to all individuals who are subject to its jurisdiction, whether men or women, free and effective exercise and enjoyment of the civil, political, economic, social and cultural rights set forth in the declarations, covenants, conventions and other international instruments in force.

It thus provides that every inhabitant of the country enjoys, in addition to the freedoms and rights recognized by the Constitution and laws of Ecuador, the guarantees set forth in the international instruments on the elimination of racial discrimination, the elimination of discrimination against women and on human rights to which Ecuador is a party.

D. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 6 of the International Convention on the Elimination of
All Forms of Racial Discrimination)⁴*

The Political Constitution of 1978 includes the right of *habeas corpus*, whereby any person who considers that he has been illegally deprived of his freedom may avail himself of this remedy, which consists in applying to the magistrate or President of the council—even through a third party. The magistrate shall require production of the order for the deprivation of freedom and, in the event of the detainee not being brought before him, the order not being produced, the order produced not fulfilling the legal requirements or of there being a lack of due process, shall, within a period not exceeding 48 hours, order the release of the petitioner.

Article 20 of the 1978 Constitution of Ecuador makes it obligatory to compensate private individuals for any damage suffered by them as a result of public activities or of the acts of public officials and civil servants in the course of their duties. There is also, of course, the right to take legal action to obtain compensation.

⁴ *Ibid.* (CERD/C/91/Add.2).

EGYPT

A. Protection of human rights and freedoms

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the Elimination of
All Forms of Racial Discrimination)*¹

On 11 April 1979, the President of the Republic issued decision No. 157, inviting the people to express their opinions in a referendum on a number of issues, including the proclamation of a Declaration of Human Rights for the Egyptian and the establishment of a State Council comprising members of all classes of society, which would operate along the lines of a family council in Egypt.

B. Political rights

*(article 21 of the Universal Declaration;
articles 4 and 5 of the International Convention on the Elimination of
All Forms of Racial Discrimination)*²

To promote the role of women in contributing to the political life of the country, Act No. 21, promulgated in 1979, amended certain provisions of the People's Assembly Act and aimed at ensuring a minimum level of representation of women in that Assembly. Article 1 of Act No. 21 provides that:

“The Arab Republic of Egypt shall be divided into 176 constituencies to be determined under a law. Each constituency shall have two elected members in the People's Assembly, at least one of whom must be a worker or a farmer, excluding 30 constituencies to be specified in a table attached to the Constituencies Act for the election of members of the People's Assembly. Each of these 30 constituencies shall have three elected members, at least one of whom must be a woman.”

The same principle was underscored by Act No. 22 of 1979.

Act No. 36, amending certain provisions of Act No. 40 of 1977 concerning the party political system, was promulgated in 1979. Article 4, paragraph 3, of this Act provides that:

“A political party whose principles, programmes, activities, choice of leadership or election of members are based on principles which are at variance with the provisions of Act No. 33 of 1978 on the protection of the community and social peace shall be prohibited. Similarly, no party may be formed on a class, sectarian or geographical basis, or on the basis of discrimination as to race, origin, religion or belief.”

In a word, the struggle against racist practices is receiving steadily increasing support from the Egyptian legislature, as reflected in the various laws outlined above.

Presidential Decree No. 157, promulgated on 11 April 1979, invited the electorate to take part in a referendum on various issues, including the declaration of Egyptian human rights. The referendum did, in fact, take place at the appointed time and an overwhelming

¹ Report submitted by State (CERD/C/66/Add.4).

² *Ibid.* (CERD/C/66/Add.4 and CERD/C/91/Add.15).

majority voted in favour of the measures submitted in the referendum. However, the declaration of Egyptian human rights has not yet been promulgated. This is possibly due to the fact that the rights and freedoms of citizens as laid down in the Egyptian Constitution far exceed those contained in all previous declarations of human rights such as the French Declaration promulgated in 1789, the American Declaration of Rights promulgated in 1776 and the Universal Declaration of Human Rights promulgated in 1948.

EL SALVADOR

Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article IV of the International Convention on the Suppression
and Punishment of the Crime of Apartheid)¹*

In September 1979, El Salvador broke off relations with the Government of South Africa as a sign of its rejection of the intolerable policy of *apartheid* implanted in that country.

¹ Report submitted by State (E/CN.4/1984/36/Add.2).

ETHIOPIA

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the Elimination of
All Forms of Racial Discrimination)*¹

On 21 March, the International Day for the Elimination of Racial Discrimination was marked on a global scale. On this occasion Comrade Chairman Mengistu Haile Mariam sent a message to the United Nations Special Committee Against *Apartheid* calling upon the freedom- and peace-loving peoples and Governments of the world to intensify their efforts towards the speedy and complete eradication of racism.

On 17 March 1979, the International Day of Solidarity with the People of Zimbabwe was marked at a special function at the National Theatre Hall. The function was characterized by a number of speeches highlighting the final victory of the people of Zimbabwe over colonialism and racist domination.

Ethiopia has also provided financial contributions to the following United Nations funds whose programmes and activities are designed to enhance the struggle for equality and justice and against all forms of racial domination and exploitation:

United Nations Educational and Training Programme for Southern Africa;

United Nations Fund for Namibia;

United Nations Trust Fund for South Africa;

Trust Fund for Publicity against *Apartheid*.

B. Political rights

*(article 21 of the Universal Declaration; article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

The Provisional Military Administrative Council on 18 December 1979 issued a proclamation establishing a Commission for Organizing the Party of the Working People of Ethiopia (COPWE), whose prime responsibility is to lay down the foundation of the party of the working people of Ethiopia.

C. Right to an adequate standard of living

*(article 25 (1) of the Universal Declaration;
article 5 of the International Convention on the Elimination of All Forms of Racial
Discrimination)*³

On 24 June 1979 the Provisional Military Administrative Council (PMAC) issued directives on the establishment of Agricultural Producers' Co-operatives to initiate a socialist system in rural Ethiopia. The decision to issue the guidelines follows in the footsteps of the proclamation to provide for the Public Ownership of Rural Lands. All land having been

¹ Report submitted by State (CERD/C/46/Add.3).

² *Ibid.* (CERD/C/73/Add.2).

³ *Ibid.* (CERD/C/73/Add.2).

rendered public property, it was necessary that it be used collectively. Moreover, the need for socio-economic progress necessitated socialization of agriculture.

On 22 July 1979, the Provisional Military Administrative Council issued another directive on the establishment of Handicraft Producers' Co-operatives to co-ordinate within one structure individual producers and thereby consolidate their common benefits.

The directives provide for the co-ordination of individual expertise, tools and production forces under a collective property in which the exploitation of individual handicraft producers will cease and backward working methods will be replaced with better technology. The directives have the aim of facilitating the struggle against cultural pressures on people engaged in handicrafts, and maintaining the dignity of labour. The political, economic and social rights of hitherto oppressed handicraft producers will be respected, while socialist production relations will be further strengthened.

In both directives membership in the Agricultural Producers' Co-operatives, and Handicraft Producers' Co-operatives is voluntary and the co-operatives function under the principles of democratic centralism without distinction as to race, sex, language, religion or nationalities.

D. Right to education

*(article 26 of the Universal Declaration;
article 5 of the International Convention on the Elimination of
All Forms of Racial Discrimination)⁴*

In July 1979, the historic National Literacy Campaign, which aims at wiping out illiteracy from the country by the end of the decade, was launched. The campaign which was launched with the modest aim of introducing 1-3 million adults in and around the urban areas to reading, writing and basic arithmetic has today turned the country into a vast school. The programme required every illiterate adult to enroll in literacy centres.

E. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the Elimination of
All Forms of Racial Discrimination)⁵*

The system of education covers a wide range of programmes on Socialist Principles. Courses on the basic aspects of socialism are provided to students at all levels of the educational process. Students are accorded the opportunity to discuss and find out the root causes of inequality, exploitation and discrimination among people. In order to combat prejudices and hatred which lead to racial discrimination and to promote understanding and tolerance among other people, schools offer subjects dealing with the brotherhood of the workers, peaceful, friendly relationship and good neighbourliness. Respect for the human personality, the concept of universal equal rights, mutual understanding, tolerance and friendship between nations and racial and ethnic groups are instilled into students at all levels of the educational system.

⁴ *Ibid.* (CERD/C/73/Add.2).

⁵ *Ibid.* (CERD/C/46/Add.3).

FINLAND

A. Condemnation of racial segregation and *apartheid*
(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the Elimination of
All Forms of Racial Discrimination)¹

Finland has contributed annually to the United Nations Trust Fund for South Africa, the United Nations Educational and Training Programme for Southern Africa and the United Nations Trust Fund for Publicity against *Apartheid*. These contributions will be continued as long as that assistance is needed. Finland is among the main contributors to the United Nations Fund for Namibia and has also given humanitarian assistance to liberation movements annually both directly and through the Organization of African Unity Assistance Fund for the Struggle against Colonialism and *Apartheid*.

B. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them
(articles 2 and 26 of the Universal Declaration; articles 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination)²

The University of Lapland was founded by Act No. 8 of 5 January 1979 in order to provide higher education to the whole population in Lapland. It started functioning at the beginning of the autumn semester this year. The assignment of the University is to promote and carry on research work, offer the highest instruction based on such research and in general to serve the society. In the University research and instruction are primarily concentrated in the fields of law, pedagogics and social sciences. The University is located in the city of Rovaniemi which is the administrative centre of Lapland. Various institutes of the University may also be established in other localities of Lapland if need be.

In the comprehensive schools located in the Lapp area, instruction in Lappish has been increased considerably. The Ministry of Education has granted an annual subsidy to the communities in this area for the establishment of extra teachers' vacancies so as to make the teaching in Lappish possible also in the cases where the number of pupils having Lappish as their mother tongue would not suffice for a separate educational group. In order to have enough teachers who have a command of Lappish, an annual contingent has been reserved for such teacher candidates in the Teachers' Institute of Oulu.

On the Finnish radio there are regular programmes in Lappish containing mainly news. At the end of 1979 regular Lappish school programmes will be broadcast.

In 1977 and 1979 higher secondary schools were established in the municipalities of Utsjoki and Enontekiö in the Sámi area, which also teach the Sámi language.

The syllabi of the Sámi language

In Finland there are three dialects of the Sámi language: Northern Sámi, Skolt Sámi and Inari Sámi.

¹ Report submitted by State (CERD/C/50/Add.3).

² *Ibid.* (CERD/C/50/Add.3 and CERD/C/76/Add.4).

The syllabi of Northern Sámi for the comprehensive school and the higher secondary school are being developed as a Nordic co-operation project because Northern Sámi is spoken by Sámis as their mother tongue also in the Sámi areas of Sweden and Norway. An agreement on a common orthography was concluded in 1979.

The syllabi of Skolt Sámi have been completed for the lower level of the comprehensive school in the Sevettijärvi lower-level school in the municipality of Inari.

Instruction of Inari Sámi has been organized in the comprehensive school.

The Sámi language as a subject at university level

In 1979 a lectureship in the Sámi language and culture was established at the University of Lapland in Rovaniemi. The assistant professorship in the Sámi language at the University of Oulu will be changed into a professorship as from 1 September 1982. Study of the Sámi language is also open to the students to be trained as teachers at the University of Oulu.

C. Protection of the family, motherhood and childhood

*(articles 16 (3) and 25 (2) of the Universal Declaration;
article 10 of the International Covenant on Economic, Social and Cultural Rights)³*

Revision of the Act on Induced Abortions (1 January 1979) provides that the termination of pregnancy must take place before the twelfth week of pregnancy instead of the sixteenth week as in the earlier provision (despite an information campaign arranged to coincide with the enforcement of the revision the number of unwanted children may grow).

The Decree on Work Adjustment Training came into force on 1 August 1979. This Decree specifies in more detail the responsibility of the municipalities and federations of communes to organize the education of the mentally handicapped as defined in the Act on Special Care for the Mentally Handicapped (23 June 1977/519).

Due to the development of the non-institutional care services during the last decade it has been possible for mildly and moderately subnormal children and young persons to live with their parents. Those severely or profoundly subnormal, and other children and young persons who for other reasons (such as multiple invalidity and social reasons) have not been able to receive home care, will also in future be placed in institutions for the mentally handicapped, which, in addition to actual treatment, provide both educational and therapeutic services.

D. Right to an adequate standard of living

*(article 25 (1) of the Universal Declaration;
article 11 of the International Covenant on Economic,
Social and Cultural Rights)⁴*

The Advisory Board for Nutrition appointed by the Ministry of Agriculture and Forestry co-ordinates the activities of separate authorities in the field of food and nutrition policy. In addition a specific Advisory Board for Agricultural Policy was appointed in 1979 to draw up an overall programme concerning the provision of food, taking into account the proposals made by a committee appointed by the Ministry of Social Affairs and Health to draw up recommendations concerning healthy nutrition.

³ *Ibid.* (E/1980/6/Add.11).

⁴ *Ibid.* (E/1980/6/Add.11).

E. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration; article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination)*⁵

Public mass media have continued to disseminate information with a view to combating prejudices which may lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups. There have been numerous programmes on the Finnish radio and television for this purpose. Newspapers and periodicals have published articles for the same purpose. Several non-governmental organizations are also doing fruitful work in this field.

In the curricula of the comprehensive school system, the purposes and principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and the Convention on the same subject are amply emphasized. The instruction, as a whole, promotes understanding, tolerance and friendship among nations and racial or ethnic groups. The consciousness of the pupils is awakened to the interdependence of all peoples of the world, the value and contribution of different cultures to the common good and the responsibility of every nation for the future development of mankind. The problems of the developing countries and the importance of the development co-operation are also dealt with. In the teaching of these subjects, the recommendations of the UNESCO are observed. Furthermore, the textbooks to be used in schools have been revised to the effect that they fulfil the requirements of these objectives. For this purpose, seminars have been arranged for the authors of school textbooks, and teachers have been given supplementary training.

⁵ *Ibid.* (CERD/C/50/Add.3).

FRANCE

A. Elimination of racial discrimination

(article 2 of the Universal Declaration;
article 2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹

In general, acts of racial discrimination were uncommon in 1979. When such acts did take place, the courts and tribunals continued to punish them severely. Reference should be made to the following judicial decisions:

Judgement of the Grasse Criminal Court dated 27 April 1979. A retailer of beverages ordered her staff not to serve persons of North African origin. When a customer was refused service for this reason, the retailer was sentenced to a heavy fine pursuant to article 416 of the Penal Code.

Judgement of the Thionville Criminal Court dated 25 September 1979. This judgement relates to a café proprietor who uttered racist insults against a coloured Frenchman. Pursuant to article 33 of the Act of 29 July 1881, the Court sentenced the café proprietor to a 2,000 franc fine and payment of damages to the victim. The Court considered that "there are grounds for imposing a penalty which will take into account both the means of the accused and the need to penalize racist reactions . . .".

Judgement of the Court of Cassation dated 28 November 1979. This judgement of the Social Division of the Court of Cassation relates to an employer, an hotel proprietor, who dismissed a waitress because she had made racist remarks about a customer. The Conciliation Board, a body specializing in labour disputes, considered that the charge of racial discrimination could not be upheld. The Court of Cassation quashed that decision, pointing out in particular that the judges had not explained why they had refused to admit the charge of racial discrimination. The Court of Cassation did not have to hand down any other decisions on such matters during the period 1978-1979.

In the matter of equal rights, the Conciliation Board Act of 18 January 1979² enabled foreign workers in possession of valid residence and work permits to join with their French colleagues on 12 December 1979 in electing the members of these Boards, whose function is to settle individual labour conflicts.

B. Right to an effective remedy

(article 8 of the Universal Declaration;
article 6 of the International Convention on the
Elimination of All Forms of Racial Discrimination)³

The Mediator continued to be active in 1978 and 1979.

Of the complaints that the Mediator had to deal with in 1978 and 1979, none directly concerned an administrative act based on racial discrimination or revealed conduct involving such discrimination.

¹ Report submitted by State (CERD/C/65/Add.2).

² *Ibid.* (CERD/C/63/Add.2).

³ *Ibid.* (CERD/C/65/Add.2).

A considerable effort has been made to publicize the services of the Mediator. A symposium on the Mediator's activities has been held, and the annual report of the Mediator to the President of the Republic and to Parliament has been widely published.

In 1979, the Mediator received a total of 4,316 complaints, of which 3,673 were transmitted by members of the Chamber of Deputies and 643 by members of the Senate.

The total number of cases handled by the Mediator in 1979 was 6,040, including 1,724 relating to complaints made prior to 1979.

In 1979, the Mediator issued, or took action on, a total of 10 recommendations made in accordance with article 9 of the Act of 3 January 1973. One was issued in 1973, one in 1976, one in 1977, and seven in 1979. As of 31 December 1979 one of those recommendations had been applied; nine were still under negotiation with the relevant administrative department.

C. Freedom of thought, conscience and religion

*(article 18 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁴*

The texts in force with regard to religious instruction in public secondary schools are listed in Circular No. 79-452 of 19 December 1979.

These texts; together with Circular No. 77-273 of 5 August 1977 on the use of school time, provide that religious education shall as a general rule be given on Wednesdays or, failing that, at the beginning or the end of the school day or, if that is not possible, during hours in the school day which are not taken up with other classes or lessons. With a view to ensuring that timetables for pupils are not too heavy, decisions concerning the use of school time may be taken by school principals only after effective consultation with the various authorities concerned, including in particular the religious authorities.

Lastly, a new provision (Circular No. 79-343 of 10 October 1979) provides that, for pupils in the sixth and fifth classes, Wednesday shall be left completely free to enable them to attend courses of religious instruction in cases where no agreement on the use of time has been concluded between the religious authorities and the school principal.

D. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁵*

As far as social action is concerned, migrant workers and their families must be covered by all the regular social services on the same terms as the French population.

With regard to cultural activities, the Social Action Fund for Migrant Workers supported about 100 events in 1978 and 1979.

Priority was given to stimulating local activities in districts with a high proportion of foreign inhabitants. Often co-ordinated by organizers who are themselves of foreign origin, such activities are intended both to promote expression of the cultures of the countries of emigration in all their forms (music, dance, theatre, etc. . . .) and to make the French public better acquainted with these cultures.

⁴ *Ibid.* (CERD/C/90/Add.3).

⁵ *Ibid.* (CERD/C/65/Add.2).

Along the same lines, in 1978 and 1979 the first and second "French-Immigrant Dialogue Weeks", designed to create a better understanding between the French and the foreign communities, were held under the auspices of the Information, Culture and Immigration Association. In the second Week, mainly on the initiative of the offices of the National Reception Network and local associations, events were sponsored in some 70 departments. The third of these Weeks is due to take place from 8 to 15 June 1980.

The television programme *Mosaïque* continues to be broadcast every Sunday morning on France 3. It is preceded by the magazine programme *Images de . . .*, produced by the three Maghreb countries and Portugal.

Mosaïque, which is intended for all immigrant workers, is both a variety show (music, dance, theatre, etc. . . . from the countries of origin) and a news programme (social news, current events, etc. . . .).

The latest available figures (July 1979) on the viewers are as follows: 62 per cent of all immigrants; 7 per cent of the French population.

Every morning, Radio France Internationale produces and broadcasts a bulletin in the languages of the various ethnic groups in France. Radio France Internationale reckons it receives about 40,000 letters a year from listeners. In addition, a recent survey indicates that approximately one quarter of the foreign population listens to this programme fairly regularly.

Also worthy of mention is a daily news flash called *Inter-Migrants* on France-Inter. This flash is broadcast in French; however, a telephone team, speaking the principal languages used by the immigrants, answers the various questions raised by listeners.

GAMBIA

Protection of human rights and freedoms

(article 2 of the Universal Declaration)¹

At the Assembly of Heads of State and Government of the Organization of African Unity (OAU) held in 1979 at Monrovia, the Gambian delegation seconded a proposal made by Senegal for the drafting of an African Charter on Human Rights. The OAU has already organized a meeting, at Dakar, of highly qualified experts and the first draft Charter on Human and Peoples' Rights has been prepared.

Also at Monrovia, at a United Nations-sponsored meeting on Human Rights, the Gambia participated in drawing up resolutions calling on the OAU to go beyond a Charter on Human Rights and establish an African Commission on Human Rights.

¹ Contribution submitted by State.

GERMAN DEMOCRATIC REPUBLIC

Introduction: general legal framework¹

The People's Chamber of the German Democratic Republic (GDR), in order systematically to improve the socialist legal system, adopted on 28 June 1979 the following laws: Law to Alter and Amend Criminal Law and Criminal Procedure Regulations and the Law to Combat Misdemeanours (Third Law Amending Criminal Law); Law to Alter and Amend the Customs Law of the German Democratic Republic (Customs Law); Law to Alter and Amend the Foreign Currency Law; Law on the Granting of Residence to Foreigners in the German Democratic Republic (Foreigners' Law); Revised Passport Law; and the Law to Alter the Election Law of the German Democratic Republic.

A. Condemnation of racial segregation and *apartheid* *(articles 1 and 2 of the Universal Declaration; articles IV and VI of the International Convention on the Suppression and Punishment of the Crime of Apartheid)²*

By hosting the Extraordinary Session of the World Peace Council in Berlin from 2 to 5 February 1979, the GDR Peace Council made an important contribution to the promotion of solidarity with the peoples of southern Africa and to propagating the objectives of the International Anti-*Apartheid* Year. Leslie O. Harriman, Chairman of the United Nations Special Committee Against *Apartheid*, who attended the session in Berlin, had talks with the Chairman of the GDR Government Commission for the International Anti-*Apartheid* Year, the President of the GDR Solidarity Committee and with other organizations. That gave him an opportunity to receive first-hand information on the wide range of activities undertaken by the Government and the people of the GDR in the struggle against *apartheid*.

B. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them *(article 2 of the Universal Declaration; article 2.2 of the International Convention on the Elimination of All Forms of Racial Discrimination)³*

The Sorbs' cultural festivals organized in the various districts of their settlement area in 1978 and 1979 again demonstrated the cultivation and development of their mother tongue and culture, as guaranteed by law. The two festivals, which involved some 9,300 Sorbs as performers or otherwise active participants, were attended by a total of over 100,000 persons. This illustrates that Sorb culture and art have become an integral, though self-sustaining, element of the culture and art of the German Democratic Republic. The Fifth Sorb Cultural Festival, which is scheduled to be held from 29 May to 1 June 1980, will be an impressive manifestation of 30 years of Sorbs' development in full equality.

¹ Contribution submitted by State.

² Report submitted by State (E/CN.4/1353/Add.4).

³ *Ibid.* (CERD/C/64/Add.1).

C. Equal protection of the law for nationals and aliens

*(articles 2 and 7 of the Universal Declaration;
article 13 of the International Covenant on
Civil and Political Rights)*⁴

Aliens who reside in the German Democratic Republic enjoy the same rights as citizens of the German Democratic Republic as far as these rights do not depend on German Democratic Republic citizenship (article 4 of the Law on granting aliens the right of residence in the German Democratic Republic of 28 June 1979). This also means that they may fully enjoy and profit by the generous social services and other advantages of socialism. They are obliged to respect the Constitution and observe the laws and statutory regulations. The Aliens Act defines the prerequisites and conditions to be met with regard to the residence of aliens in the German Democratic Republic. Hostilities against aliens are not tolerated. Receiving due respect to their personality and dignity, their traditions, national customs and manners, they are assisted in getting accustomed to the social, political and legal conditions prevailing in the German Democratic Republic and may freely pursue their habits in compliance with German Democratic Republic legislation.

D. Right not to be submitted to arbitrary arrest or detention; treatment of prisoners

*(articles 3, 5 and 9 of the Universal Declaration;
articles 9 and 10 of the International Covenant on
Civil and Political Rights)*⁵

The procurator and the investigating authorities are obliged to see to it that persons under age or in need of care are not left without supervision or care due to the arrest of the person on whom they depend and that measures are taken to protect their property and dwelling (relief measures, cf. Article 129 of the Criminal Procedure Code). These stipulations are elaborated in detail in the Ordinance of 8 November 1979 on the care for persons and the protection of dwellings and property in case of arrest.

E. Administration of justice

*(articles 10 and 11 of the Universal Declaration;
articles 14 and 15 of the International Covenant on
Civil and Political Rights)*⁶

The Third Penal Modification Act of 28 June 1979 (*Gesetzblatt I*, No. 17, p. 139) provides for a further differentiation and individualization of admissible criminal measures to be applied against persons guilty of an offence in accordance with the particularities of each case. Special protection is granted to persons who try to prevent offences in the interest of another person or the public or render help and assistance to victims of offences. In addition, the Third Modification Act provides for an adaptation to international law in some points and responds to requirements of international co-operation. It specifies, for instance, the territorial and individual scope of application.

⁴ *Ibid.* (CCPR/C/28/Add.2).

⁵ *Ibid.* (CCPR/C/28/Add.2).

⁶ *Ibid.* (CCPR/C/28/Add.2).

F. Freedom of movement and residence

*(article 13 of the Universal Declaration;
article 12 of the International Covenant on
Civil and Political Rights)*⁷

The competent authorities decide on the granting of exit or entry permits in each individual case in accordance with the legal provisions, in particular the Passport Act of the German Democratic Republic of 28 June 1979 (*Gesetzblatt I*, No. 17, p. 148). Restrictions which the German Democratic Republic may impose are made exclusively to protect national security, public order, public health or morals or the rights and freedoms of others, as set forth in article 12, paragraph 3 of the Covenant.

G. Protection of the family, motherhood and childhood

*(articles 16 (3) and 25 (2) of the Universal Declaration;
article 10 of the International Covenant on
Economic, Social and Cultural Rights)*⁸

Among legislative acts relative to the protection of the family, mention can be made of articles 141 to 156 of the Penal Code of 2 January 1968 as amended on 19 December 1974 (Law Gazette I 1975, No. 3, p. 14) and in the wording of the Second Law Amending the Penal Code of 7 April 1977 (Law Gazette I 1977, p. 100) and of the Third Law Amending the Penal Code of 28 June 1979 (Law Gazette I 1979, No. 17, p. 139).

To effectively protect the health of children and youth, annual routine examinations, immunizations according to standard programmes, and other prophylactic measures are carried out and constant medical care is provided at pre-school child-care facilities.

The Decree on the medical supervision of children and youth of 11 April 1979 (Law Gazette I 1979, No. 12, p. 51) provides for a wide range of supervisory measures, comprising periodic assessments of a child's state of development and health from birth until he leaves school.

H. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on
Economic, Social and Cultural Rights)*⁹

In July 1979 the Council of Ministers and the National Executive of the Confederation of Free German Trade Unions adopted a joint decision to further raise the level of adult education. Under that decision, scientific academies, universities, and other higher institutions as well as technical training schools, are required to facilitate adult education in every possible way.

⁷ *Ibid.* (CCPR/C/28/Add.2).

⁸ *Ibid.* (E/1980/6/Add.6).

⁹ *Ibid.* (E/1982/3/Add.15).

GERMANY, FEDERAL REPUBLIC OF

A. Protection of human dignity

(article 1 of the Universal Declaration)¹

Pursuant to its ruling of 11 October 1978 (BVerfGE 49, p. 286), the Federal Constitutional Court ruled that the protection of the dignity of man guaranteed under article 1 (1) of the German Basic Law (GG) in conjunction with the right to the free development of personality (article 2 (1) GG) demanded that the entry of the sex of a transsexual in the register of births should be amended when medical evidence pointed to an irreversible case of transsexualism and when a sex-adjusting operation had been carried out. The Federal Court of Justice, which had pronounced a different ruling on the original case in 1971, complied with the decision of the Federal Constitutional Court by virtue of its ruling of 14 March 1979 (BGHZ 74, p. 20) and confirmed the right to amend the entry indicating one's sex in the register of births.

B. Protection against arbitrary deprivation of liberty

(articles 3, 4 and 9 of the Universal Declaration)²

Pursuant to its ruling of 16 January 1979 (BVerfGE 50, p. 125), the Federal Constitutional Court pronounced as compatible with the Basic Law the provision contained in article 48 of the Penal Code that a recidivist must be punished by a minimum sentence of six months' imprisonment even if the deed establishing the recidivism is a petty offence. The Court held that this provision is in keeping with the constitutionally accepted principle of guilt and the prohibition of excessive punishment, and that therefore it is not arbitrary.

C. Right to physical integrity

(articles 3 and 5 of the Universal Declaration)³

Fresh illumination was cast on the right to life and inviolability of the person guaranteed by article 2, paragraph 2 of the Basic Law (GG) as a result of a decision delivered by the Federal Constitutional Court in response to a constitutional appeal on the part of a private female complainant who desired provisional legal protection against the building permit for an atomic power station. In its ruling of 20 December 1979 which deemed the constitutional appeal to be admissible but unfounded, the Court noted first and foremost that a citizen's right to physical integrity may be directly affected by the construction of a nuclear power station and not simply after its commencement of operations and that he therefore has the requisite special need for legal protection under a constitutional appeal. In regard to the substance of the case, the Federal Constitutional Court again stressed the obligation incumbent upon the State under article 2, paragraph 2 of the Basic Law to adopt measures to protect people against the hazards attendant upon the peaceful use of atomic energy, but deemed this obligation to be satisfied by the issue of substantive and procedural provisions to govern the licensing of atomic power stations. Although an infringement of one's basic rights

¹ Contribution submitted by State.

² *Ibid.*

³ *Ibid.*

might exist if the licensing authorities disregarded these provisions, this was not so in the complainant's case. The Court also emphasized in this ruling that only the legislators were authorized to reach a decision for or against the peaceful use of nuclear energy.

D. Protection against interference with privacy
(articles 6 and 12 of the Universal Declaration)⁴

Even in the case of an execution to enforce a judgement, the basic right set out in article 13 GG of the inviolability of homes makes a court order fundamentally necessary for searching a debtor's dwelling in order to distrain upon his movable property. This was decided by the Federal Constitutional Court in its ruling of 3 April 1979. This clarified and terminated the existing discussion on the rights of the bailiff when searching a house.

The Federal Court of Justice delivered a judgement on 19 December 1978 which designated the publication by the press of a secretly intercepted private telephone conversation as inadmissible interference with the privacy of the person concerned and not covered by the provisions on freedom of the press and of free expression. The Federal Constitutional Court confirmed this legal view on 12 July 1979 and did not accept for consideration the constitutional appeal lodged by the press organ.

Progress was made in Land legislation in the much-discussed field of private data protection. By virtue of the Law to amend the Constitution for the Land of North-Rhine Westphalia of 19 December 1978 a German Land Constitution incorporated for the first time in the form of a basic right a claim by private citizens to the protection of their personal data.

E. Principle of equal treatment
(article 7 of the Universal Declaration;
article 2 of the International Covenant on
Economic, Social and Cultural Rights)⁵

Persons eligible for asylum may avail themselves of various forms of assistance for their integration. Under the Federal Government's programme for foreign refugees, of 29 August 1979, refugees admitted within the scope of humanitarian action (quota refugees) are assimilated with persons eligible for asylum. Persons eligible for asylum and quota refugees are entitled to work permits, language courses and assistance in basic or advanced vocational training or retraining, and in secondary or higher education.

While asylum proceedings are pending, asylum seekers are not granted any assistance facilitating their integration. The vast majority of applications have to be rejected at present on the grounds that the applicants are not politically persecuted; this means that they are not likely to stay in the Federal Republic in the long run.

While asylum proceedings are pending, asylum seekers receive social counsel and care by churches and free welfare organizations, which are granted budgetary appropriations for this purpose. The voluntary return of asylum seekers to their home country, or their departure to a third country, is facilitated by financial assistance.

Among the numerous judicial decisions on the constitutional mandatory provision of equality before the law (article 3 GG), a number of decisions handed down by the Federal Constitutional Court deserve special attention. In regard to the legislators' freedom to formulate the law and the restricting of that right by the principle of equality, the Federal Constitutional Court reaffirmed by virtue of its ruling of 17 January 1979 its regular decisions

⁴ *Ibid.*

⁵ Report submitted by State (E/1982/3/Add.14); contribution submitted by State.

to the effect that the legislators possess a wide scope for formative measures. That scope has been exceeded only when a statutory provision may be regarded as arbitrary. The legislators are fundamentally free to decide whether they wish to protect a certain legal right with the means available under criminal law and, if so, on what scale. Accordingly, the fact that certain aspects of life are covered by a penal provision whereas other identical circumstances only incur penalties under civil law only represents an infringement of the principle of equality in exceptional cases. However, the Federal Constitutional Court pronounced as incompatible with the principle of equal treatment the social welfare provision whereby foreign nationals living abroad are not paid the pensions to which they are entitled in the Federal Republic of Germany, while the legislators also refuse to recognize their claim to an appropriate refund of their paid-up contributions. Under its ruling of 20 March 1979, the Federal Constitutional Court declared this legal provision to be unconstitutional. On the other hand, the Federal Constitutional Court held in its judgement of 24 July 1979 that the practice of granting less tax relief on contributions and donations to political parties than that on disbursements for promoting charitable, religious and scientific purposes does not signify an infringement of the principle of equality. Considerable practical importance attaches to the ruling delivered by the Federal Constitutional Court on 13 November 1979. In accordance with the mandatory constitutional rule on equal rights for men and women (article 3 (2) GG) this ruling declared as unconstitutional a statutory provision which accorded to single women with their own household the entitlement to one free weekday ("housework day") per month but not to men in a comparable situation. At a lower judicial level, the administrative court of Ansbach pronounced on the subject of equal rights for men and women in its ruling of 9 January 1979 and declared that a general prohibition on the employment of female employees at work-sites as stipulated in an implementing ordinance in respect of the Working Hours Code infringed the principle of equal rights.

In its decision of 31 May 1978 the Federal Constitutional Court had declared as incompatible with the mandatory rule of equal rights for men and women the provision under a statutory transitional arrangement connected with the reform of marriage and family law that spouses who contracted their marriage at an earlier point of time had no possibility of choosing the wife's maiden name as their married name. The legislators have meanwhile taken this judicial decision into account by virtue of the Act on the Amendment of Married Names of 27 March 1979 which came into force on 1 July 1979 and which contained a new retroactive provision. Under this enactment, spouses who married prior to 1 July 1976 may jointly declare within one year after the Law has come into force that they wish to use the wife's maiden name as their married name.

F. Judicial and administrative guarantees of due process (*articles 8 and 10 of the Universal Declaration*)⁶

In two decisions pronounced on 24 April 1979 and 19 June 1979 the Federal Constitutional Court declared that a delay by the postal authorities must not operate to the disadvantage of the individual citizen. In its ruling of 3 October 1979 the Court held that a written statement subject to a time-limit which has been placed at the disposal of a court in good time must not be regarded as overdue on the grounds that it was not officially received by the authorized court official within the time-limit. In its ruling of 26 June 1979 the Federal Constitutional Court pronounced as an infringement of the principle of a constitutional state a provision in the Pensions Reform Act of 16 October 1972 whereby foreign nationals living abroad were also excluded from further voluntary insurance even if they had availed themselves of their right to further voluntary insurance before the Law came into force.

⁶ Contribution submitted by State.

In a ruling of 6 February 1979, the Federal Administrative Court decided that a provision of the "Law on Easing the Burden on Administrative and Financial Courts" of 31 March 1978 whereby an appeal unanimously held to be unjustifiable may be dismissed without an oral hearing, does not represent an infringement of the mandatory constitutional rule of effective due process pursuant to article 19 (4) of the Basic Law.

In order to permit the further prosecution of Nazi crimes of violence, the Sixteenth Law to amend the Penal Code of 16 July 1979 amended article 78, paragraph 2 of the Penal Code and abolished the statutory limitation in respect of murder (article 211 of the Penal Code).

G. Due process in criminal proceedings (articles 10 and 11 of the Universal Declaration)⁷

In its ruling of 19 June 1979 the Federal Constitutional Court held that criminal proceedings may not be continued if there exists a real danger that the accused will lose his life or suffer grave harm to his health during the trial due to the poor state of his health. The Higher Regional Court (Oberlandesgericht) in Schleswig decided in its judgement of 3 October 1979 that surreptitious photographs of the accused which do not bear upon his personal life-style or his private circumstances were not obtained by improper means and could therefore be used in evidence against him.

The Law to amend the Code of Criminal Procedure of 5 October 1978 which mostly consists of provisions for the more expeditious implementation of major cases and for the prevention of improper use of procedural powers, came into force on 1 January 1979.

H. Freedom of movement and emigration (article 13 of the Universal Declaration)⁸

The withholding of a passport because of a feared impairment of the Federal Republic's reputation abroad (article 7, para. 1 of the Passport Law) is only permissible if facts justify the assumption that the applicant, as the holder of the passport, will persistently disseminate his detrimental views about the Federal Republic abroad. Occasional pronouncements of this kind, which are only made to individual foreign nationals, do not justify such a measure. In its judgement of 6 February 1979 (JZ 1980, p. 28), the Higher Administrative Court of Lüneburg accepted a suit against the withholding of a passport and based its decision on the right of freedom to leave the country, a right which is protected by article 2 (1) GG.

As part of tighter legislation to achieve better control on terrorist deeds of violence and to restrict these activities, the Law to amend the Law on Identity Cards and to regulate obligatory Registration in Hotels, Inns and Boarding Houses (BGBl 1978 part 1, p. 1712) was enacted on 6 November 1978. Under this Act, the holder of an identity card may—similar to the provision in the passport legislation on the holder of passports (article 7 of the Passport Law)—be refused permission to leave the country for reasons of internal security. The intention is to reduce the trans-frontier mobility of dangerous criminals. In pursuance of their competence to set the framework for Land legislation, the Federal legislators have imposed the obligation upon the Länder in regard to registration to frame their laws in such a manner by 7 May 1979 that it is compulsory in hotels, inns and boarding houses to fill in registration forms in writing and to sign them. However, no norms were laid down on an obligation to produce means of identity *vis-à-vis* the lessor of accommodation as had been demanded in the course of the legislative procedure.

⁷ *Ibid.*

⁸ *Ibid.*

I. Right of asylum, deportation and extradition

(article 14 of the Universal Declaration)⁹

The continuously mounting number of applicants for asylum, who desire asylum in the Federal Republic on a growing scale for financial reasons and not because of their political persecution within the meaning of article 16 (2) GG, has resulted in an overwhelming number of suits for the German courts, since foreign nationals are guaranteed the right to prosecute their claims before all courts up to the Federal Constitutional Court—even in those cases where they entered the country illegally.

In its ruling of 1 March 1979 the Federal Administrative Court decided on the question as to when an action to obtain asylum is manifestly unfounded. According to the ruling, this applies when the dismissal of the suit is “urged upon” the Administrative Court due to the clear-cut nature of the circumstances. Where the Administrative Court has unanimously dismissed a suit for asylum for want of sufficient grounds, that rules out an appeal against the judgement pursuant to the Law on the Acceleration of Asylum Procedure of 25 July 1978. The law on the right of asylum was substantially extended by the judgements of 2 February 1978 delivered by the Administrative Court in Ansbach and of 15 February 1979 handed down by the Bavarian Administrative Court. These held that an impending punishment in his home country of an applicant for asylum as a conscientious objector within the meaning of article 4 (3) GG not only constitutes an act of political persecution of relevance for the law on the right of asylum pursuant to article 16 (2) GG, but also directly establishes a claim to asylum. As a result of these admittedly somewhat controversial rulings, an entire population group has now acquired for the first time the benefits conferred under the right of asylum—contrary to previous legal practice, which considered each individual case of political persecution on its own merits.

In its ruling of 17 January 1979 the Federal Constitutional Court declared the deportation of a foreign national convicted of illegally possessing firearms as a general preventive measure to be admissible provided that the principle of commensurability was upheld. The Federal Administrative Court ruled in its judgement of 30 January 1979 on the issue of a residence permit for a foreign national who had entered the country illegally that this must not become regular practice. But where the aliens authority has already granted a residence permit for a fairly long period of time in contravention of this principle, the extension of the said permit cannot be refused due to the original illegality of the residence unless fresh reasons militate against a further period of residence on the part of the foreign national.

By virtue of its ruling of 14 February 1979 the Federal Constitutional Court held that an originally admissible constitutional appeal against a judicial decision on extradition may become inadmissible because of the cessation of the need for legal protection if the Federal Government has decided in the course of the proceedings to refuse extradition.

J. Right to a nationality

(article 15 of the Universal Declaration)¹⁰

The guidelines on naturalization issued by the Federal Minister of the Interior were already promulgated on 12 January 1978. At the present time, special attention is being given to the problem of making it easier for the children of foreign employees born in the Federal Republic of Germany to obtain German nationality.

⁹ *Ibid.*

¹⁰ *Ibid.*

K. Protection of marriage and the family

*(articles 16 (3) and 25 (2) of the Universal Declaration;
article 10 of the International Covenant on
Economic, Social and Cultural Rights)*¹¹

Since 1 January 1979 pensioners receive a compensatory benefit for the third and all subsequent children, designed to offset the difference between the child supplement and the child benefit under the Federal Child Benefit Act (DM 200 per month).

By virtue of the basic right of special protection of marriage and family enshrined in Article 6 (1) GG, the deportation of a foreign national convicted for a criminal offence who is married to a German woman and father of a legitimate child by her can only be admissible as a general preventive measure if the crime is a particularly grave one. Pursuant to the ruling delivered by the Federal Constitutional Court on 18 July 1979 (BVerfGE 51, p. 386), this is the case in a conviction for drug trafficking on a large scale.

The protection given to motherhood was further improved by the Law to introduce Maternity Leave of 25 June 1979 (BGBI I, p. 797) and appropriate amendments in the Income Tax Law and the Mothers Protection Law (BGBI 1979, p. 823).

With effect from 1 July 1979, young working mothers have the possibility immediately after the statutory eight weeks of maternity leave following the birth of their child to obtain a further period of four months' leave during which a maternity allowance is paid, exempt from wage and income tax, and moreover during which an extended protection against dismissal operates.

The Act on Advances for Maintenance Payments, which will enter into force on 1 January 1980, is to alleviate the difficulties of single parents and their children which arise in cases where the other parent fails or is unable to pay maintenance for a dependent child, or if one parent has died. The Act does not discriminate between German and foreign children. The Act to simplify changes in maintenance benefits, dated 29 July 1976 (BGBI I, p. 2029), which facilitates the adjustment of maintenance benefits in respect of children under age of divorced or separated parents on account of substantial changes in the general economic conditions, has similar objectives.

L. Protection of property

*(article 17 of the Universal Declaration)*¹²

In its notable decision of 1 March 1979 the Federal Constitutional Court declared the extended co-determination granted to employees under the Co-determination Act of 4 May 1976 to be compatible with the Constitution. This Act stipulates for joint-stock companies with over 2,000 employees parity representation on the supervisory board for shareholders and workers.

The Federal Constitutional Court narrowed the bounds of an admissible definition of the legal substance of property pursuant to article 14, para. 1 and 2 of the Basic Law in another decision. In its ruling of 12 June 1979 the Court declared the wide-ranging exclusion in law of the right of private owners of allotment gardens to terminate leasehold agreements to be incompatible with the Constitution.

¹¹ *Ibid.*; report submitted by State (E/1980/6/Add.10).

¹² Contribution submitted by State.

M. Freedom of conscience and religion*(article 18 of the Universal Declaration)*¹³

In its ruling of 16 October 1979 the Federal Constitutional Court decided that the holding of school prayers in a denominational school is fundamentally non-objectionable from the constitutional standpoint even if a pupil or his parents are not in agreement with this. As long as the pupil in question can decide freely and without constraint on whether or not to attend prayers, his basic right not to profess a faith pursuant to article 4 (1) GG is not thereby impaired.

N. Freedom of opinion and information*(article 19 of the Universal Declaration)*¹⁴

The rights of freedom of opinion and of information protected by article 5 (1) GG explicitly include that of freedom of the press. In its regular decisions the Federal Constitutional Court has designated a free press not directed by the public authorities and not subjected to censorship as an essential element of a free State. The constitutionally guaranteed freedom of the press also embraces the right of persons working for the press to keep themselves informed about the proceedings of a public court case and to report on them. The Federal Constitutional Court confirmed this in its ruling of 6 February 1979 and thus reversed two decisions by the Local Court (Amtsgericht) in Cologne excluding a reporter from attending the court's proceedings because his newspaper had previously carried disparaging reports about the judge in charge of the proceedings. In a further decision delivered on 6 November 1979 the Federal Constitutional Court stressed that the basic right of freedom of the press barred the State from exercising direct influence on the trends pursued by newspapers and journals. For that reason, the State must not subject the press to extraneous, non-state influences by enacting statutory provisions in such fields as the protection of press personnel against dismissal. The Court deemed it admissible in regard to the dismissal of an editor that the works council should be informed of the trends responsible for the dismissal in pursuance of statutory provisions, but also noted that the works council must confine its objections to the dismissal to social considerations. Any farther-ranging interpretation of the works council's right to take part would run counter to the freedom of the press.

The wearing of a badge whose inscription criticizes the use of nuclear power as a source of energy is an expression of opinion covered by the protection provision of article 5 (1) GG and this right cannot be denied employees at work or during their professional activities by the State in its capacity as their employer. This was pronounced in two decisions by the Berlin Administrative Court of 20 April 1979 and the Hamburg Labour Court of 6 June 1979.

Under the 17th Law to amend the Penal Code of 21 December 1979 the disclosure of secrets which are not State secrets is only punishable as from 1 January 1980 for such persons as are explicitly pledged to observe secrecy. The more extensive provision in article 353 c, para. 1 of the Penal Code has been abolished. It had caused controversy because of its inherent impairment of the freedom of opinion and of information. However, the Law to amend the Military Penal Code of 21 December 1979 extended the secrecy obligation imposed upon soldiers who have quit active service.

¹³ *Ibid.*¹⁴ *Ibid.*

O. Freedom of assembly and association

(articles 20 and 23 of the Universal Declaration)¹⁵

In its judgement of 1 March 1979 on the constitutionality of co-determination for employees (cf. section 12 above), the Federal Constitutional Court also had to decide whether the appointment of external trade-unionists as members of the supervisory board, which is mandatory pursuant to the provisions of the Co-determination Act, represents an unconstitutional interference with the right of joint-stock companies to freedom of assembly. The Court left undecided the question as to whether the basic right of freedom of association in accordance with article 9 (1) GG is in fact fully applicable to the larger joint-stock companies and it repudiated the idea that this infringed the Constitution on the grounds that article 9 (1) GG did not oblige the legislators to exclude from the legal provisions governing the operation of joint-stock companies any external influence in the appointment of members of the board and decision-making bodies. Just as the shareholders' representatives could be extraneous (for example, banks), so the employees' side need not be restricted to representation belonging to members of the company.

P. State care for persons in need of assistance

(articles 22 and 23 of the Universal Declaration)¹⁶

In the field of social welfare, the legislators have enacted a number of new or amended provisions of which only the most important can be named in this context. By virtue of the Law of 6 November 1978 the variable age limit for severely disabled persons under the statutory pension insurance scheme was reduced to 61 years of age as from 1 January 1979 and to 60 from 1 January 1980. In accordance with the Law of 9 July 1979 severely disabled persons have been entitled to gratuitous use of public transport on a wider scale than previously as from 1 October 1979. The Ordinance of 16 January 1979 amended the law governing war victims' pensions and related benefits. The Law on Safeguarding Maintenance for the Children in One-Parent Families by Maintenance Prepayments or Benefits in lieu of Maintenance of 23 July 1979 provides for claims to public maintenance payments on the part of a substantial number of children as from 1 January 1980 if the persons obliged to effect maintenance payments do not comply with this obligation. The increase in child benefits introduced under the Law of 14 November 1978 has further improved the financial position of families with many children. Under the Law of 17 November 1978 the year of basic vocational training, which now forms the tenth class at schools providing such education, was fully incorporated within the area of promotion covered by the Federal Law to assist Vocational Training. The Law of 16 July 1979 also increased the promotional allowances provided for under this Law.

Q. Right to choose and exercise a profession

*(article 23 of the Universal Declaration;
article 5 of the International Covenant on the
Elimination of All Forms of Racial Discrimination)¹⁷*

The Federal Constitutional Court has reaffirmed its earlier decisions and held in its ruling of 18 July 1979 that there are no constitutional objections to a court rejecting a lawyer who is a member of the council of a municipality as the authorized attorney in a lawsuit

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*; report submitted by State (CERD/C/66/Add.27).

against the said municipality. In this respect, the existing statutory prohibition of legal representation does not infringe the right of a free exercise of one's profession.

On 1 April 1979 the arrangement which did not allow the issuing of a work permit to spouses of foreign workers from non-European Community States who entered the country after 30 November 1974, and children of the same who entered the country after 31 December 1976, was replaced by an arrangement involving individual waiting periods.

R. Protection of rights in labour legislation
(articles 23, 24 and 25 of the Universal Declaration)¹⁸

The Federal Constitutional Court has delivered two decisions in which it expressed its views on matters pertaining to termination of employment and protection against dismissal. By virtue of its ruling of 27 March 1979 the Court recognized that it is objectively justifiable and not arbitrary if a statutory provision does not grant any right of a hearing and say to the staff council of a university in the decision on the further employment of an employee largely engaged in academic activities. In the opinion of the Court, neither the principle of a social state pursuant to article 20 (1) GG nor the basic rights themselves stipulate specific details for the legislators in regard to the organization of the staff council's rights of participation. In its ruling of 13 November 1979 the Federal Constitutional Court decided that it was incompatible with the basic right of protection for mothers pursuant to article 6 (4) GG to withhold statutory protection against dismissal from female employees who are pregnant at the time of receiving notice of dismissal if they unintentionally failed to inform their employers of this within the prescribed period but later rectify this without undue delay. For that reason, the Court declared a provision of the Mothers Protection Law which permitted such a possibility to be unconstitutional. In the legislation on labour disputes, growing importance attaches to the question of the admissibility of a lock-out by the employer. However, the supreme courts have not yet delivered any ruling on this subject. In a—not yet final—judgement of 17 April 1979 the Land Labour Court in Frankfurt declared lock-outs to be unlawful. The court based its decision on article 29 (5) of the constitution of Land Hesse, pursuant to which lock-outs are unlawful.

The Law for the Acceleration of Labour Court Proceedings of 21 May 1979 contains fresh provisions for the streamlining of proceedings and for the special procedural promotion of lawsuits instituted to protect employees against wrongful dismissal. This Law entered into force on 1 July 1979. The new version of the Law on Labour Courts was promulgated on 2 July 1979.

S. Right to an adequate standard of living
(right to health)

*(article 25 (1) of the Universal Declaration;
article 12 of the International Covenant on
Economic, Social and Cultural Rights)*¹⁹

In the past decades, automation and urbanization have steadily increased noise levels and led to a proliferation of sources of noise. Noise pollution is caused above all by traffic noise and noise from industrial plants.

¹⁸ Contribution submitted by State.

¹⁹ Report submitted by State (E/1980/6/Add.10).

The legal basis for aircraft noise control is the Aircraft Noise Control Act dated 30 March 1979. This Act and supportive measures have been effectively implemented and are constantly followed up.

Besides the Aircraft Noise Control Act, the Federal Emission Control Act of 15 March 1979 provides in particular for protection against noise from road and rail traffic. These provisions, some of which were inserted into the Bill on the initiative of the German Parliament, are concerned with the design and operation of vehicles on the one hand and with planning, construction and changes in the road and railroad network on the other.

T. Right to education

*(article 26 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²⁰*

Following the ruling pronounced by the Federal Constitutional Court on 21 December 1977, the Federal Administrative Court again clarified in its judgement of 22 March 1979 that sex education at school without any statutory basis is unconstitutional because it infringes the right of parents regarding the care and upbringing of children pursuant to article 6 (2) GG. If, however, a statutory provision exists which does justice to the importance of parents' educational rights in this field, then no constitutional infringement may be deemed to exist.

In its ruling of 13 June 1979, the Federal Constitutional Court held that the closure of a primary school (due to an insufficient number of pupils) may be deemed constitutional for a transitional period and not contrary to parents' educational rights even though there is no statutory basis for it, provided that the subsequent relevant Law sanctions the closure of the school.

The Law to amend the Law on Parental Custody of 24 July 1979 was enacted after many years of deliberation and came into force on 1 January 1980. This enactment has placed the whole field of parental custody on a new statutory basis. Special emphasis was placed on the binding nature of parental rights and the concept of the increasing independence and self-reliance of juveniles. Any degrading educational measures are prohibited. In certain cases, the guardianship courts are given the right to intervene in educational and vocational matters if parents clearly fail to take into account a child's inclinations and aptitude for a given profession.

In accordance with the guideline of the European Community Council of Ministers of 25 July 1977 the ties to the country of origin and to its culture will be maintained through instruction in the language and culture of the country of origin. Pursuant to a resolution of the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder of October 1979, in secondary schools instruction can be offered to a foreign student in his native language instead of in a mandatory foreign language.

U. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration; article 7 of the International Convention
on the Elimination of All Forms of Racial Discrimination)²¹*

Foreign children and juveniles have the same legal rights as their German counterparts in the German educational system (kindergarten, schools, vocational training, higher

²⁰ Contribution submitted by State; report submitted by State (CERD/C/66/Add.27).

²¹ Report submitted by State (CERD/C/66/Add.27).

education institutions). The basis for instruction in schools is formed by the resolution of the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany of 8 April 1976 in the version of 26 October 1979 as well as the guidelines of the Council of European Communities of 25 July 1977 on the educational welfare of children of migrant workers.

V. Protection of industrial rights and copyright
(*article 27 of the Universal Declaration*)²²

The protection throughout the Federal Republic of the markings and labels used by service-rendering enterprises is guaranteed by the Law on the Registration of Service Marks of 29 January 1979, which entered into force on 1 April 1979. Hitherto, only the protection of trade-marks had been covered by legal provision.

W. Right to a social and international order in which human rights can be realized
(*article 28 of the Universal Declaration*)²³

The provisions of Article 41 of the International Covenant on Civil and Political Rights of 19 December 1966 entered into force for the Federal Republic of Germany on 28 March 1979. In accordance with its declaration of 22 April 1976, the Federal Republic recognizes for a period of two years as from the entry into force of Article 41 the competence of the Human Rights Committee to receive and examine communications from a contracting State, inasmuch as the latter has recognized the competence of the Committee and inasmuch as both States have assumed appropriate obligations under the Covenant.

In the sphere covered by the International Labour Organisation, Convention 141 of 23 June 1975 on associations of rural labourers and their role in economic and social development entered into force for the Federal Republic of Germany on 5 December 1979. Convention 144 of 21 June 1976 on three-tier deliberations on promoting the implementation of international working norms will enter into force for the Federal Republic on 23 July 1980. The ratification of this Convention by the Federal Republic was registered with the International Labour Organisation on 23 July 1979.

²² Contribution submitted by State.

²³ *Ibid.*

GHANA

A. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2.1 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

The suspended 1979 Constitution devoted the whole of chapter six to the promotion of fundamental human rights among which is the elimination of racial discrimination.

Article 19 provides:

“19. Every person in Ghana, whatever his race, place of origin, political opinions, colour, creed or sex, shall be entitled to the fundamental rights and freedoms of the individual contained in this chapter but subject to respect for the rights and freedoms of others and for the public interest.”

And article 31 specifically deals with discrimination.

B. Right to security

*(article 3 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

A person's right to security is afforded by article 20 of the 1979 suspended Constitution.

C. Right to equality of treatment and to an effective remedy

*(articles 7 and 8 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*³

The right to equal treatment before tribunals and all other organs administering justice is guaranteed by article 23 of the 1979 suspended Constitution.

D. Freedom of movement

*(article 13 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

The right to freedom of movement and residence within the border of the State is granted by article 30 of the Constitution. This freedom is however restricted within the framework of the law.

¹ Report submitted by State (CERD/C/91/Add.21).

² *Ibid.* (CERD/C/91/Add.21).

³ *Ibid.* (CERD/C/91/Add.21).

⁴ *Ibid.* (CERD/C/91/Add.21).

E. Right to a nationality

*(article 15 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁵*

The right to nationality in Ghana is governed by articles 12-14 of the 1979 Constitution. According to these articles citizenship is acquired either by birth or by naturalization. A child born in Ghana to Ghanaian parents, or whose grandparents were Ghanaians is a Ghanaian, and a child born outside Ghana is a Ghanaian if one of his parents is a Ghanaian.

A foundling of less than seven years of age whose parents are unknown is considered to be a Ghanaian. And an adopted child who has not yet attained the age of 17 years becomes a Ghanaian provided those who adopted him are Ghanaians.

Upon application the Secretary responsible for Internal Affairs is empowered to register a foreigner who is less than 21 years as a Ghanaian.

Dual citizenship is not accepted in Ghana, hence on the attainment of majority, any minor who had dual citizenship is expected to opt for citizenship of one country.

F. Right to own property

*(article 17 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁶*

The right to own property alone as well as in association with others is an inherent right in Ghana, the deprivation of which is protected by article 24 of the Constitution.

The right to inheritance is governed by the individual's personal law which is either patrilineal or matrilineal. In the patrilineal system, when a man dies intestate his personal acquired property is inherited by his children, whilst in the matrilineal system, it is inherited by his sisters' children as customarily, a man's children, under this system, are not considered to form part of his family.

This anomaly was, however, corrected by article 32(3)(b) of the 1979 suspended Constitution.

G. Freedom of thought, conscience and religion

*(article 18 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁷*

The right to freedom of thought, conscience and religion is guaranteed by article 27 (1) of the 1979 Constitution.

"27 (1). No person shall be hindered in the enjoyment of his freedom of conscience; and for the purposes of this article freedom of conscience shall include freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and to propagate his religion or belief in worship, teaching practice and observance."

⁵ *Ibid.* (CERD/C/91/Add.21).

⁶ *Ibid.* (CERD/C/91/Add.21).

⁷ *Ibid.* (CERD/C/91/Add.21).

H. Freedom of opinion and expression

*(article 19 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁸

Article 28 (1) also provided for the right to freedom of opinion and expression.

“28 (1). There shall be no censorship in Ghana; and no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference and freedom from interference with his correspondence.”

I. Freedom of peaceful assembly and association

*(article 20 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁹

The right to freedom of peaceful assembly and association is under article 29 (1).

“29 (1). No person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations, national and international, for the protection of his interests.”

J. Political rights

*(article 21 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹⁰

The right to vote is given by article 36 of the 1979 Constitution. It states:

“36. A citizen of Ghana not being less than eighteen years of age and of sound mind shall have the right to vote and accordingly he shall be entitled to be registered as a voter for the purpose of public elections and referenda.”

Any citizen of Ghana can stand for elections provided he or she fulfils the conditions laid down by article 76 of the Constitution. Although these provisions apply specifically to qualification as a member of Parliament, they are used as the acceptable standard for any public office.

⁸ *Ibid.* (CERD/C/91/Add.21).

⁹ *Ibid.* (CERD/C/91/Add.21).

¹⁰ *Ibid.* (CERD/C/91/Add.21).

GREECE

A. Prohibition of racial discrimination or incitement to it

*(articles 2 and 7 of the Universal Declaration;
articles 2 and 4 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹*

Act No. 927 on the punishment of acts or activities giving rise to racial discrimination was adopted by the Hellenic Parliament and came into force upon its publication in the *Official Gazette of the Hellenic Republic*, volume 1, No. 139, of 28 June 1979 (p. 1487).

Article 1 states that any person who publicly and intentionally incites to acts or activities that may engender discrimination, hatred or violence against persons or groups of persons solely on account of their racial or national origin shall be punished by not more than two years' imprisonment or a fine or both. The aforementioned penalties shall also apply to any person who forms or participates in organizations whose purpose is to organize propaganda or activities of any nature that give rise to racial discrimination.

Article 2 provides that any person who publicly expresses ideas which are offensive to other persons or groups of persons because of their racial or national origin shall be punished by not more than one year's imprisonment or a fine or both.

Article 3 provides that any person who, in his professional capacity as a provider of goods or services, withholds such goods or services from any person solely on account of that person's racial or national origin, or makes the provision of such goods or services contingent upon some condition relating to that person's racial or national origin, shall be punished by not more than one year's imprisonment or a fine or both.

The offences referred to in this Act shall be prosecuted only if a complaint has been lodged.

B. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²*

Fundamental human rights and the principle of non-discrimination in all its forms, including tolerance and racial non-discrimination, are taught in the course on the "Elements of democracy" given in the third year of gymnasium and in the course on "Citizenship" given in the third year of high school. The principles of brotherhood among nations and the unity of mankind are taught extensively in the second year of high school in the course on morals.

A very important conference on racism was held in Athens in November 1979.

¹ Report submitted by State (CERD/C/50/Add.2).

² *Ibid.* (CERD/C/76/Add.1).

HOLY SEE

Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹*

Action taken specifically by the Holy See to combat racial discrimination and consisting primarily of educating men's minds, in the light of the Gospels, may be illustrated, *inter alia*, by main papal documents, statements by various delegations of the Holy See which have participated in international conferences, and publications issued by the dicasteries of the Holy See.

The Encyclical "*Redemptor Hominis*" of His Holiness Pope John Paul II, signed on 4 March 1979:

"... This century has so far been a century of great calamities for man, of great devastations, not only material ones but also moral ones, indeed perhaps above all moral ones. Admittedly it is not easy to compare one age or one century with another under this aspect, since that depends also on changing historical standards. Nevertheless, without applying these comparisons, one still cannot fail to see that this century has so far been one in which people have provided many injustices and sufferings for themselves. Has this process been decisively curbed? In any case, we cannot fail to recall at this point, with esteem and profound hope for the future, the magnificent effort made to give life to the United Nations Organization, an effort conducive to the definition and establishment of man's objective and inviolable rights, with the Member States obliging each other to observe them rigorously. This commitment has been accepted and ratified by almost all present-day States and this should constitute a guarantee that human rights will become throughout the world a fundamental principle of work for man's welfare.

"There is no need for the Church to confirm how closely this problem is linked with her mission in the modern world. Indeed it is at the very basis of social and international peace, as has been declared by John XXIII, the Second Vatican Council, and later Paul VI, in detailed documents. After all, peace comes down to respect for man's inviolable rights—*opus iustitiae pax*—while war springs from the violation of these rights and brings with it still graver violations of them. If human rights are violated in time of peace, this is particularly painful and from the point of view of progress it represents an incomprehensible manifestation of activity directed against man, which can in no way be reconciled with any programme that describes itself as 'humanistic'. And what social, economic, political or cultural programme could renounce this description? We are firmly convinced that there is no programme in today's world in which man is not invariably brought to the fore, even when the platforms of the programmes are made up of conflicting ideologies concerning the way of conceiving the world.

"If, in spite of these premises, human rights are being violated in various ways, if in practice we see before us concentration camps, violence, torture, terrorism, and discrimination in many forms, this must then be the consequence of the other premises, undermining and often almost annihilating the effectiveness of the humanistic premises of these modern programmes and systems. This necessarily imposes the duty to submit

¹ Report submitted by State (CERD/C/66/Add.30).

these programmes to continual revision from the point of view of the objective and inviolable rights of man.

“The Declaration of Human Rights linked with the setting up of the United Nations Organization certainly had as its aim not only to depart from the horrible experiences of the last world war but also to create the basis for continual revision of programmes, systems and régimes precisely from this single fundamental point of view, namely the welfare of man—or, let us say, of the person in the community—which must, as a fundamental factor in the common good, constitute the essential criterion for all programmes, systems and régimes. If the opposite happens, human life is, even in time of peace, condemned to various sufferings and, along with these sufferings, there is a development of various forms of domination, totalitarianism, neocolonialism and imperialism, which are a threat also to the harmonious living together of the nations. Indeed it is a significant fact, repeatedly confirmed by the experiences of history, that violation of the rights of man goes hand in hand with violation of the rights of the nation, with which man is united by organic links as with a larger family . . .”.

Address by His Holiness Pope John Paul II to the General Assembly of the United Nations at its thirty-fourth session, 2 October 1979:

“ . . . I would now like to draw attention to a second systematic threat to man in his inalienable rights in the modern world, a threat which constitutes no less a danger than the first to the cause of peace. I refer to the various forms of injustice in the field of the spirit.

“Man can indeed be wounded in his inner relationship with truth, in his conscience, in his most personal belief, in his view of the world, in his religious faith, and in the sphere of what are known as civil liberties. Decisive for these last is equality of rights without discrimination on grounds of origin, race, sex, nationality, religion, political convictions and the like. Equality of rights means the exclusion of the various forms of privilege for some and discrimination against others, whether they are people born in the same country or people from different backgrounds of history, nationality, race and ideology. For centuries the thrust of civilization has been in one direction: that of giving the life of individual political societies a form in which there can be fully safeguarded the objective rights of the spirit, of human conscience and of human creativity, including man’s relationship with God. Yet in spite of this we still see in this field recurring threats and violations, often with no possibility of appealing to a higher authority or of obtaining an effective remedy. . . .”

HUNGARY

A. Condemnation of racial segregation and apartheid

*(articles 1 and 2 of the Universal Declaration;
article I, III, IV and VI of the International Convention on the
Suppression and Punishment of the Crime of Apartheid)¹*

Act IV of 1978 on the new Penal Code, whose chapter XI deals with the crimes against humanity, entered into force on 1 July 1979, leaving unchanged the definitions of, and the penalties for, the crime of genocide and the crime against a national, ethnic, racial or religious group (paragraphs 155 and 156).

At the same time chapter XI included a new article (157) on racial discrimination, which provides: "Whoever, with intent to ensure that a racial group will gain or maintain domination over, or systematically oppress, another racial group, shall, provided no offence of greater gravity was consummated, be deemed to commit a crime and be punished with imprisonment for a term of 1 to 5 years."

As is stated in the motivation to the relevant bill, if racial discrimination resulted also in the commission of a graver crime, such as genocide (art. 155), the graver crime shall be deemed to have been committed.

In the Hungarian concept of criminal law natural persons only, not legal entities, can be charged with a crime. Accordingly, it is the human behaviour in each case that is prohibited or considered by Hungarian criminal law in establishing the legal definitions of crimes. While this principle is not spelled out in the Penal Code, it follows from the spirit thereof and from the Hungarian concept of law, and references to it are found in domains other than criminal law of the legal system of Hungary (Act VI of 1977 on State Enterprises, Act I of 1968 on Minor Offences and Law-Decree No. 10 of 1979 on the latter's modification). Thus human behaviour can be grasped and influenced and punished also in organizations and institutions, since their conduct and activities coincide with those of an individual.

In article 4, paragraph 1 (c), the new Penal Code provides that Hungarian law shall also apply if the perpetrator is a non-national, the act is committed abroad and the act is a crime against humanity or any other crime whose persecution is provided for in an international treaty.

In accordance with the provisions of the General Part of the Penal Code, liability to punishment is shared by the perpetrator, the accomplice and the abettor alike, although this is not stated explicitly in the definitions of crimes (arts. 19-21).

Extradition is governed by article 9 of the new Penal Code in accordance with the requirements of the Convention in question.

B. Equality before the law; prohibition of incitement to discrimination

*(article 7 of the Universal Declaration;
articles 4 and 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²*

Art. 103 of Act I of 1968 on Minor Offences was amended and superseded by art. 29 of Law-Decree No. 10 of 1979, reading as follows:

¹ Report submitted by State (E/CN.4/1353/Add.6).

² *Ibid.* (CERD/C/66/Add.9).

“Art. 103. Whoever takes part in the activity of an association or organization whose registration was not requested or was refused, or which was dissolved shall be liable to a fine of up to 5,000 forints.”

The relevant provision of criminal law is contained in art. 212 of the Criminal Code. These rules of law do not violate art. 5 (d) of the Convention. Registration of an association may be refused only if the association has failed to comply with the legal requirements. In this respect the Civil Code provides the following:

“Art. 66 (1) An association is constituted if not less than ten constituting members decide, at the constitutive general assembly, to form an association, determine its bye-laws, elect the bodies managing and representing it, and the state body of legal supervision, competent according to the association’s sphere of activity, registers the same.

“(2) Registration shall be admissible if the constituting members have complied with the legal requirements.”

As regards the status of aliens, the legal system of Hungary follows the *régime national*, the principle of equality in the national territory of the country. This principle is laid down also in recent enactments (e.g. art. 15, para. 1, of Law-Decree No. 13 of 1979) and follows from articles 8 and 11 of the Civil Code. The relevant provisions of law prescribing the absoluteness and equality of legal capacity and disposing capacity are peremptory rules, meaning that non-nationals enjoy the same rights as nationals, and the enjoyment of rights is not subject to reciprocity.

The roots of this concept of the Hungarian legal system are to be found in the Constitution. Its article 61, which prohibits all forms of discrimination, is construed by constitutional jurists as being applicable to non-nationals as well.

With respect to protection under the criminal law, mention should be made of art. 2 (para. 1) of the Criminal Code, which provides that the territorial effect of the Hungarian criminal law shall extend to the entire territory of the country, meaning that any person, whether Hungarian or not, shall enjoy the protection of the Hungarian criminal law against crimes committed in the territory of Hungary.

In the field of labour law, art. 6 (1) of the Labour Code as amended by art. 75, para. 4 (b), of Law-Decree No. 13 of 1979 provides that the Labour Code shall be applicable to all employment relations established in Hungary for the performance of work in Hungarian territory. Thus the provisions prohibiting racial discrimination, as defined in art. 18 (3) of the Labour Code and in Government Decree No. 17/1968 (IV.14), shall apply accordingly.

C. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 6 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*³

Recourse to legal remedy against acts of discrimination by organs or institutions is governed by the following: in the Hungarian concept of criminal law natural persons only, not legal entities, can be charged with a crime. Accordingly, it is in each case the human behaviour that is prohibited or considered by the Hungarian criminal law in establishing the legal definitions of crimes. While this principle is not spelled out in the Criminal Code, it follows from the spirit thereof and from the Hungarian concept of law, and references to it are found in domains other than criminal law of the legal system of Hungary (Act VI of 1979 on State Enterprises, Act I of 1968 on Minor Offences and Law-Decree No. 10 of 1979 amending

³ *Ibid.* (CERD/C/66/Add.9).

the latter). Thus human behaviour can be grasped and influenced and punished also in organizations and institutions, since their conduct and activities coincide with those of an individual.

D. Protection against arbitrary interference with privacy

*(article 12 of the Universal Declaration;
article 17 of the International Covenant on
Civil and Political Rights)*⁴

The new Criminal Code [Act IV of 1978], which entered into force during 1979, provides that allegations of a fact likely to injure reputation or honour are also punishable if the alleged fact may be true. Untruth is not a requirement intrinsic to this offence. In the legislators' view, the freedom of criticism and of speech cannot be allowed to include irresponsible or malevolent ventilation of matters involving the private life of others. Therefore, exceptionally, proof that an alleged fact is true is permissible only if the assertion or the spreading of the fact liable to injure honour, or the use of the expression pointing directly to such a fact, can be shown to have been motivated by the public interest or the legitimate interest of a person or persons [art. 269]. If, however, with these conditions prevailing, the perpetrator is able to show the alleged fact to be correct, he shall be acquitted of the charge against him.

E. Freedom of movement

*(article 13 of the Universal Declaration;
article 12 of the International Covenant on
Civil and Political Rights)*⁵

The procedure to be followed in connection with travel abroad is regulated anew, with effect from 1 January 1979, by government and ministerial decrees on the former's enforcement, in keeping with the developments in the State and in the social and economic life of Hungary.

Of great significance for the exercise of civil rights is the provision that every Hungarian citizen shall have the right to travel abroad in accordance with the laws and regulations.

According to the figures published by the Central Statistical Office, Hungarian citizens made some 5.5 million voyages abroad in 1978.

The grounds for disqualification and the circumstances supporting their consideration, as well as the administrative procedures, have been revised to facilitate the exercise of civic rights.

The grounds for disqualification follow the pattern of international practice and affect the category of persons whose travel or stay abroad is prejudicial to the security of the State or to some other important public interest, and those who have committed a criminal offence or are subject to criminal proceedings, etc.

In regard to most of the grounds for disqualification the new regulation contains flexible rules for refusal of applications in contrast to the previous categorical rules prohibiting the issue of passports.

Under the new set of statutory provisions, the authorities proceeding in first instance are given more powers to use their discretion to consider circumstances in favour of citizens.

⁴ *Ibid.* (CCPR/C/1/Add.44).

⁵ *Ibid.* (CCPR/C/1/Add.44).

Nevertheless, the social interest of the country as much as the individual interests of citizens equally require that, as a general rule, it should be possible to refuse applications for travel to countries where the protection of interests and rights cannot be guaranteed (Republic of South Africa, Chile, Israel).

Individual tourist travels or visits to countries in the non-rouble accounting system are limited to three or two occasions a year, keeping in view the country's economic situation and foreign exchange availabilities. Visits are authorized more frequently in justified cases (important family events, disease, etc.).

A broad range of legal remedies is available against administrative decisions concerning the issue of passports. The decisions of the authority acting in first instance are appealable, while a complaint or a petition for review may be lodged against a rejection of appeal.

F. Right to work

*(article 23 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁶*

In the field of labour law, art. 6 (1) of the Labour Code as amended by art. 75, para. 4 (b), of Law-Decree No. 13 of 1979 provides that the Labour Code shall be applicable to all employment relations established in Hungary for the performance of work in Hungarian territory. Thus the provisions prohibiting racial discrimination, as defined in art. 18 (3) of the Labour Code and in Government Decree No. 17/1968 (IV.14), shall apply accordingly.

G. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on
Economic, Social and Cultural Rights)⁷*

A further amendment of the Act by Law-Decree No. 25 of 1973 affected the specialized secondary schools, maintaining the orientation of training as defined in Law-Decree No. 24 of 1965 on the basis of updated curricula introduced in 1979 for most specialities, but requiring vocational training for specified occupations (calling for a higher degree of theoretical knowledge) in some areas of industry, the food industry and forest economy, and preparing students for higher studies corresponding to the nature of specialized secondary schools.

H. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁸*

The Ethnological Museum is concerned to present and disseminate the cultures, past and present folklore of Africa, staging shows of its own large and varied collections and permanent exhibitions of cultural relics from Africa. It also regularly organizes guest exhibitions from Africa, such as:

The display of a collection of Nigerian folk art, in 1978;
The Art of Angola, in 1979;

⁶ *Ibid.* (CERD/C/66/Add.9).

⁷ *Ibid.* (E/1982/3/Add.10).

⁸ *Ibid.* (CERD/C/66/Add.9).

The Art of Nigeria, in 1979;
 Several other exhibitions, scheduled for 1980.

In accordance with its foreign policy principles, the Hungarian People's Republic consistently comes out, in all international forums, for the earliest possible elimination of all forms of colonialism and racial discrimination and makes an active contribution to the efforts towards this end. In keeping with the relevant resolutions of the United Nations, it lends political, material and moral support commensurate with its possibilities to the peoples and liberation movements in their struggle against colonialism, racism and *apartheid*.

**I. Right to take part in cultural life and to enjoy
 the benefits of scientific progress and the protection
 of the interests of authors**

(*article 27 of the Universal Declaration;
 article 15 of the International Covenant on
 Economic, Social and Cultural Rights*)⁹

Among laws and regulations concerning education and culture, mention can be made of the following:

Law-Decree No. 2 of 1979 on the Promulgation of the *Convention concernant les mesures à prendre pour interdire et empêcher l'importation, l'exportation et le transfert de propriété illicites des biens culturels*, adopted by the United Nations Educational, Scientific and Cultural Organization at Paris, on 14 November 1970;

Law-Decree No. 12 of 1979 on the Promulgation of the Agreement on the Importation of Educational, Scientific and Cultural Materials, Lake Success, 22 November 1950.

The right to take part in cultural life, as well as the desirability and necessity of its enjoyment, are spelled out in the fundamental legislative enactments of the Hungarian People's Republic, such as the Constitution, the Act on Education, the Act on Public Education, and the Act on Youth. The questions relating to cultural centres are directly covered by Act V of 1976 on Public Education, Decree No. 3/1979 (I.20) of the Council of Ministers and Decree No. 1/1979 (I.20) of the Minister of Culture. The related rights and duties find expression in the activities of, and the possibilities offered by, the social organizations and the representative organizations of co-operatives as well.

⁹ *Ibid.* (E/1982/3/Add.10).

ICELAND

Right to a social and international order in which human rights can be realized

*(article 28 of the Universal Declaration;
article 6 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

With effect from 22 November 1979, Iceland ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and acceded to the Optional Protocol to the International Covenant on Civil and Political Rights. In accordance with the International Covenant on Civil and Political Rights, Iceland furthermore recognized the competence of the Human Rights Committee established under that Covenant to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Covenant.

¹ Report submitted by State (CERD/C/66/Add.7).

INDIA

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
articles II, III and VI of the International Convention on the
Suppression and Punishment of the Crime of Apartheid)*¹

A bill entitled “The Anti-*apartheid* (United Nations Convention) Bill, 1978”, designed to implement the International Convention on the Suppression and Punishment of the Crime of *Apartheid*, was introduced in the *Lok Sabha* (House of the People) on 23 November 1978 but could not be considered owing to the *Lok Sabha*’s busy schedule. The bill gives effect to the Convention, in particular articles II and III, which respectively define the crime of *apartheid* and apply international criminal responsibility, irrespective of the motives involved, to individuals, members of organizations, institutions, and the like who commit that crime. The bill is likely to be considered when Parliament is reconstituted and convened after the general elections to be held in January 1980.

B. Right to self-determination

*(articles 1, 2 and 28 of the Universal Declaration;
article 1 of the International Covenant on
Civil and Political Rights)*²

It has been the position of India ever since its independence that support for the principle of self-determination is inherent in its support for the principle of sovereign equality. The principle of domestic jurisdiction of States as enshrined in the Charter of the United Nations is to be equally respected.

In conformity with this principled position of India on self-determination the following declaration was made in 1979 at the time of its accession to the International Covenant on Civil and Political Rights:

“With reference to article 1 of the International Covenant on Civil and Political Rights, the Government of the Republic of India declares that the words ‘the right of self-determination’ appearing in (this article) apply only to the people under foreign domination and that these words do not apply to Sovereign Independent States or to a section of the people or nation—which is the essence of national integrity.”

C. Right to life, liberty and security of person

*(article 3 of the Universal Declaration;
article 9 of the International Covenant on
Civil and Political Rights)*³

Protection of life, and personal liberty are guaranteed under article 21 of the Indian Constitution which lays down that no person shall be deprived of his life or personal liberty except according to the procedure established by law. The Supreme Court held that the

¹ Report submitted by State (E/CN.4/1353/Add.5).

² *Ibid.* (CCPR/C/10/Add.8).

³ *Ibid.* (CCPR/C/10/Add.8).

procedure contemplated by article 21 must be "right and just and fair and not arbitrary, fanciful or oppressive; otherwise it would be no procedure at all and the requirement of article 21 would not be satisfied". (*Special Courts Bill case, 1979, AIR 1979 SC 478 at p. 516.*)

**D. Promotion of understanding, tolerance and friendship
among all nations, racial and ethnic groups**

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

Propagation of the ideals enshrined in the various United Nations instruments concerning human rights and elimination of racial discrimination receives special attention on occasions like the Human Rights Day, United Nations Day, Day for Elimination of Racial Discrimination and Mahatma Gandhi's birthday when messages from President and Ministers are widely reported in all forms of media. These days are celebrated in all states as well. The universities organize lectures, essay competitions, etc. Besides these occasions, the debates in the General Assembly, Commission on Human Rights and other important conferences are also publicized in newspapers and All India Radio. The Foreign Affairs Record published by the Government contains a fuller account of speeches made by leaders of Indian delegations. Specialized journals like those published by the Indian Council of World Affairs contain research articles relating to these matters among others. Certain non-governmental organizations like the Indian Federation of United Nations Associations, United Schools Organizations and the Indian Society of International Law also help in promoting understanding of United Nations ideals. These organizations are aided by the Government from time to time. The United School Organization also publishes the Indian edition of the Monthly United Nations Chronicle. The subject of human rights forms a part of the curriculum in subjects like international law and international relations which are taught in many universities.

⁴ *Ibid.* (CERD/C/20/Add.34).

IRAQ

A. Condemnation of racial segregation and apartheid (articles 1 and 2 of the Universal Declaration; articles IV and VI of the International Convention on the Suppression and Punishment of the Crime of Apartheid)¹

The Government of Iraq has taken the necessary measures to prevent any dealings in the political, economic and military spheres with the *apartheid* régime of South Africa, whether with its private or public organizations or institutions. It has also prevented any private or public Iraqi enterprise from maintaining trade relations with the South African régime.

The Government of Iraq is taking appropriate measures to alert Iraqi public opinion to the practices of *apartheid*, which are considered a crime against humanity as a whole and a flagrant violation of human rights. Official Iraqi news media are also making sustained efforts to draw attention to the crimes of *apartheid* in South Africa and similar practices and racial policies in Rhodesia, as well as to the Zionist racial policy in occupied Palestine. Furthermore, the Iraqi mass media (radio, television, daily newspapers and weekly and monthly magazines) devote particular attention to exposing the evils of such racist practices by publishing reports and articles, as well as by broadcasting relevant news bulletins.

B. Right to life, liberty and security of person (article 3 of the Universal Declaration)²

Revolutionary Command Council Decision No. 1076 of 16 August 1979 declared a general amnesty for all convicted prisoners. Under the terms of the Decision, they were to be reinstated in their former jobs, employment was to be found for those who were formerly unemployed and their salaries were to be computed and paid from the date of promulgation of the Decision and not from the date on which they were appointed or actually started work.

Decision No. 1077 declared a general amnesty for fugitive and imprisoned Kurds.

C. Protection of the family, motherhood and childhood (articles 16 (3) and 25 (2) of the Universal Declaration; article 10 of the International Covenant on Economic, Social and Cultural Rights)³

Iraq has made great efforts to safeguard the family by ensuring appropriate conditions for its establishment and subsequent protection from disintegration. The measures adopted to encourage marriage and the establishment of the family may be listed as follows.

Decision No. 157 of the Revolutionary Command Council, promulgated on 12 November 1979, stipulates that all persons attached to government service or the socialist or mixed sectors shall be granted an advance on the occasion of their marriage. For civil servants it shall be equivalent to their nominal salary for 20 months, and for insured workers it shall be equivalent to their gross pay for 15 months, ranging from 500 to 1,000 dinars free of interest.

¹ Report submitted by State (E/CN.4/1353/Add.3).

² Contribution submitted by State.

³ *Ibid.*; report submitted by State (E/1980/6/Add.14).

Under the terms of Decision No. 1518 of the Revolutionary Command Council, promulgated on 12 November 1979, military personnel are entitled to similar advances amounting to 1,500 dinars for officers and 1,000 dinars for other ranks under the same terms as those mentioned above.

Pre-natal and post-natal medical care is provided for expectant mothers and their babies, who receive free treatment, milk and nutrition at all medical institutions.

Protection for mothers employed in government departments and other forms of work is guaranteed by the Labour and Civil Service Regulations which define the care, assistance and maternity leave to which they are entitled.

Under the terms of Decision No. 1534 of the Revolutionary Command Council, promulgated on 13 November 1979, mothers employed in government service or in other forms of work are entitled to special maternity leave for a period not exceeding six months, to enable them to care for their children under four years of age.

A working mother is entitled to four such periods of maternity leave, which are counted as part of her service. During such leave, a mother is paid half her salary, cost-of-living and other occupational entitlements.

Decision No. 1502 of the Revolutionary Command Council, promulgated on 7 November 1979 entitles married female students at all academic levels to six weeks' maternity leave covering the pre-natal and post-natal period. This leave is not regarded as an interruption of attendance at the academic institution.

Finally, reference should be made to the effective measures taken by Iraq in connection with child protection on the occasion of the International Year of the Child in 1979. These measures are described in detail in the reports submitted to UNICEF on the International Year of the Child in Iraq.

D. Right to an adequate standard of living

*(article 25 (1) of the Universal Declaration;
article 11 of the International Covenant on
Economic, Social and Cultural Rights)⁴*

Revolutionary Command Council Decision No. 1044 of 11 August 1979 increased the cost-of-living allowance by 17,500 dinars in the case of employees of government departments and institutions in the socialist sector as defined in the Civil Service Act No. 24 of 1960 and its subsequent amendments.

Tenants are protected under the rent acts promulgated in Iraq and, most recently, under Act No. 87 of 1979 as follows: in principle, rent contracts are renewed after the expiry of the lease, provided that the tenant is occupying the premises and continues to pay the rent (art. 3). The maximum annual rents for real estate property have been fixed by the Act. A landlord has no right to request vacation of premises subject to the provisions of this Act except on the grounds stipulated in article 17.

⁴ Contribution submitted by State; report submitted by State (E/1980/6/Add.14).

IRELAND

Right to social security

*(articles 22 and 25 of the Universal Declaration)*¹

The Social Welfare (Amendment) Act 1978 provided for the collection for the vast majority of contributions, to be made by the Revenue Commissioners through the PAYE system of income tax. The term “contribution week” and “contribution year” was re-defined to coincide with the income tax week and income tax year respectively. The new system came into operation on 6 April 1979.

¹ Contribution submitted by State.

ISLAMIC REPUBLIC OF IRAN

A. Condemnation of racial segregation and apartheid

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹*

On 3 March 1979, the Provisional Government of the Islamic Republic of Iran officially announced that the wishes of the people that Iran's diplomatic relations with South Africa should be broken off and that the sale of Iranian oil to that country should be banned had been met and, in addition, that diplomatic relations with Israel had been broken off and the sale of oil to that country had been banned.

B. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²*

The Constitution of the Islamic Republic of Iran, adopted by the people in the referendum of 2 and 3 December 1979, states in article 19 (chapter III, concerning the Rights of the People) that: "All Iranians, irrespective of their origin (ethnic or tribal group), shall enjoy equal rights, and colour, race, language, and the like shall not confer a privilege."

All Iranian laws condemning racism and racial discrimination are still in force and, in view of the overall philosophy of the new system, the text of the Constitution and the many official declarations concerning protection of the cause of the "disinherited" and the special safeguards to which they are entitled, any review of such laws will be undertaken simply in order to strengthen them.

C. Administration of justice

(articles 8, 10, 11 of the Universal Declaration; article 14 of the International Covenant on Civil and Political Rights)³

Judiciary Police Formation Act

This law was approved by the Revolutionary Council in the year 1358 (1979). Further amendments are at present being studied by the Islamic Consultative Assembly. For training competent personnel the Ministry of Justice of the Islamic Republic of Iran embarked upon the formation of a judiciary police so as to ensure that investigations, the preparation of judicial and penal records, and the consideration of problems pertaining thereto, as well as the serving and execution of legal writs are carried out by trained personnel.

¹ Report submitted by State (CERD/C/66/Add.5).

² *Ibid.* (CERD/C/66/Add.5).

³ *Ibid.* (CCPR/C/1/Add.58).

D. Freedom of thought, conscience and religion

(article 18 of the Universal Declaration; article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination)⁴

In connection with religious minorities, mention should be made that the religion of Islam has a deep respect for other religions, and considers the observance of rights and dignity and free conducting of religious rites and duties of other divine religions and sects should be respected. Principles 13, 14, 15 and 19, among other important principles of the Constitution, provides for the preservation of the rights of the religious minorities.

Principle 13: The Zoroasterian, Jewish and Christian Iranians shall be the sole recognized religious minorities that are free to perform, in accordance with law, their religious rights and act in compliance with their religion as far as their personal status and religious teachings are concerned.

E. Right to social security; realization of economic, social and cultural rights

(article 22 of the Universal Declaration; article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination)⁵

Paragraph C, principle 2 of the Constitution of the Islamic Republic of Iran provides for the elimination of all forms of oppression, exploitation, domination and being dominated, and is of this opinion that justice and equity, and political, economic, social and cultural independence ensure the national solidarity.

The eighth paragraph stipulates the participation of the public in the determination of their own political, economic, social and cultural destiny.

According to principle 29, it is the right of everybody to benefit from social security in cases of retirement, unemployment, old age, disablement, unprotectedness, running short of one's money while being away on a journey, accidents, the need to health and treatment services and medical care, in the form of insurance and the like. The Government is bound to provide the individual people of the country with the foregoing services and financial assistance to be financed from public revenues and the income derived from public participation.

F. Right to work

(article 23 of the Universal Declaration; article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination)⁶

Principle 28 of the Constitution reads that the Government is bound to provide, with due regard to the need of the society to different professions, all the people with possibility of employment and equal conditions to get employed.

G. Right to education

(article 26 of the Universal Declaration; article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination)⁷

On the basis of principle 30, the Government is bound to provide the means of free education until the completion of the high school for the whole nation and to expand the means of free higher studies until the attainment by the country of self-sufficiency.

⁴ *Ibid.* (CERD/C/91/Add.31).

⁵ *Ibid.* (CERD/C/91/Add.31).

⁶ *Ibid.* (CERD/C/91/Add.31).

⁷ *Ibid.* (CERD/C/91/Add.31).

ISRAEL

Right to liberty and security of person

*(article 3 of the Universal Declaration; article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination)*¹

On 5 March 1979, the Emergency Powers (Detention Law) 1979 was adopted by the Knesset (Parliament) which replaces regulations 111 to 112 B of the Defence (Emergency) Regulations which the State of Israel inherited from the British Mandatory Government on 15 May 1948, together with the rest of the legal system existing at that time—and which deals with administrative arrest with deportation.

In a recent case appealed to the Supreme Court, a policeman was convicted of offences under sections 245 (a) and 277 of the Penal Law, 1977 (previously embodied in the Criminal Code Ordinance 1936) by the District Court of Haifa. The Supreme Court, while approving the convictions, decided to reduce the sentence from two years of concurrent imprisonment to nine months of imprisonment and 15 months of conditional imprisonment on the grounds that two other policemen, who also took part in the interrogation of the suspect who was under arrest and also performed illegal acts against him, held higher ranks in the police force than the appellant and had previously been sentenced by a different Court to shorter periods of imprisonment.

¹ Report submitted by State (CERD/C/61/Add.1/Rev.1).

ITALY

A. Condemnation of racial segregation and *apartheid*

(articles 1 and 2 of the Universal Declaration;
article 1 of the International Covenant on Civil and Political Rights)¹

Where the right of all peoples to self-determination has not yet been implemented or where intolerable racist systems persist, Italy's policy is, *inter alia*, to participate in the trust funds set up by the United Nations to help the peoples who are suffering directly from the failure to solve the persistent problems of southern Africa. Italy's contribution is commensurate with its financial situation and has so far been provided through annual budget allocations. In order to make these contributions more systematic and spread them over a longer period, the Government has decided to enact a law designed to provide a three-year contribution covering the period 1979-1981.

B. Protection of fundamental rights and freedoms

(article 2 of the Universal Declaration)²

The Interministerial Committee of 15 February 1979 on Human Rights was set up under a decree of the Minister for Foreign Affairs. This Committee consists of representatives of the Ministry of Foreign Affairs and of all the Ministries competent with regard to the application of domestic and international provisions relating to human rights, representatives of public and private institutions responsible for studying, discussing and promoting the teaching of human rights, and two jurists selected from among professors of international law and international organizations.

The Committee is already operational; at the time of its inception, it was agreed that in exercising operational functions in the preparation of reports on the domestic human rights situation, it could also exercise a political function in that it might encourage a dialogue and a constructive exchange of views between its members with the aim of determining other possible measures which the competent authorities and institutions could take to ensure an increasingly high level of respect for human rights.

C. Right to life

(article 3 of the Universal Declaration;
article 6 of the International Covenant on Civil and Political Rights)³

The Italian Constitution prohibits the death penalty except in cases prescribed by the military law of war (art. 27, last para.). Thus, the death penalty has been abolished not only for the crime of homicide committed with the aggravating circumstances previously established by the Penal Code but also for military crimes committed in time of peace. Furthermore, in view of the supplementary nature of the Military Code of War, the death penalty is now automatically replaced by imprisonment for many crimes for which the Military Code of War does not contain autonomous provisions but refers to other codes. The crime of homicide resulting from insubordination or violence against private enemies may be quoted as examples.

¹ Report submitted by State (CCPR/C/6/Add.4).

² *Ibid.* (CERD/C/46/Add.1).

³ *Ibid.* (CCPR/C/6/Add.4).

A recent judgement of the Constitutional Court (No. 54 of 15 June 1979) confirms the legislator's determination not only to abolish the death penalty in Italy but also to prevent extradition for crimes punishable by the death penalty in the requesting State.

D. Equality in the enjoyment of political rights

*(articles 7 and 21 of the Universal Declaration;
article 3 of the International Covenant on Civil and Political Rights)⁴*

In the political elections of 3 June 1979 women elected to the Chamber of Deputies and to the Senate represented 6.6 per cent and 3.6 per cent respectively of all elected candidates.

E. Right to all the guarantees necessary for defence

*(article 11 of the Universal Declaration;
article 14 of the International Covenant on Civil and Political Rights)⁵*

With regard to the right of the accused to be present at the trial and defend himself in person or through legal assistance of his own choosing, set forth in article 14 (3) (d) of the International Covenant on Civil and Political Rights, Italy declared, in the Act of ratification of the Covenant, that "it considers such provisions to be compatible with existing Italian provisions governing trial of the accused in his presence and determining the cases in which the accused may present his own defence and those in which legal assistance is required".

The first part of this declaration was prompted by the fact that:

(1) Under Italian law, the trial may proceed in the absence of the accused, who is then fully represented by defence counsel; this may occur when the accused fails to appear and when it is not proven that his inability to appear to due to a lawful impediment (arts. 498 and 499 of the Code of Penal Procedure).

(2) In Italian law the legislator has provided a choice between legal assistance and self-defence; in some cases, on pain of nullity, legal assistance is necessary; in others (limited in number), the possibility of self-defence is admitted (arts. 125 and 128 of the Code of Penal Procedure). A recent judgement of the Constitutional Court (No. 125 of 3 October 1979), requested by some judges following cases in which the officially appointed defence counsel of persons accused of acts of terrorism were refused by the accused, confirmed the legality of these provisions of penal procedure.

F. Freedom of association

*(article 20 of the Universal Declaration;
article 22 of the International Covenant on Civil and Political Rights)⁶*

A government draft law containing new regulations for the administration of the police forces was presented in the Chamber of Deputies on 8 November 1979 (No. 895). It includes provisions for the demilitarization of the public security forces, and the possibility of forming internal and autonomous unions. Currently, civilian and military personnel of the public security forces are authorized to set up representative bodies competent to express their views and adopt proposals concerning the legal and economic status of such personnel.

⁴ *Ibid.* (CCPR/C/6/Add.4).

⁵ *Ibid.* (CCPR/C/6/Add.4).

⁶ *Ibid.* (CCPR/C/6/Add.4).

G. Right to social security

*(article 22 of the Universal Declaration;
article 9 of the International Covenant on Economic,
Social and Cultural Rights)⁷*

A reform of the health system is currently being carried out through the establishment of the "National Health Service" by Law No. 833 of 28 December 1978.

Law No. 833 did not represent a comprehensive reform of the earlier system of national insurance, but established the essential conditions for gradual implementation of such a reform.

H. Right to work; right to just and favourable conditions of work

*(article 23 of the Universal Declaration;
articles 6 and 7 of the International Covenant on Economic,
Social and Cultural Rights)⁸*

Special regulations were introduced in 1979 under an administrative order of the Minister of Labour. They concerned foreign workers seeking employment in domestic service. Under this order it became compulsory to obtain a special authorization for their employment and for the payment of their social security contributions.

Law No. 1369 of 23 October 1960, which nullifies all agreements designed to transform the bilateral relationship between worker and employer into a trilateral relationship in which a third person is involved for the purpose of evading the obligations laid down by the law for the actual employer. This law applies also to all enterprises concerned with public works. Thus, this prohibition may also be applied to public agencies (Judgement of the Court of Cassation No. 5019 of 1979).

Far-reaching innovations are at present being introduced in state practice regarding industrial safety and health as part of a comprehensive reform which, through the inauguration of the "National Health Service", embraces all aspects of health protection. The framework for this reform was promulgated in Law No. 833 of 28 December 1978, which entered into force on 1 January 1979 after lengthy and complex preparatory work on the necessary infrastructures. Provision is made for the issue of new regulations regarding industrial safety and health, and they are still being drafted.

I. Trade union rights

*(article 23 (4) of the Universal Declaration;
article 8 of the International Covenant on Economic,
Social and Cultural Rights)⁹*

The limitations on the exercise of certain rights by members of the armed forces involve the right to strike and the right to form trade union associations and to join other trade union associations, which are prohibited. The latter prohibition is not absolute to the extent that persons recruited for military service and those who have been recalled to temporary duty can join or continue to be members of trade union organizations and engage in trade union activities when they are not in specific situations (while on duty, when wearing a uniform, etc.).

These limitations of trade union rights are tempered by the law through an important

⁷ *Ibid.* (E/1978/8/Add.34).

⁸ *Ibid.* (E/1978/8/Add.34).

⁹ *Ibid.* (E/1978/8/Add.34).

innovation: the establishment within the armed forces of a system of corporate and elected "military representation bodies" which operate alongside the traditional military hierarchy. This system allows a wide range of proposals, opinions and requests, starting at the lowest level, to reach the top echelon of the armed forces, the Ministry of the Defence and Parliament.

In fact, this military delegation system is designed to promote, both in the interforce framework and within each armed force and service, a spirit of participation and collaboration and to maintain a high level of moral and material conditions for the military staff.

The regulations on the formation of the military delegation were issued through a decree by the President of the Republic on 4 December 1979.

**J. Promotion of understanding, tolerance and
friendship among all nations, racial and ethnic groups**

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹⁰

Special mention should be made of the activities conducted by the Italian National UNESCO Commission through a network of "schools associated with UNESCO", including State institutions of different kinds and grades, from elementary schools to secondary schools, which, in addition to their normal curricula, follow special *study programmes* dealing with international organizations, problems of peace, human rights, international understanding and major world problems in general.

Under the activities relating to the schooling of nomad children it is proposed to bring these children into the educational system. At the present time, they have the choice of three possibilities in Italy: complete integration in an ordinary class, attendance of an ordinary school with the assistance of a specialized teacher and attendance of special classes, called "Lacio Drom".

¹⁰ *Ibid.* (CERD/C/46/Add.1).

IVORY COAST

Freedom of movement and residence

*(article 13 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

The Ivory Coast has become a party to a number of international instruments relating to free circulation of persons, right of residence and right of establishment, both at the regional multilateral level and at the bilateral level.

At the regional level, within the framework of the Economic Community of West African States, mention must be made of the protocol on free circulation of persons and right of residence and establishment, signed in 1979. At the bilateral level agreement was reached with Switzerland in 1979 on free circulation of persons or abolition of visas.

¹ Report submitted by State (CERD/C/64/Add.2).

JAMAICA

A. Condemnation of racial segregation and *apartheid*
(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹

Jamaica was host, in May 1979, to the Special Session of the United Nations Special Committee Against *Apartheid*, which issued a declaration on *apartheid*.

B. Realization of economic rights
(article 22 of the Universal Declaration;
article 1.2 of the International Covenant on
Civil and Political Rights)²

In 1979 there was enacted the Petroleum Act which vested in the Crown all petroleum existing in Jamaica “including the bed and subsoil of its territorial sea, its continental shelf and any other area declared under this section to be within the maritime resource jurisdiction of Jamaica”.

¹ Report submitted by State (CERD/C/18/Add.8).

² *Ibid.* (CCPR/C/1/Add.53).

JAPAN

A. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them

*(article 2 of the Universal Declaration)*¹

Extension of the Law for Special Measures for Dowa (Law No. 60 of 1969)

Article 14 of the Constitution of Japan provides for the guarantee for equality under the law for all the people of Japan, and the Law for Special Measures was enacted in 1969 for a term of 10 years, in order to realize in full the purport of article 14 and to improve the social and economic status of a certain group of Japanese people who have the stability of their living hindered owing to a sense of discrimination historically formed in Japanese society.

Since, however, the programme for "Dowa" under this Law had not been fully realized by the end of March 1979, the validity of this Law was extended for three years until March 31, 1982, to permit renewed endeavours to achieve the purpose of the programme.

B. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic,
Social and Cultural Rights)*²

With the implementation of the system of compulsory special education in schools for the handicapped in 1979, Japan's compulsory education system is now complete.

As an improvement of the overall system, the establishment of a complete system of schools for the handicapped in 1979 achieved the aim of compulsory education for invalid, mentally retarded and physically handicapped children of school age. As a result, the number of handicapped children in school increased to 88,847, as compared with 71,774 in the year 1978, and those exempted from the obligation to receive compulsory education decreased to 3,384 from the 9,872 in 1978.

C. Right to a social and international order in which human rights can be realized

*(article 28 of the Universal Declaration)*³

Respect for human rights is one of the basic principles of the Constitution of Japan and the essential points embodied in the International Covenants on Human Rights have generally been guaranteed in Japan by the Constitution. Japan, with a view to manifesting at home and abroad its positive attitude towards respect for human rights and advancing its domestic measures for their protection, ratified the Covenants on June 6, 1979.

¹ Contribution submitted by State.

² Report submitted by State (E/1982/3/Add.7).

³ Contribution submitted by State.

KENYA

Limitations on the exercise of rights and freedoms; states of emergency

*(article 29 of the Universal Declaration;
article 4 of the International Covenant on
Civil and Political Rights)*¹

Kenya has been under a state of emergency since 1966. This has been done by invoking Section 85 of the Constitution. This empowers the making of an order by the President to bring Part III of the Preservation of Public Security Act into operation.

An order, L.N. No. 211, was made in 1966; this order lapsed on 22 August 1978 on the death of the late President H. E. Mzee Jomo Kenyatta. This necessitated the making of a fresh order if the new President deemed it proper and L.N. No. 222 of 1979 was made bringing section 4 (1) of Cap. 57 into operation in so far as it related to (a) the detention of persons and (b) the registration, restriction of movement (in, out of or within Kenya), and the compulsory movements of persons, including the imposition of curfews. So there has been a state of emergency as far as those matters are concerned.

¹ Report submitted by State (CCPR/C/1/Add.59).

MADAGASCAR

Right to work; right to just and favourable conditions of work

*(article 23 of the Universal Declaration;
article 7 of the International Covenant on
Economic, Social and Cultural Rights)*¹

On the one hand, various decisions lay down the professional classification of workers in the private sector holding posts in the various branches of activity.

On the other hand, Decrees No. 79-365, 79-366 and 79-367 of 22 December 1979 provide for the integration of contractual agents and those holding long-term or short-term posts in the public sector under state control.

¹ Report submitted by State (E/1978/8/Add.29).

MALI

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article IV of the International Convention on the
Suppression and Punishment of the Crime of Apartheid)*¹

The National Anti-*Apartheid* Committee which was originally set up in connection with International Anti-*Apartheid* Year, has become a standing body. It holds periodic meetings to organize events in connection with the historic days that mark the struggle of the South African people against the racism of Pretoria.

The National Committee is shortly to publish a pamphlet on the anti-*apartheid* campaign in Mali.

B. Political rights

*(article 21 of the Universal Declaration;
article 5 of the International Convention on the Elimination of
All Forms of Racial Discrimination;
article 25 of the International Covenant on Civil and Political Rights)*²

The Constitution and the Electoral Code safeguard and permit the implementation of the right to be elected and to vote.

Article 2, paragraph 2, of the Electoral Code (Ordinance No. 79-44/CMLN of 11 May 1979) provides:

“Nevertheless, nationals of African States who are resident in Mali and listed in the electoral registers shall continue to be electors if they fulfil the general electoral conditions”.

It is worth noting in this connection that it was essential for Mali, as a founder member of OAU, whose Charter prevails over its internal law, to elaborate legislative provisions in keeping with the objectives and principles of the Charter;

This is the will clearly expressed in article 2, paragraph 2, of the Electoral Code.

¹ Report submitted by State (E/CN.4/1415/Add.3).

² *Ibid.* (CERD/C/74/Add.3; CCPR/C/1/Add.49).

MEXICO

A. Right to social security

*(article 22 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

Under article 123 of the Constitution, in connection with article 6 of the Federal Labour Law, the 56 conventions of the International Labour Organisation ratified by Mexico form part of federal labour legislation, among them the Equality of Treatment (Social Security) Convention, 1962, which has been in force for Mexico since 6 January 1979.

B. Right to work

*(article 23 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

Labour laws were included historically, for the first time, in the present Constitution, which has been in force in the United Mexican States since 1917.

Article 123, which forms part of the so-called social guarantees, was amended on 6 September 1929 and originally read:

“The Congress of the Union and the State Legislatures shall issue labour laws, based on the needs of each region, without contravening the following basic principles, which shall apply to the employment of workers, day labourers, non-manual workers, domestic servants and artisans, and in general to all work contracts.”

As is known, the State Legislatures, which had expressly reserved their right to legislate on this subject, were nevertheless obliged not to contravene the General Constitution of the Republic on the matter; but in view of the importance of the subject, its legal significance and the philosophy which involved the Constitution, the State Legislatures waived the right to legislate separately on this Federal matter, which was left to the Congress of the Union, as may be seen from the Decree of 6 September 1929, which excludes the said Legislatures and stipulates:

“Article 123. The Congress of the Union, without contravening the following basic principles, shall issue labour laws, which shall apply to workers, day labourers, non-manual workers, domestic servants and artisans and in general to all work contracts.”

Although this amendment showed the importance which the Government of Mexico attaches to labour, it is essential to point out that the recent addition to this article, published on 19 December 1978, grants the right to work constitutional status.

In the second amendment, the importance attached by the State to labour law was incontestable; with the latest amendment, it is beyond all doubt that the Mexican State not only guarantees labour law, but also safeguards the right to work. The relevant addition to article 123 reads:

“Everyone has the right to dignified and socially useful work, and efforts shall be made to promote the creation of jobs and to organize work in accordance with the law.”

¹ Report submitted by State (CERD/C/63/Add.1).

² *Ibid.* (CERD/C/88/Add.1).

The above considerations may be adduced as proof that the Mexican Government includes the right to work among the economic and social rights it guarantees.

C. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on
Economic, Social and Cultural Rights)³*

Among the legal provisions relevant to the right to education, mention can be made of the Rules of the Council for the National System of Technical Education of 10 January 1979 and of the Rules of the National Advisory Council on Teacher Training of 27 April 1979, which concern the improvement of the material conditions of teaching staff.

As regards the liberty to establish and direct education institutions, reference can be made to the Agreement No. 35 of the Minister of Education empowering the Director-General for Accreditation and Incorporation to substantiate decisions taken with respect to the penalties provided for in articles 68 and 86 of the Federal Consumer Protection Act of 24 September 1979.

In 1979, in accordance with the Co-ordination of Higher Education Act, the Council for the National System of Technical Education was established for the purpose of providing advice to the Ministry of Education, the federal entities and the public institutions of higher technical education regarding co-ordination of the activities of that system and assistance in gearing them to the country's needs and development.

D. Right to take part in cultural life

*(article 27 of the Universal Declaration;
article 15 of the International Covenant on
Economic, Social and Cultural Rights)⁴*

In the period 1978-1979, the following activities were undertaken in the field of dissemination of publications:

In order to encourage children, young people, students and new readers to read suitable publications, the Ministry of Education brought out a number of new books: some were published in the Colibrí collection of selected children's books, 12 were on world history suitable for students and young people in general, 40 were for new readers, 29 for adult education, 9 for high-school diploma courses, and 6 were books of short stories for children.

It also brought out the bulletin *Correo del Libro*, which is designed to encourage the promotion, investigation and dissemination of the various examples of printed culture and to elicit an exchange of views with the country's teachers in order to find out how they feel about the topics and books that Mexico's teachers prefer. This bulletin has an average circulation of 500,000 copies an issue. Nine issues were published in 1978-1979 and 17,202 schoolteachers were registered in its directory.

The distribution of publications was promoted through the *Correo del Libro*, offering 600,000 schoolteachers working all over the country a large number of publications at accessible prices. Book sales totalled 64,449 for an approximate total value of 12 million pesos. A system was devised for the proper and efficient delivery of both the bulletin and the books ordered by schoolteachers through the mail.

³ *Ibid.* (E/1982/3/Add.8).

⁴ *Ibid.* (E/1982/3/Add.8).

A decree proclaiming that 12 November of each year, the day on which the birth of Sor Juana Inés de la Cruz is commemorated, will be dedicated to the nation-wide dissemination of literature was adopted on 6 September 1979.

A decree declaring it to be in the public interest to continue studying, excavating, exploring, recovering, consolidating, restoring, protecting and conserving the archaeological monuments situated between Calle de Guatemala, Calle de Argentina, Calle Justo Sierra, Calle del Carmen, Calle Moneda and Calle Seminario was adopted on 14 June 1979. To this end, the Decree provides for the expropriation of the properties situated at Nos. 5 and 7, Calle de República de Argentina, Mexico City, Federal District.

An agreement enabling the Ministry of Programming and Budgetary Matters to authorize state participation in a civil association whose objective will be to obtain originals or reproductions of records, maps, plans and drawings relating to the period between the discovery of the Americas and the independence of Mexico was adopted on 29 June 1979.

Principal laws, administrative regulations and collective agreements designed to encourage and develop international contacts and co-operation in the scientific and cultural fields adopted in 1979:

Agreement No. 37, concluded on 23 November 1979 by the Minister for Foreign Affairs, under which the Department of International Relations will be responsible for representing the Ministry of Education in international organizations and agencies active in the educational and cultural fields.

Co-operation Agreement concluded by the countries of Latin America and the Caribbean in order to restructure the Latin American Institute of Educational Communication (ILCE), signed at Mexico City on 31 May 1978;

Decree approving the Agreement adopted on 24 January 1979.

Basic Agreement on Scientific and Technological Co-operation between the Government of the United Mexican States and the Government of the Republic of Ecuador, signed at Quito on 13 July 1974;

Decree approving the Agreement adopted on 19 December 1978.

Basic Agreement on Scientific and Technical Co-operation between the Government of the United Mexican States and the Government of the People's Republic of Bulgaria, signed at Sofia on 28 May 1978;

Decree approving the Agreement adopted on 30 January 1979.

Co-ordination Agreement between the Ministry of Education, the Ministry of Labour and Welfare, the Ministry of Communications and Transport and the Department of Fisheries.

Agreement on Cultural and Educational Co-operation between the Government of the United Mexican States and the Government of the People's Republic of China, signed at Peking on 27 October 1978;

Decree approving the Agreement adopted on 23 January 1979.

Basic Agreement on Scientific and Technical Co-operation between the Government of the United Mexican States and the Government of the Republic of Colombia, signed at Mexico City on 8 June 1979;

Decree approving the Agreement adopted on 22 November 1979.

Agreement on Cultural and Educational Exchanges between the Government of the United Mexican States and the Government of the Republic of Colombia, signed at Mexico City on 8 June 1979;

Decree approving the Agreement adopted on 22 November 1979.

Additional Agreement to the Basic Agreement on Scientific and Technical Co-operation and to the Agreement on Economic and Industrial Co-operation in Geology and in the Mining Industry between the Government of the United Mexican States and the

Government of the People's Republic of Bulgaria, signed at Mexico City on 16 April 1979;

Decree approving the Agreement adopted on 18 December 1979.

Basic Agreement on Scientific and Technical Co-operation between the United Mexican States and the Czechoslovak Socialist Republic, signed at Mexico City on 20 April 1979;

Decree approving the Agreement adopted on 18 December 1979.

**E. Right to a social and international order
in which human rights can be realized**

*(article 28 of the Universal Declaration)*⁵

Mexico is at present a party to the Convention on the Elimination of All Forms of Discrimination against Women.

⁵ *Ibid.* (E/CN.4/1505/Add.3).

MONGOLIA

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

All mass media are used to the fullest extent to unmask and condemn the crime of *apartheid*, and to illustrate and explain the efforts of the international community to eliminate *apartheid*, and the struggle of the peoples of southern Africa for their freedom and independence, democracy and social progress and against *apartheid* and racism.

B. Elimination of racial discrimination; equality before the law

*(articles 2 and 7 of the Universal Declaration;
articles 2 and 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

Justice is administered in the Mongolian People's Republic on the principle of equality of citizens before the law and the courts, irrespective of their sex, race, nationality, religion or social, property or occupational status (Act of the Mongolian People's Republic, of 25 December 1978). Article 10 of this Act states that, "in accordance with the Constitution of the Mongolian People's Republic, legal proceedings are conducted in the Mongolian language." Persons not knowing the Mongolian language shall, in accordance with the Constitution of the Mongolian People's Republic, be fully informed through an interpreter of the documents relating to the case and have the right to address the court in their own language." Documents from investigations and court documents are handed over to the accused in a translation into his native language or some other language which he knows.

¹ Report submitted by State (CERD/C/91/Add.10).

² *Ibid.* (CERD/C/91/Add.10).

MOROCCO

**Right to a social and international order
in which human rights can be realized**
(*article 28 of the Universal Declaration*)¹

On 27 March 1979, the Kingdom of Morocco ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, having signed both instruments on 19 January 1977.

On 11 May 1979, Morocco also ratified several conventions adopted by the International Labour Organisation, for example, the Equal Remuneration Convention (No. 100), adopted on 29 June 1951 at Geneva; the Employment Policy Convention (No. 122), adopted on 9 July 1964 at Geneva; and the Labour Inspection (Agriculture) Convention (No. 129), adopted at Geneva on 25 June 1969.

¹ Reports submitted by State (CERD/C/65/Add.1; CCPR/C/10/Add.2).

NEPAL

Prohibition of racial discrimination or incitement to it

*(article 7 of the Universal Declaration;
articles 2 and 4 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

The policy of the Kingdom of Nepal to apply restrictions in respect of acts likely to create disharmony among the people of the country and also to restrict the inciting of racial discrimination has been further strengthened in section 4 of the Referendum (Crime and Punishment) Act 1979 wherein it has been provided that no one is allowed to do or cause to be done anything which adversely affects good relationships between the people of different races, occupations and religions.

¹ Report submitted by State (CERD/C/65/Add.6).

NETHERLANDS

Introduction: general legal framework¹

The most recent constitutional development in the field of human rights was the enactment on 28 June 1979 of laws which together form a catalogue of basic rights, which will make up the first chapter of the new Constitution after the new Parliament to be elected in 1981 will have passed them on second reading by a two-thirds majority. Various rights mentioned in the Covenant already enjoy constitutional protection, but this will be extended and the situation clarified when the new Constitution enters into force.

The bill to amend the Constitution, which includes a prohibition on discrimination, has passed its first reading in Parliament (Act of 28 June 1979, Staatsblad 387). After Parliament has been dissolved and a new one elected, the bill will receive its second reading, probably in late 1981.

A. Prohibition of discrimination or incitement to it

*(articles 2 and 7 of the Universal Declaration;
article 4 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²*

On 24 April 1979 Amsterdam Police Court handed down a sentence of four weeks' imprisonment and a fine of 1,500 guilders, half of it suspended, on a conviction for distributing pamphlets containing anti-semitic insults in violation of article 137e of the Criminal Code.

B. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them

*(articles 2 and 26 of the Universal Declaration;
article 2.2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)³*

The year 1979 was important for the development of policy on ethnic minorities. In February 1979 the Government decided in principle to designate the Minister for Home Affairs responsible for co-ordinating policy on cultural minorities (i.e. ethnic minorities and caravan-dwellers). In order to assist him in his task, arrangements were made for inter-ministerial co-ordination and the Minorities Policy Co-ordination Department was set up at the Ministry of Home Affairs.

¹ Reports submitted by State (CCPR/C/10/Add.3; CERD/C/75/Add.6).

² *Ibid.* (CERD/C/75/Add.6).

³ *Ibid.* (CERD/C/75/Add.6).

C. Protection against arbitrary deprivation of liberty

*(articles 3 and 9 of the Universal Declaration;
article 10.1 of the International Covenant on
Civil and Political Rights)⁴*

In accordance with the judgement of the European Court of Human Rights on 24 October 1979 in the Winterwerp Case concerning a complaint made by a Dutch mental patient concerning violation of the European Convention in respect of deprivation of liberty owing to insanity, steps have been taken to ensure that patients' cases are heard by the Courts both on their admission to an institution and as part of the annual review of their situation.

D. Equal protection of the law

*(article 7 of the Universal Declaration;
article 2 of the International Covenant on
Civil and Political Rights)⁵*

The constitutional system obtained in the Netherlands Antilles assigns direct legal consequences for individuals to appropriate treaty provisions. Consequently, various articles of the International Covenant on Civil and Political Rights have a direct effect, i.e. their content is binding on everyone. This means that individuals in the Netherlands Antilles may invoke these provisions of the Covenant before the Courts. The provisions having a direct effect have been applicable in the Netherlands Antilles from the moment the Covenant entered into force for the Kingdom of the Netherlands and thus for the Netherlands Antilles. Since 11 March 1979, therefore, it has been possible for anyone to invoke the relevant provisions of the Covenant.

It can therefore be said that the legal order of the Antilles already largely satisfies the aim of article 2 paragraph 2 of the Covenant, i.e. the most effective possible national realization of the rights set forth in the Covenant.

E. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁶*

Realizing the importance of world studies as a school subject, the Ministry of Education and Science has entered into a subsidy agreement with the National Committee for Information on Development Co-operation (NCO) for a trial period of two years (1978-1979), during which they will jointly subsidize a number of projects. Although not the main aim of world studies, the abolition of ethnocentric thinking constitutes a subsidiary aim; world studies as such can help to end racial discrimination.

The Education of Foreign Children in the Netherlands

The education of the children of foreign workers in their own language and culture takes place within the same legal framework as ordinary education. This means that the schools and municipal authorities are responsible for such education and are therefore concerned with

⁴ *Ibid.* (CCPR/C/10/Add.3).

⁵ *Ibid.* (CCPR/C/10/Add.5).

⁶ *Ibid.* (CERD/C/48/Add.5).

the curriculum including teaching aids, and the selection and appointment of foreign teachers.

Here too the function of the Government is to guarantee the quality of education, that is to assess curricula in the light of legal requirements.

The same applies to the appointment of teachers who are required by law to be healthy, of good moral conduct and qualified to teach.

Provided they observe the legal requirements, school boards and municipal authorities are therefore free to select and appoint teachers, including foreign teachers, and to draw up curricula.

F. Right to a social and international order in which human rights can be realized

*(article 28 of the Universal Declaration)*⁷

The International Covenant on Civil and Political Rights entered into force in the Kingdom of the Netherlands on 11 March 1979. This did not create an entirely new situation, however, since many of the rights mentioned in the Covenant already are obtained in the Netherlands. Since 1814 (some authorities even go so far as to say since 1579, the date of the establishment of the Union of Utrecht), human rights have formed part of the Netherlands legal system, both by virtue of their inclusion in the Constitution and other laws of the Netherlands and, more recently, as a result of the ratification of international and regional conventions such as the European Convention for the Protection of Human Rights and Fundamental Freedoms, which entered into force in the Netherlands on 31 August 1954.

During the discussion by Parliament of the bill to approve the Covenant, detailed consideration was given to the extent to which those of its provisions containing substantive rights would be directly applicable, i.e. without the intervention of domestic legislation.

Since 11 March 1979, the date when the Optional Protocol to the International Covenant on Civil and Political Rights entered into force in the Kingdom, individual citizens have also had the option of initiating the procedure provided for in the Optional Protocol, either exclusively or after the Strasbourg procedure.

G. Limitations on the exercise of rights and freedoms

*(article 29 of the Universal Declaration)*⁸

As a rule restrictions may be placed on basic rights, especially those contained in the proposed new Constitution, only if permitted by the formulation of the basic right concerned. In most cases only the central legislature (the Government and Parliament together) has the right to impose such restrictions.

⁷ *Ibid.* (CCPR/C/10/Add.3).

⁸ *Ibid.* (CCPR/C/10/Add.3).

NEW ZEALAND

A. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2.1 (c) of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹*

Policies in the field of race relations came under review in December 1979 with the publication of "He Matapuna—Some Maori Perspectives".

"He Matapuna" reaffirmed one of the main conclusions reached in "New Zealand at the Turning Point", namely that New Zealand's planning policies must take account of the fact that New Zealand is a plural society and that emphasis must be given to planning for a "multicultural society".

B. Non-discrimination: equal rights for men and women

*(articles 2 and 7 of the Universal Declaration;
article 3 of the International Covenant on
Civil and Political Rights)²*

The Department of Labour plays an important role in ensuring equal opportunities for women and their full integration into national life. The Department administers the Equal Pay Act 1972 which provided for the implementation of full equal pay in four stages from 1973 to 1977 under the supervision of the Equal Pay Review Committee. The final report of the Committee was presented in June 1979.

C. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 6 of the International Convention on the
Elimination of All Forms of Racial Discrimination)³*

The Race Relations Act places primary emphasis on the settlement of complaints of racial discrimination through conciliation by the Race Relations Conciliator.

As in previous years, Section 25 (Inciting Racial Disharmony) attracted the largest number of complaints (100 out of a total of 284) in the period March 1977 to March 1979. The new Section 9A (Racial Disharmony), the background to which was described in paragraphs 35 to 37 of New Zealand's Third Periodic Report, also attracted a large number of complaints (37) in the year ending 31 March 1979, particularly considering that it had been in force for only seven months. Between them, Sections 9A and 25 attracted 81 complaints, representing 54 per cent of total case investigations, in the 1978/79 year.

Of the 141 complaints received in 1978/79, 102 were classified as "Action Completed", 22 were classified "Action Discontinued", and 25 were classified "Referred". Of the 102 "Action Completed" complaints, 11 were found to be "Justified and Rectified", 41 were "Rectified—No Decision" and 50 were found to be "Not Justified".

¹ Report submitted by State (CERD/C/48/Add.10).

² *Ibid.* (CCPR/C/10/Add.6).

³ *Ibid.* (CERD/C/48/Add.10).

D. Right not to be subjected to arbitrary arrest or detention

(article 9 of the Universal Declaration;
article 9.4 of the International Covenant on
Civil and Political Rights)⁴

Anyone who is deprived of his liberty by arrest or detention is able to institute an application for a writ of *habeas corpus* at common law. The issue of the writ requires the person detaining another in custody to bring him before the Court so that the reason for his detention can be examined. If the reason is unlawful, the Court will order the release of the person concerned.

A recent example of a motion for a writ of *habeas corpus* is the case of *Mewes v. Attorney-General* [1979] 1 NZLR 648. The United States requested the extradition of the applicant from New Zealand. After a hearing, a District Court Judge ordered under S 10 (1) (b) of the Extradition Act 1965 that the applicant be committed to prison for extradition. The applicant sought a review of the District Court Judge's decision on a writ of *habeas corpus*. After a three-day hearing, the applicant was discharged as the evidence which was admissible would not justify the committal of the applicant for trial if the alleged acts had occurred in New Zealand.

E. Freedom of movement and residence

(article 13 of the Universal Declaration;
article 13 of the International Covenant on Civil and Political Rights)⁵

A right to review of a deportation order made against a non-New Zealand citizen lawfully in New Zealand was established by the Immigration Amendment Act 1978 which came into force on 1 December 1978. One of the reasons for the passage of the Act was to ensure that New Zealand law was in complete accordance with Article 13. It provides two alternative procedures for review, depending on the section under which the deportation order was made.

One procedure, which involves an appeal to the Deportation Review Tribunal, is available for deportation orders made under section 22 (1) of the Act. Section 22 (1) concerns non-New Zealand citizens convicted of offences punishable by imprisonment within a specified period of residence in New Zealand. The other procedure, which involves an appeal to the Administrative Division of the High Court, is available for deportation orders made pursuant to section 22 (3) of the Act. Section 22 (3) appertains to non-New Zealand citizens who are suspected of being terrorists.

The only kind of deportation order against a non-New Zealand citizen lawfully in New Zealand for which no review procedure is provided is an order made under section 22 (2) which allows the Minister of Immigration to deport a person whose continued presence in New Zealand constitutes a threat to national security.

New Zealand law also provides an opportunity for non-New Zealand citizens convicted of being unlawfully in New Zealand to appeal against the deportation which flows automatically from such a conviction.

All deportation and review of deportation in New Zealand is governed by Statute. The Crown's prerogative to expel non-New Zealand citizens has been excluded by this legislation.

⁴ *Ibid.* (CCPR/C/10/Add.6).

⁵ *Ibid.* (CCPR/C/10/Add.6).

F. Freedom of opinion and expression

*(article 19 of the Universal Declaration;
article 19 of the International Covenant on
Civil and Political Rights)*⁶

As regards Niue, a self-governing State in free association with New Zealand, censorship of films is provided for in the Film and Public Entertainment Act 1979. The Censor is not to approve any film which is, in his opinion, indecent, obscene, injurious to morality or likely to encourage public disorder or crime (Section 12 (2)). Approval may, however, be given for general exhibition or exhibition subject to specified conditions (Section 13).

G. Right to take part in government

*(article 21 of the Universal Declaration;
article 25 of the International Covenant on
Civil and Political Rights)*⁷

The right and opportunity of all citizens to have access on general terms of equality to public service in Niue is protected by the Niue Public Service Regulations 1979. Regulation 16 makes it clear that appointments to the public service are based on merit, bearing in mind the work experience, personal qualities and relevant educational qualifications of the candidate. The minimum age for appointment is 15 years and the maximum age 55 years.

H. Trade union rights

*(article 23 (4) of the Universal Declaration;
article 22 of the International Covenant on
Civil and Political Rights)*⁸

There are a number of statutes which limit negotiating rights to certain named organizations. Among them mention should be made of the Fishing Industry (Union Coverage) Act 1979. The Fishing Industry (Union Coverage) Act excluded existing unions from involvement in the fishing industry and provides for the formation of only one union in the fishing industry. It is designed to protect the traditional right of fishermen to man and unload fishing vessels.

In a country where the Government is a major employer, the Niue Public Service Regulations 1979 recognizes the Niue Public Service Association (Incorporated) as the competent service organization. Regulation 7 empowers the Niue Public Service Association (Incorporated) to make representations at any time to the Niue Public Service Commission on any matter affecting the conditions of employment of any employee or class or classes of employee.

⁶ *Ibid.* (CCPR/C/10/Add.10).

⁷ *Ibid.* (CCPR/C/10/Add.10).

⁸ *Ibid.* (CCPR/C/10/Add.6; CCPR/C/10/Add.10).

**I. Promotion of understanding, tolerance and friendship
among all nations, racial and ethnic groups**

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁹

The John Waititi Marae, a multiracial, multicultural and multi-tribal marae, played a significant role in August 1979 when it was host to a forum "The Child in the Multiracial Society—Focus for Change" organized, as a contribution to the International Year of the Child, by the Race Relations Office and the Human Rights Commission.

The Queen Elizabeth the Second Arts Council continued its policy of financial support for projects involving the preservation and practice of traditional Maori and Polynesian arts and culture. In recognition of the need for a systematic approach to Maori and Polynesian arts and culture, the Council recommended that legislation be enacted to establish, within the Council's structure, an organ charged with specific responsibilities in this field. In April 1979, legislation was passed establishing, within the Queen Elizabeth the Second Arts Council, a Council for Maori and South Pacific Arts. The Council is made up of 9 members (5 Maori and 4 Polynesian) appointed by the Minister for the Arts, in association with the Minister for Maori Affairs. It is charged with advising the Queen Elizabeth the Second Arts Council, and the Government, on the development of cultural programmes designed to preserve and to promote Maori and Polynesian culture.

Maori cultural activities overseas during the period under review included the attendance of Maori leaders at the opening of the new New Zealand Chancery in Washington, DC; a major cultural visit to the People's Republic of China; and meetings in Australia between a group of elders from New Zealand and the Maori community living in that country.

An informational measure which entered into force in the period under review was section 28A of the Race Relations Act. This new Section gives the Conciliator power to publish reports relating generally to the exercise of his functions when he considers it to be in the public interest or in the interests of any person or Department or organization to do so.

Steps towards the preparation of the first such report were taken in 1979 following an incident at Auckland University involving the Auckland Engineering Students Haka Party and the Te Haua Community Group. Following the incident, a number of complaints were lodged with the Conciliator by and against many of the parties involved.

It was clear that there was public confusion and misunderstanding surrounding this incident. In his capacity as Human Rights Commissioner, the Conciliator made a report on the incident to the August meeting of the Commission following which it was decided that the Race Relations Office and the Human Rights Commission office should, in a combined effort, invite representations from the public concerning the public's attitude towards race relations in New Zealand. The aim of the exercise was neither to make judgements nor to apportion blame, but to seek from individuals or groups, or institutions, their thoughts on the situation, and possible suggestions for improvement. To this end, a series of public hearings were organized and well advertised at readily accessible centres, throughout New Zealand. Where invited, officers of both offices attended meetings at maraes and at special Pacific Island centres which enabled participants to express their thoughts from discussion situations which they most preferred.

In 1978 and 1979 a group of teachers from six Waikato schools met on several occasions to share their ideas on what could or should be done to exchange resource materials and teaching units. Discussions were held with Waikato University staff from the Maori language department and the Centre for Maori Studies and Research. A major recommendation

⁹ *Ibid.* (CERD/C/48/Add.10; CERD/C/75/Add.14).

concerned the need for in-service support, and the sensitive involvement of local Maori communities.

**J. Right to a social and international order in which
human rights can be realized**

*(article 28 of the Universal Declaration)*¹⁰

New Zealand's ratification of the Convention on the Prevention and Punishment of the Crime of Genocide on 28 December 1978 applied also to Tokelau. Tokelau's obligations under the Convention are implemented by the provisions of the Tokelau Crimes Regulations 1975.

**K. Limitations on the exercise of rights and freedoms;
states of emergency**

*(article 29 of the Universal Declaration;
article 4 of the International Covenant on
Civil and Political Rights)*¹¹

No measures have been taken by Niue in time of public emergency which derogate from the obligations contained in the Covenant. The only legal basis for the taking of special measures which might derogate from existing legal safeguards in time of emergency is the Public Emergency Act 1979. The Act authorizes the Cabinet of Ministers to declare a state of emergency throughout Niue and enables the Cabinet to make all such regulations as it thinks necessary for the conservation of public safety and order.

While the regulation-making power is quite wide, there are severe restrictions on the use of the Act. The Act provides that no proclamation shall be in force for more than one month although further such proclamations may be made. Any regulations made following a proclamation must be laid before the Niue Assembly as soon as they are made and shall not continue in force after the expiration of 14 days from the time they are laid before the Assembly unless a resolution is passed by the Assembly providing for their continuance. A state of emergency has never been proclaimed under the Act.

¹⁰ *Ibid.* (CCPR/C/10/Add.11).

¹¹ *Ibid.* (CCPR/C/10/Add.10).

NICARAGUA

Introduction¹

On 20 July 1979, the Government Junta of National Reconstruction promulgated the Fundamental Statute, which provides (article 7) for the unconditional equality of all Nicaraguans and guarantees (article 6) the full applicability of the human rights embodied in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights of the United Nations, and in the American Declaration of the Rights and Duties of Man of the Organization of American States.

The Statute on the Rights and Guarantees of Nicaraguans, providing for the application of the provisions contained in the aforementioned Fundamental Statute, was promulgated on 21 August 1979.

Title II of the Statute on the Rights and Guarantees of Nicaraguans concerns individual civil and political rights and provides for the equality of all persons before the law and the prohibition of discrimination on account of birth, race, colour, sex, language, religion, opinions, origin, financial position or any other social circumstance. Article 22 provides for the prohibition of any form of propaganda against peace and any advocacy of national, racial or religious hatred.

A. Right to self-determination

*(articles 1, 21 and 22 of the Universal Declaration;
article 1 of the International Covenant on
Civil and Political Rights)²*

The law of the Republic of Nicaragua lays down in articles 1 and 2 of the Statute on the Rights and Guarantees of Nicaraguans the following:

“Article 1

“The Nicaraguan people shall have the right to free and complete self-determination in order to establish its political system and thus provide for its economic, social and cultural development.

“The State shall, through the law, guarantee the direct participation of the people in the fundamental affairs of the country at both the national and local levels.

“Article 2

“To achieve its ends, the Nicaraguan people shall have the right to dispose freely of its natural wealth and resources, without prejudice to obligations deriving from international co-operation based on the principle of mutual advantage, solidarity and international law. Under no circumstances may the Nicaraguan people be deprived of its own means of subsistence.”

¹ Report submitted by State (CERD/C/45/Add.3).

² *Ibid.* (CCPR/C/14/Add.2).

B. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*³

The Revolutionary Government fully proscribes all racial discrimination in the Fundamental Statute, as may be seen from article 7, which stipulates: "The unconditional equality of all Nicaraguans shall be established".

C. Prohibition of discrimination or incitement to it; equality before the law

*(articles 2 and 7 of the Universal Declaration;
articles 2, 4 and 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

Under Nicaraguan positive law, the Fundamental Statute of the Nation guarantees the equality of all citizens, in the following terms: "The unconditional equality of all Nicaraguans shall be established" (art. 7).

Paragraph I of the preamble to the Fundamental Statute refers to the guarantee of the rights of citizens and reads: "Whereas . . . Its management of State affairs must be subject to standards guaranteeing the rights of citizens and regulating the exercise of public service."

Furthermore, in article 3 of the Statute on the Rights and Guarantees of Nicaraguans, which is related to article 2, paragraph 1, of the International Covenant on Civil and Political Rights, the Revolutionary Government has redefined in more detailed terms the equality that exists between all Nicaraguans by providing:

"All persons shall be equal before the law and shall be entitled to equal protection. There shall be no discrimination on account of birth, race, colour, sex, language, religion, opinions, origin, financial position or any other social circumstance.

"The State has an obligation to remove, by all means within its power, *de facto* obstacles impeding the equality of citizens and their participation in the political, economic and social life of the country."

The Nicaraguan State prohibits any kind of propaganda advocating racial discrimination and goes even further by stipulating, in article 22 of the Statute on the Rights and Guarantees of Nicaraguans: "All propaganda against peace and any advocacy of national, racial or religious hatred shall be prohibited".

Article 22 provides: "All propaganda against peace and any advocacy of national, racial or religious hatred shall be prohibited".

D. Elimination of racial discrimination: development and protection of certain groups or individuals belonging to them

*(article 2 of the Universal Declaration;
article 27 of the International Covenant on
Civil and Political Rights)*⁵

The triumph of the Revolution has provided the first opportunity in Nicaraguan history for ethnic minorities to express their true interests and demands, the first time that "the

³ *Ibid.* (CERD/C/103/Add.1).

⁴ *Ibid.* (CERD/C/103/Add.1).

⁵ *Ibid.* (CCPR/C/14/Add.2).

energies held in check by years of exploitation and isolation”, as Moravian Bishop Wilson put it, could be released. Attempts were made to utilize them against the Revolutionary Plan which sought precisely to guarantee, in the midst of what was indeed a relationship of conflict, the social and economic development of these communities, while promoting channels of political expression traditionally denied to them.

**E. Right to life, liberty and security of person;
right not to be subjected to arbitrary arrest or detention;
right of everyone charged with a penal offence to all the
guarantees necessary for his defence**

*(articles 3, 9 and 11 of the Universal Declaration;
article 5 of the International Convention on the Elimination of
All Forms of Racial Discrimination;
articles 9, 10, 11 and 14 of the International Covenant on
Civil and Political Rights)⁶*

Article 5 of the Statute on the Rights and Guarantees of Nicaraguans provides that: “The right to life is inviolable and inherent in the human person. There shall be no death penalty in Nicaragua.” This principle was thus embodied in law in Nicaragua at the very point in time when revolutions usually fail to respect the right in question, and in the midst of armed attacks by gangs of Somoza supporters, who are even now operating from outside the country with a master plan for destabilizing the Nicaraguan Government, a plan which jeopardizes peace and security in the area.

The abolition of the death penalty is also established by the Provisional Act on Military Offences (Decree No. 600), which does not provide for the death penalty even in the case of war, or for the most serious offences.

Under the legislation in force since 20 July 1979, the death penalty does not exist in Nicaragua, not even under the emergency legislation.

Article 8 of the Statute on the Rights and Guarantees of Nicaraguans provides, in keeping with the above-mentioned international instruments, that “Everyone has the right to individual freedom and personal safety. No one may be subjected to arbitrary arrest or imprisonment, or be deprived of his freedom, except for reasons determined by law and in accordance with a legal procedure.”

The Statute on the Rights and Guarantees of Nicaraguans establishes in articles 9 and 10: “Persons on trial shall be separated from convicted persons, as also women from men, and shall receive treatment appropriate to their status. Minors may only be brought before juvenile courts and shall in no case be taken into common prisons. Minors shall be sent to rehabilitation centres under the authority of the Ministry of Social Welfare.” “The principal goal of the prison system shall be the reform and social rehabilitation of the convict and his incorporation into the productive process.”

Article 14 of the Statute on the Rights and Guarantees of Nicaraguans stipulates that: “No one shall be imprisoned merely on the ground of inability to fulfil a financial obligation, whatever its origin”. Hence, the definition contained in Nicaraguan law is broader, since it does not limit the prohibition to the case of obligations arising out of a contract but extends it to cases of quasi-contracts, offences and quasi-delicts of a civil nature, which may also give rise to obligations of financial character.

Article 11 of the Statute establishes the procedural guarantees accorded to all Nicaraguans, including the right to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

⁶ *Ibid.* (CERD/C/103/Add.1; CCPR/C/14/Add.2).

F. Prohibition of slavery and forced labour

*(article 4 of the Universal Declaration;
article 8 of the International Covenant on
Civil and Political Rights)*⁷

Taken together, the provisions of the Fundamental Statute and the Statute on the Rights and Guarantees of Nicaraguans utterly preclude any possibility of trying to reintroduce institutions such as slavery or forms of servitude, even covertly, in the Republic of Nicaragua.

With regard to the obligatory nature of forced or compulsory labour, excluding cases of penalties imposed by the courts, which involve compulsory work everywhere (see article 8, paragraph 3(b) and (c), (i) and, if applicable, (ii) (applying to persons performing military service), and (iii) and (iv)), instances such as those covered by the article in question do not exist. Thus, article 7 of the Statute on the Rights and Guarantees of Nicaraguans is consistent with the international instruments under consideration, and the effect of articles 49 and 51 of the Statute is that the prohibitions set forth in the Statute may on no occasion be suspended. Again, article 17, second paragraph, of the Statute contains a similar provision and thus confirms this criterion.

G. Prohibition of torture and cruel, inhuman or degrading treatment or punishment

*(article 5 of the Universal Declaration;
article 7 of the International Covenant on
Civil and Political Rights)*⁸

Article 6 of the Statute on the Rights and Guarantees of Nicaraguans establishes that:

“All persons shall be entitled to respect for their physical, mental and moral integrity. Punishment shall not extend beyond the offender himself. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. It shall not be permitted to impose a penalty or penalties which, either severally or collectively, last for over 30 years”;

while article 8, paragraph 2(d) of the Statute includes the right “to be treated with the respect due to the dignity of the human person” among the rights of all detainees.

It should be noted that article 6 of the Statute improves on the provisions of the international instruments in that it establishes the right to respect for physical, mental and moral integrity, thus covering all possible aspects in which such integrity may be violated; it is not confined to the physical dimension but extends to the fundamental aspects of the human spirit and self-respect.

Article 49 of the Statute on the Rights and Guarantees of Nicaraguans ensures that the above provisions remain in force even in exceptional or emergency situations, and that these rights and guarantees are not affected by the specific case covered by article 51 of the Statute.

H. Right to recognition as a person before the law

*(article 6 of the Universal Declaration;
article 16 of the International Covenant on
Civil and Political Rights)*⁹

The first paragraph of article 17 of the Statute on the Rights and Guarantees of Nicaraguans provides that: “Every human being shall, in Nicaragua, have the right to

⁷ *Ibid.* (CCPR/C/14/Add.2).

⁸ *Ibid.* (CCPR/C/14/Add.2).

⁹ *Ibid.* (CCPR/C/14/Add.2).

recognition of his legal personality and capacity”; and the article goes on to establish that: “No one shall be compelled to do what the law does not require or prevented from doing what the law does not prohibit”, a clear confirmation of the foregoing apophthegm.

I. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 6 of the International Convention on the Elimination of
All Forms of Racial Discrimination;
article 2 of the International Covenant on
Civil and Political Rights)*¹⁰

When any of the rights and guarantees of Nicaraguans as laid down in the Fundamental Statute and the Statute on the Rights and Guarantees of Nicaraguans are violated, a citizen may invoke the remedy of *amparo*. Article 50 stipulates:

“Any person whose rights and freedoms as recognized in this Statute or in the Fundamental Statute promulgated on 20 July 1979 have been violated may make an application for *amparo* in accordance with the law.”

Decree No. 232 (amended by Decree No. 417) was issued promulgating the “Freedom and Personal Security Protection (*Amparo*) Act”, in conformity with the provisions of article 50 as reproduced above.

This Decree, as well as making the “partial or total destruction of an ethnic group” a crime of genocide, increases the guarantees for the members of such groups by enabling them to denounce before the courts individuals or public officials who commit acts specified in this instrument.

Article 8, paragraph 2 (c), of the Statute on the Rights and Guarantees of Nicaraguans establishes the right of all detainees to submit an application for *habeas corpus*. This right is given practical effect by Title III, “*Habeas corpus*”, of Book III (“Prisons, prison visits and *habeas corpus* proceedings”), of the Code of Criminal Procedure, and is also provided for in Decree No. 232, adopting the “*Amparo* Act concerning Individual Freedom and Security”, as established in article 50 of the Statute on the Rights and Guarantees of Nicaraguans.

J. Protection against arbitrary interference with privacy

*(article 12 of the Universal Declaration;
article 17 of the International Covenant on
Civil and Political Rights)*¹¹

Article 18 of the Statute on the Rights and Guarantees of Nicaraguans provides as follows:

“No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, correspondence or communications or to attacks on his honour and reputation, and everyone shall be entitled to the protection of the law against such interference or attacks. In particular:

“1. The home and any other private premises of individuals shall be inviolable and may only be entered by written order of a competent judge, to prevent offences from being committed or from going unpunished, or to avoid injury to persons or damage to property, subject to the provisions of the law.

¹⁰ *Ibid.* (CERD/C/103/Add.1; CCPR/C/14/Add.2).

¹¹ *Ibid.* (CCPR/C/14/Add.2).

“2. Private documents and communications shall be inviolable. The law shall prescribe the circumstances and procedures for the examination or seizure of private documents and accounts and the annexes thereto when such action is indispensable for the purpose of clarifying matters brought before the courts of justice or for fiscal reasons.”

K. Freedom of movement and residence

*(article 13 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
articles 12 and 13 of the International Covenant on
Civil and Political Rights)¹²*

Article 15 of the Statute on the Rights and Guarantees of Nicaraguans reads: “Everyone lawfully within Nicaraguan territory shall have the right to liberty of movement and freedom to choose his residence. Nicaraguans shall be free to enter and leave the country.”

The Migration and Aliens Acts currently in force guarantee the same rights for aliens, who have the right to submit the reasons against their expulsion from the country, should the case arise, even in exceptional situations such as those mentioned in article 13 of the Covenant.

L. Right of asylum

(article 14 of the Universal Declaration)¹³

Article 16 of the Statute on the Rights and Guarantees of Nicaraguans provides for the right of asylum.

A principle that makes for greater obligations on the part of the State with regard to the provisions of international law has been incorporated in Nicaraguan law. We refer here to the concept of “*non-refoulement*”, which guarantees that no individual liable to expulsion from Nicaragua will be returned to the country in which he was persecuted. Moreover, the provisions contained in the above-mentioned article of the Statute on the Rights and Guarantees of Nicaraguans are consistent with the principles of the Charter of the United Nations.

M. Right to a nationality

*(article 15 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 24 of the International Covenant on
Civil and Political Rights)¹⁴*

The Statute on the Rights and Guarantees of Nicaraguans provides in article 4 that: “The State shall respect the rights recognized in this Title and guarantee them to all persons within its territory and subject to its jurisdiction. Foreigners cannot participate in the political affairs of the country.” Article 26 of the Statute prescribes that: “Everyone shall have the right to a nationality. No one shall be deprived arbitrarily of his nationality or of the right to change his

¹² *Ibid.* (CERD/C/103/Add.1; CCPR/C/14/Add.2).

¹³ *Ibid.* (CCPR/C/14/Add.2).

¹⁴ *Ibid.* (CERD/C/103/Add.1; CCPR/C/14/Add.2).

nationality.” Finally, articles 49 and 51 state that this right cannot be suspended even in cases of emergency.

N. Right to marriage; protection of the family, motherhood and childhood

(articles 16 and 25 (2) of the Universal Declaration; article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination; article 23 of the International Covenant on Civil and Political Rights)¹⁵

The Statute on the Rights and Guarantees of Nicaraguans contains provisions linked with the rights proclaimed and defined in the international instruments quoted above. Thus, article 34 of the Statute provides:

“The family is the natural group unit of society and is entitled to protection from society and the State. Marriage requires the voluntary agreement of both the woman and the man. Within the family, the spouses shall enjoy absolute equality of rights and responsibilities. Should the marriage be dissolved, the children shall be assured of the necessary protection. Parents have a duty to tend to the education of their children, prepare them for socially useful work and bring them up as worthy members of society. Children have an obligation to look after and assist their parents.”

O. Right to own property

(article 17 of the Universal Declaration; article 5 of the International Covenant on Civil and Political Rights)¹⁶

Article 27 of the Statute on the Rights and Guarantees of Nicaraguans provides that:

“Property, whether individual or collective, fulfils a social function, by virtue of which it may be subject to restrictions as to ownership, possession, use and availability, either for reasons of public safety, interest or utility, in the interests of society or the national economy, on account of a national emergency or disaster or for the purpose of agrarian reform.”

Various laws relating to the provisions of the Declaration have been adopted in Nicaragua, where a mixed-economy system is being organized within a framework of democracy and pluralism. To illustrate this respect for the above principles, mention may be made of Decrees Nos. 25 of 26 July 1979, 107 of 16 October 1979, 137 of 2 November 1979, and 189 of November 1979, nationalizing the financial system, insurance and reinsurance companies, the mining sector and private electricity companies, providing in all cases for payment of compensation, and likewise of the Act on the Expropriation of Urban Wasteland (Decree No. 895) and the Act on the Expropriation of Wasteland in the Urban Area of Managua City (Decree No. 903).

¹⁵ *Ibid.* (CCPR/C/14/Add.2).

¹⁶ *Ibid.* (CCPR/C/14/Add.2).

P. Freedom of thought, conscience and religion

*(article 18 of the Universal Declaration;
article 18 of the International Covenant on
Civil and Political Rights)*¹⁷

The Fundamental Statute of the Republic provided in article 8 that: “Freedom of conscience and religion, based on the broadest spirit of tolerance . . . is hereby recognized”.

Article 19 of the Statute on the Rights and Guarantees of Nicaraguans specifies, in accordance with all those provisions, that:

“No one shall be subjected to coercive measures that might infringe upon his freedom of thought, conscience and religion or his right to have or to adopt a religion or belief of his choice, or the freedom, either individually or in community with others and in public or in private, to manifest his religion or belief in worship, observance, practice and teaching.”

Q. Freedom of opinion and expression

*(article 19 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 19 of the International Covenant on
Civil and Political Rights)*¹⁸

The Government of the Republic of Nicaragua has fully guaranteed freedom of opinion, expression and information.

The various ethnic groups, through literacy campaigns, radio broadcasts and publications in their own languages, have acquired the material bases for the exercise of this right.

The Government of Nicaragua considers that the exercise of this right, like that of other rights, is not merely a moral question but is directly related to the material conditions which a State is obliged to generate for its full enjoyment. For if such conditions do not exist, the freedom of opinion, expression or information becomes an instrument of economic groups and not of society as a whole, which in the case of Nicaragua includes the ethnic groups.

Furthermore, as indicated in the Statute on the Rights and Guarantees of Nicaraguans, the responsible exercise of this right constitutes protection for the democratic system chosen by the people of Nicaragua; and criticism of abnormalities and errors in the Government's conduct of affairs constitutes a means of perfecting a model in which all Nicaraguans participate, in the difficult transitional stage through which the country is passing.

Article 21 of the Fundamental Statute:

“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas, either orally, in writing or in print, in the form of art, or through any other media of his choice. The exercise of these freedoms carries with it duties and responsibilities and may therefore be subject to certain formalities, conditions and restrictions provided by law and necessary:

“(a) In the interests of national security and integrity, public safety and the national economy;

“(b) For the defence of law and order and the prevention of crime;

¹⁷ *Ibid.* (CCPR/C/14/Add.2).

¹⁸ *Ibid.* (CERD/C/103/Add.1; CCPR/C/14/Add.2).

- “(c) For the protection of health or morality, the dignity of persons and the reputation or rights of others;
- “(d) To prevent the disclosure of confidential information or to guarantee the authority and impartiality of the Judiciary.”

The Government of the Republic of Nicaragua approved on 16 August 1979 the “General Act on Social Communication Media” (Decree No. 48), governing exercise of the rights under consideration in this section.

R. Freedom of peaceful assembly and association

*(article 20 of the Universal Declaration;
articles 21 and 22 of the International Covenant on
Civil and Political Rights)¹⁹*

Article 23 of the Statute of Rights and Guarantees of Nicaraguans states that:

“The right of peaceful assembly shall be recognized. The right to demonstrate publicly shall be governed by police regulations.”

Ever since the Government Junta for National Reconstruction has exercised authority in the territory in the Republic of Nicaragua, despite the exceptional state of national emergency this freedom can be, and in fact is, exercised peacefully and without serious problems. The authorities have simply ensured in each case that many meetings arranged by the people have been conducted peacefully, thus preventing any unlawful acts from being committed.

The Statute on the Rights and Guarantees of Nicaraguans stipulates in article 24 that: “Everyone shall have the right to freedom of association with others for lawful purposes”. Article 25 (a) provides that every citizen shall enjoy without restriction “the right to organize or to form part of political parties or groups”. In chapter II, “Social Rights”, article 31, paragraph 1, “the right to form and to promote people’s, communal, district, rural and other organizations, as well as trade and professional associations” is guaranteed; paragraph 2 guarantees “the right to form trade unions and to become members thereof, subject only to the rules of the organization concerned”; paragraph 3 guarantees “the right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations”; and lastly, paragraph 4 of that article guarantees “the right to form and to promote labour and production co-operatives”.

The respect shown by the Government Junta for National Reconstruction for freedom of association was very clearly expressed, *inter alia*, when, under Decree No. 29 of 3 August 1979, with an express reference to article 20, paragraph 1, of the Universal Declaration of Human Rights (implemented under article 6 of the Fundamental Statute of the Republic), the Confederation of Chambers of Commerce of Nicaragua, the Chambers of Commerce of Nicaragua and the Nicaraguan Development Institute (INDE) were rehabilitated, thereby revoking Executive Agreement No. 162 and Legislative Decree No. 163 of 29 and 31 August 1978, issued by the Somoza dictatorship for the purpose of persecution. Under this legislation these bodies fully enjoy their rights, and are deemed to have had legal personality without any break since their statutes were approved.

¹⁹ *Ibid.* (CCPR/C/14/Add.2).

S. Political rights

*(article 21 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²⁰

Article 25 of the Statute on the Rights and Guarantees of Nicaraguans stipulates:

“Every citizen shall enjoy the following rights without restriction:

- “(a) The right to organize or to form part of political parties or groups;
- “(b) The right to take part in the conduct of public affairs, directly or through freely chosen representatives;
- “(c) The right to submit petitions in writing, individually or collectively, to any public official, official body or public authority and the right to have such petitions dealt with speedily;
- “(d) The right to vote and to be elected and the right to have access, on general terms of equality, to public service.”

T. Right to social security

*(article 22 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²¹

In the area of social security, Title II of the Statute on the Rights and Guarantees of Nicaraguans relates to “Individual economic, social and cultural rights” and comprises articles 28 to 46. This Title makes clear provision for the right to social security for all inhabitants of Nicaraguan territory.

Article 33 clearly sets out social rights:

“Everyone shall have the right to social security; to obtain respect for the rights indispensable to his dignity and the full development of his personality; to an adequate standard of living assuring him and his family of health and well-being and, in particular, of food, clothing, housing, medical care and the necessary social services; and to social insurance in respect of unemployment, illness, maternity, disability, widowhood, old age, death, orphanhood, occupational hazards and other cases of loss of means of subsistence.”

And article 40, paragraph 1, stipulates: “Everyone has the right to education”.

A number of legislative decisions were taken. The Single National Health System was established (Decree No. 35). Social security benefits were granted in respect of combatants who fell in the battle for national liberation or as a result of repressive measures by the Somoza National Guard or of aggression by paramilitary forces, as well as for their relatives (Decree No. 58). Decisions were taken with a view to extending insurance cover in territorial and demographic terms (Decree No. 237). A Special Social Security Benefits for Miners Act was passed (Decree No. 331). Social security benefits were extended to cadets who took part in the National Literacy Crusade, “Heroes and Martyrs for the Liberation of Nicaragua” (Decree No. 468). Social security benefits were granted to members of the Sandinista People’s Militia and their relatives (Decree No. 595), and the Mobilization of the Sandinista People’s Militia Act (Decree No. 555) provided for job security and payment of wages to members of the Militia who were mobilized for active service.

²⁰ *Ibid.* (CERD/C/103/Add.1).

²¹ *Ibid.* (CERD/C/103/Add.1; CCPR/C/14/Add.2).

Simultaneously, a detailed study was made of social security criteria and ideas and policies were viewed in the context of objective restrictions: the result was the enactment of the Social Security Act and the General Regulations of the Nicaraguan Social Security Institute (INSS).

U. Right to work; right to rest and leisure

*(articles 23 and 24 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²²

Articles 29, 30, 31 and 32 of the Statute on the Rights and Guarantees of Nicaraguans contain relevant provisions in this regard.

Article 33 clearly sets out social rights:

“Everyone shall have the right to social security; to obtain respect for the rights indispensable to his dignity and the full development of his personality; to an adequate standard of living assuring him and his family of health and well-being and, in particular, of food, clothing, housing, medical care and the necessary social services; and to social insurance in respect of unemployment, illness, maternity, disability, widowhood, old age, death, orphanhood, occupational hazards and other cases of loss of means of subsistence.”

V. Right to education

*(article 26 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²³

In keeping with article 5(e)(v) of the Convention, articles 40 and 46 of the Statute on the Rights and Guarantees of Nicaraguans guarantee the right of all persons resident in Nicaragua to education.

Article 40, paragraph 1, stipulates: “Everyone has the right to education”.

**W. Promotion of understanding, tolerance and friendship
among all nations, racial and ethnic groups**

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²⁴

Specific topics have been included in the curricula of State schools with the aim of training new generations to see clearly the damage which can be caused in a multi-ethnic society such as Nicaragua's by any form of discrimination.

In addition, the mass media are used to disseminate the principles and purposes of the Charter of the United Nations, the Universal Declaration of Human Rights and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination.

²² *Ibid.* (CERD/C/103/Add.1).

²³ *Ibid.* (CERD/C/103/Add.1).

²⁴ *Ibid.* (CERD/C/103/Add.1).

Consideration is also being given by the Council of State to an initiative by the Government Junta of National Reconstruction concerning the punishment of the crime of *apartheid*.

In accordance with these principles, the Government of the Republic of Nicaragua maintains no relations of any kind with the racist Governments in South Africa, while as a full member of the Non-Aligned Group it maintains close relations with the liberation movements struggling against discrimination as a legacy of colonialism.

**X. Right to a social and international order
in which human rights can be realized**

*(article 28 of the Universal Declaration)*²⁵

On 25 September 1979, under Decree No. 174, the Pact of San José known as the “American Convention on Human Rights” was approved and ratified; it had been open to ratification for 10 years.

**Y. Limitations on the exercise of rights and freedoms;
states of emergency**

*(article 29 of the Universal Declaration;
article 4 of the International Covenant on
Civil and Political Rights)*²⁶

Article 49 of the Statute on the Rights and Guarantees of Nicaraguans specifies:

“In exceptional or emergency situations endangering the life or stability of the nation, such as international or civil war or threat of war, by reason of public disasters or wars, or in the interests of public order or State security, the Government Junta for National Reconstruction may provide for the suspension, in part or all of the national territory, of the rights and guarantees embodied in this Statute; such suspension shall be for a limited period which may be extended according to the circumstances obtaining in the country.”

The Government of the Republic of Nicaragua passed Decree No. 10, of 22 July 1979, as a National Emergency Law. It rendered any person who was involved in a concerted stoppage of general transport operations or hindered the activities of any enterprise, whether public or private, liable to penalties. It also arranged for the State to take over abandoned enterprises, prohibited speculation in consumer goods and introduced other measures of the same nature.

Z. Prevention of terrorism; protection of rights and freedoms

*(article 30 of the Universal Declaration)*²⁷

Decree No. 5 of 28 August 1979, Maintenance of Order and Public Security Act

Aimed at dealing with the emergency situation in Nicaragua, re-establishing order and security, checking outbreaks of violence and turmoil, introducing a cease-fire, eliminating illegal possession of weapons, sabotage, pillage, looting, vandalism, speculation, etc. Originally, these offences were assigned to Special Emergency Courts which were never

²⁵ *Ibid.* (CCPR/C/14/Add.2).

²⁶ *Ibid.* (CCPR/C/14/Add.2).

²⁷ *Ibid.* (CCPR/C/14/Add.2).

created, and remained in the hands of the ordinary courts, in accordance with Decree No. 148 of 9 November 1979.

Decree No. 185 of 5 December 1979, Act Establishing the Special Courts

These courts heard substantiated proceedings against members of the genocidal National Guard of Nicaragua for the offences committed by the National Guard against the population and were subsequently discontinued.

NIGERIA

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
articles II, IV and VI of the International Convention on the
Suppression and Punishment of the Crime of Apartheid)*¹

The provisions of Sections 30-39 of the new Constitution of the Federal Republic of Nigeria ensure that *apartheid* as defined in Article II of the International Convention on the Suppression and Punishment of the Crime of *apartheid* is outlawed in Nigeria.

Nigeria has recently taken some measures against certain companies in Nigeria found to be trading or having economic links with South Africa. In 1979 the Government of Nigeria took over all the assets of British Petroleum in Nigeria for attempting to export Nigerian oil to South Africa. Similarly the Government of Nigeria took over a major share of Barclays Bank, for having business with South Africa, and its name was subsequently changed to the Union Bank of Nigeria. These measures are in keeping with the decision of the Nigerian Government to the effect that the Nigerian Government has mounted a surveillance on all enterprises which depend on her raw materials and markets but continue to sustain *apartheid*.

B. Protection of fundamental rights and freedoms

*(article 2 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

The Nigerian Government has as the occasion dictates over the years taken such measures as to discourage the commitment of the crime of *apartheid* by groups or individuals operating within its frontiers. The Nigerian citizen is treated with equality, and is free to order his life as he deems fit, so long as he operates within the laws of the Federation of Nigeria. His rights are protected both by the new constitution operational from 1 October 1979 and the judicial system.

Section 28 of the Nigerian Constitution of 1963 was replaced by Section 39 of the 1979 Constitution. The provisions are the same.

The 1979 Constitution of the Federal Republic of Nigeria guarantees the fundamental human rights of its citizens, and ensures especially that every Nigerian is treated with respect and dignity.

Some of the fundamental human rights provisions in the 1963 Constitution were suspended because of the state of emergency, which was lifted in 1979. The right to form political parties was recognized, then followed the general elections and the introduction of the new civilian régime. All the fundamental human rights provisions in the 1979 Constitution are operative. If any of these provisions is contravened, a remedy is provided.

¹ Report submitted by State (E/CN.4/1415/Add.9).

² *Ibid.* (CERD/C/66/Add.25; E/CN.4/1415/Add.9).

C. Right to equal pay for equal work

*(article 23 (2) of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*³

The social order is founded on ideals of freedom, equality and justice. In furtherance of the social order, it is provided by Section 17 of the Constitution that the State shall direct its policy towards ensuring that there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever.

**D. Promotion of understanding, tolerance and friendship
among all nations, racial and ethnic groups**

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

On the issue of education, apart from the provisions of Section 35 of Chapter IV of the 1979 Constitution dealing with the right to freedom of thought, conscience and religion, there are also the provisions of Section 18 dealing with the educational objectives of the Federal Government of Nigeria. Pursuant to this policy, the Federal Government has signed many educational, scientific and cultural agreements with many countries. The Federal Ministries of Education and Information negotiate all these agreements.

³ *Ibid.* (CERD/C/91/Add.35).

⁴ *Ibid.* (CERD/C/66/Add.25).

NORWAY

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

The core of the problem in southern Africa is South Africa's *apartheid* policy. Norway has called for the adoption of an international policy of systematic disengagement in economic and other relations with South Africa. In accordance with this policy Norway has adopted together with the other Nordic countries a joint programme of action against South Africa which calls for:

Prohibition or discouragement of new investments in South Africa;
Negotiations with Nordic enterprises with a view to restricting their production in South Africa;
Discontinuance of contacts with the *apartheid* régime in South Africa in the field of sport and culture;
Increased Nordic support to refugees, liberation movements, victims of *apartheid*, etc. ;
Visa requirements for South African citizens.

On a unilateral basis Norway has: withdrawn state-supported guarantees for Norwegian exports to South Africa; stopped issuing currency licences for Norwegian investments in South Africa; stopped the promotion of Norwegian exports to South Africa; stated that it is the policy of the Norwegian Government not to sell oil to South Africa.

B. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them

*(article 2 of the Universal Declaration;
article 2.2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

New Reindeer Husbandry Act

A new Act relating to Reindeer Husbandry entered into force on 1 July 1979. The main purpose of the Act is to exploit the reindeer grazing resources in a manner ensuring safe economic and social conditions, and to ensure the rights of those engaged in reindeer husbandry as an occupation.

The Act also presupposes an administrative arrangement with steering bodies which, in principle, correspond to those existing in agriculture.

A central Co-ordinating Committee for Reindeer Husbandry is appointed in connection with a central reindeer husbandry administration. In addition, local boards are appointed, and in every reindeer grazing district a Local Committee of Representatives is elected among the active reindeer-herders. The reindeer owners are represented in all of these bodies.

In recent years Norway has been one of the major contributors to the World Council of Indigenous Peoples to which the Norwegian Sami people belong through the Norwegian Section of the Nordic Sami Council. The Government aims to continue to give considerable

¹ Report submitted by State (CERD/C/50/Add.5).

² *Ibid.* (CERD/C/50/Add.5; CERD/C/76/Add.2).

support to the WCIP and other organizations for the promotion of the cause of indigenous peoples.

The Nordic foreign ministers decided at their meeting in Reykjavik, 30-31 August 1979, to consider the question of closer Nordic co-operation in order to further the interests of the indigenous peoples. This work is already under way.

On 30 November 1978 the Storting resolved to develop the Alta Watercourse for the production of hydropower. The Alta Watercourse is located in an area which is partially settled by the Sami people, and various groups claim that the development of the watercourse will, *inter alia*, have a detrimental effect on the reindeer industry in the area.

By Royal Decree of 15 June 1979 approval was given for regulating the Alta Watercourse and the formal terms and conditions for regulating it were laid down. Among other points, appraisal proceedings were instituted to determine compensation for land and rights which were affected by the power development scheme, and to prescribe provisions on specific measures able to reduce damage and the inconveniences of the regulating operation. On behalf of a number of landowners, reindeer pasture districts and others, the defendants claimed that the appraisal proceedings should be dismissed on the grounds that the Royal Decree of 15 June 1979 was invalid.

To enable refugees to be included in the Norwegian State Housing Bank's acquisition and establishment loan schemes on an equal footing with other immigrants it was necessary to establish a special foundation—FLYBO, the Refugee Housing Association in 1979. The objective of FLYBO is to acquire, build and administer dwellings for refugees.

C. Right to life

*(article 3 of the Universal Declaration;
article 6 of the International Covenant on
Civil and Political Rights)*³

With regard to the Government's move to repeal the rules concerning the death penalty in Norway, by Act No. 43 of 8 June 1979, the Storting has repealed the rules in the relevant statutes concerning the death penalty in wartime and war-like situations. (The rules concerning the death penalty in peacetime had already been repealed earlier.)

D. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 6 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

Attention is drawn to two cases which have been brought to the attention of the Press Council by the Civil Rights of Gypsies Association, and which affect the gypsies as an ethnic group. The Press Council is appointed by the Norwegian Press Association.

³ *Ibid.* (CCPR/C/1/Add.52).

⁴ *Ibid.* (CERD/C/76/Add.2).

E. Right of everyone charged with a penal offence to all the guarantees necessary for his defence

*(article 11 of the Universal Declaration;
article 14 of the International Covenant on
Civil and Political Rights)⁵*

An Odelsting Bill for a new Criminal Procedures Act is at present being dealt with by the Storting. The Act will probably have passed through all its stages in the Storting session 1979-80. According to the draft, the accused shall be informed that a defence counsel has been appointed for the Supreme Court and that he may contact the defence counsel if there is any point he wishes to bring up. He shall also be informed that the appeal will be heard in the Supreme Court as soon as possible, and that he will not be summoned to the hearing. As a stage in the follow-up of the law reform, the question of also facilitating attendance by the accused in the Supreme Court will be studied in more detail.

F. Protection of the family, motherhood and childhood

*(articles 16(3) and 25(2) of the Universal Declaration;
article 10 of the International Covenant on
Economic, Social and Cultural Rights)⁶*

In 1978, the Government made a proposal for an act concerning abortion on demand until the twelfth week of pregnancy. The current act concerning abortion entered into force on 1 January 1979. Recent statistical information shows a slight decrease in demands for termination of pregnancy.

With effect from 15 March 1979, new regulations have been laid down for the reimbursement of the cost of hired help for farmers during sickness. The scheme is restricted to livestock production and applies to the farmer and spouse.

G. Freedom of association

*(article 20 of the Universal Declaration;
article 23 of the International Covenant on
Civil and Political Rights)⁷*

A *special* Provisional Act No. 4 of 14 December 1951 relating to the right to form trade unions etc., for foremen in private undertakings, was recently repealed. The reason was that the law could only be regarded as superfluous, since the principle of freedom of association has been laid down as an established precept of Norwegian labour law. In this connection it may be mentioned that the Norwegian Federation of Trade Unions and the Norwegian Employers' Confederation (which are the largest organizations in Norway for labour and management respectively) in the Basic Agreement (which contains common provisions for all the individual wage settlement agreements concluded by these organizations and/or their members) mutually recognize the free right of employers and employees to enjoy freedom of association. Both the positive and negative form of freedom of association are covered, i.e. both the right to be and the right not to be organized in an association.

⁵ *Ibid.* (CCPR/C/1/Add.52).

⁶ *Ibid.* (E/1980/6/Add.5).

⁷ *Ibid.* (CCPR/C/1/Add.52).

H. Political rights

*(article 21 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁸

Local voting rights and eligibility for Nordic nationals were introduced at and became applicable from the local elections in 1979. The requirement of 3 years' continuous residence prior to the election (on the date of the election) must be satisfied. Corresponding voting rights for other immigrants are considered in the new White Paper on immigration policy.

**I. Right to an adequate standard of living
(right to adequate food)**

*(article 25(1) of the Universal Declaration;
article 11 of the International Covenant on Economic,
Social and Cultural rights)*⁹

Substantial efforts are being made to increase the utilization of straw and food waste in fodder production. New methods of straw conditioning have already proved successful, and experiments using straw as a basic constituent in feed concentrate pellets are being developed. Such a utilization opens up the possibility of adding other waste products such as butchery waste, fish waste and food refuse. An experimental production unit employing this principle will be in operation from the autumn of 1979.

In 1979 the new National Nutrition Council was appointed. The task of the Council is to act as advisory agency to public authorities, management and labour and voluntary organizations in questions relating to nutrition and food supply. The Council shall also supply diet information, provide for the description, analysis and assessment of the diet and supply situation in Norway, assess the effect of the work performed on nutrition and make proposals for measures with a view to bringing positive influence to bear on undesirable situations.

In conformity with the Act of 24 May 1979 concerning the Labelling of Consumer Goods it has been resolved that prepacked foodstuffs shall be labelled so as to ensure consumers sufficient information on prepacked foodstuffs by means of compulsory data regarding the quantity as well as the composition of the article. In addition information must be provided on durability.

**J. Promotion of understanding, tolerance and friendship
among all nations, racial and ethnic groups**

*(article 26(2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹⁰

Purpose-oriented and systematic work on the part of the authorities within, *inter alia*, the field of education and information with a view to combating racial discrimination and to promoting understanding has only got under way in the last few years.

It is stated above that certain functions in this field have been delegated to the Council for Immigration Questions.

⁸ *Ibid.* (CERD/C/50/Add.5).

⁹ *Ibid.* (E/1980/6/Add.5).

¹⁰ *Ibid.* (CERD/C/50/Add.5).

A certain amount of written material has been issued on the "remoter" immigrants' cultural and religious background, on some of the preconditions essential to their settling down here, on their function in the life of the community and in the economic sector etc. This material is primarily intended for use in schools and in the work of the voluntary organizations.

A dialogue has been initiated between the authorities and the press with a view to an exchange of opinions, course activities etc. in connection with immigration questions. This dialogue also involves the Norwegian Broadcasting Corporation (NRK).

A committee has been set up to assess what can be done to provide information for pupils in the elementary school, as well as their parents.

Financial support is given to projects initiated by immigrant organizations and Norwegian organizations for establishing contact between Norwegians and immigrants and for improving relations between the various groups. Here emphasis is placed on the immigrant groups being able to present their own culture.

PAKISTAN

A. Condemnation of racial segregation and apartheid

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

Pakistan within its means has provided material assistance to the people of southern Africa. In addition to contributing regularly every year to the United Nations Trust Fund for South Africa, United Nations Fund for Namibia and towards the expenses of the Committee for the Elimination of Racial Discrimination, the Government of Pakistan has been extending material support to the national liberation movements in southern Africa.

B. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

A law-reviewing body, the Permanent Law Reform Commission which meets under the Chairmanship of the Chief Justice of Pakistan, was established in 1979 for the purpose of reviewing the laws of Pakistan, and making recommendations for reform where necessary. Any law encouraging racial discrimination would also come under the purview of the Permanent Law Reform Commission.

¹ Report submitted by State (CERD/C/66/Add.10).

² *Ibid.* (CERD/C/66/Add.10).

PANAMA

Right to an adequate standard of living (right to adequate housing)

*(article 25(1) of the Universal Declaration;
article 11 of the International Covenant on
Economic, Social and Cultural Rights)*¹

The Ministry of Housing was established under Act No. 9 of 25 January 1979, in order to set in motion and ensure the effective implementation of a national housing and urban development policy, designed to extend the enjoyment of this social right to the whole population, in particular the low-income sectors, as set forth in article 109 of the Constitution.

¹ Report submitted by State (E/1980/6/Add.20).

PAPUA NEW GUINEA

Condemnation of racial segregation and *apartheid*
(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the
*Elimination of All Forms of Racial Discrimination)*¹

The Government passed the Customs (Prohibition of Trade with South Africa) Regulation in 1979 which prohibits and makes it an offence to import goods the origin of which is the Republic of South Africa and export goods to or the destination of which is the Republic of South Africa.

¹ Report submitted by State (CERD/C/101/Add.4).

PERU

Introduction: general legal framework¹

On 28 July 1979 the Constituent Assembly promulgated the Political Constitution of Peru, a document which fully guarantees the fundamental human rights, including the majority of those to be found in the International Covenant on Civil and Political Rights.

A. Condemnation of racial segregation and apartheid *(articles 1 and 2 of the Universal Declaration; article IV of the International Convention on the Suppression and Punishment of the Crime of Apartheid)²*

Article 88 of the Peruvian Constitution provides that “The State rejects every form of imperialism, colonialism, neo-colonialism and racial discrimination. It confirms its solidarity with the oppressed peoples of the world.”

B. Elimination of racial discrimination; equality before the law *(articles 2 and 7 of the Universal Declaration; articles 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination; articles 2 and 14 of the International Covenant on Civil and Political Rights)³*

Under the Peruvian Constitution, all persons without distinction or discrimination based on race, colour or national or ethnic origin, are entitled to equality before the law in the enjoyment of all political, civil, economic and social rights and may appeal to the Judiciary to claim the full exercise of any such rights whose enjoyment has been impaired by the authorities or any other person.

Similarly, in general terms, the Constitution, article 88 provides: “The State rejects any form of racial discrimination and supports the cause of the oppressed peoples of the world.”

All aspects of employment are protected by the State without any discrimination and on the basis of equality of treatment.

Article 2, (2) of the Political Constitution of Peru refers to equality before the law without any discrimination on grounds of sex, race, religion, opinion or language.

¹ Report submitted by State (CCPR/C/6/Add.9).

² *Ibid.* (E/CN.4/1983/24/Add.12).

³ *Ibid.* (CERD/C/90/Add.7; CCPR/C/6/Add.9).

**C. Right to life, liberty and security of person;
prohibition of forced labour**

*(articles 3 and 4 of the Universal Declaration;
articles 6, 8 and 9 of the International Covenant on
Civil and Political Rights)⁴*

The inherent right to life is protected by article 2 (1) of the Constitution: "Everyone has the right" to life, to a name, to physical integrity and to the free development of his personality. The unborn child is considered to have been born for the purposes of all provisions working to his advantage.

Article 235 of the Constitution provides that the death penalty shall not be applied except for treason in a war against a foreign power.

Article 2 20(b), of the political Constitution reads:

"No form of restriction on the liberty of the person shall be permitted, except in the cases provided by law. Slavery, servitude and the slave trade in all its forms are abolished."

Article 42, second paragraph of the Constitution reads:

"In all forms of employment any condition which impairs the exercise by workers of their constitutional rights or disregards, or derogates from, their dignity shall be prohibited."

Article 42 (4) of the Constitution guarantees that no one shall be obliged to perform personal services without his free consent and due remuneration.

With regard to liberty and security of persons, article 2 20(b) of the Peruvian Political Constitution states: "There shall be no form of restriction on personal liberty, except in the cases provided by law."

Article 2 20(h) says: "Everyone shall be informed immediately and in writing of the grounds or reasons for his arrest. He shall have the right to communicate with, and be advised by, counsel of his own choosing as soon as he is summoned or arrested by the authorities."

It can be seen that this paragraph of article 9 of the covenant concords with article 2 20(g), of the Constitution which reads:

"The person arrested must be brought before the competent court within 24 hours or as soon as distance permits.

"Exceptions are made in the case of terrorism, espionage and trafficking in drugs in which the police authorities may hold suspects in custody for not more than 15 days, but are required to inform the office of the Government Attorney and the judge, who may take over the case before the expiry of the fifteen-day period."

Article 233 (16) of the Constitution states: "Compensation by the State for arbitrary arrest, without prejudice to the liability of those ordering such arrest is a guarantee of the administration of justice."

Article 211, paragraph 23 of the Constitution reads:

"The following are the powers and duties of the President of the Republic:

"To grant pardons and commute sentences, except in cases prohibited by law."

The organic law of the Ministry of Justice, Legislative Decree No. 117, article 29, refers to the Permanent Pardon Board. It provides: "The Permanent Pardon Board is responsible for reviewing the cases of offenders serving sentences in social readjustment centres and recommending suitable cases for pardon by the President of the Republic."

⁴ *Ibid.* (CCPR/C/6/Add.9).

Article 7. "Having reviewed the circumstances to which the previous article refers, the Board will recommend suitable cases for pardon, provided they are not récidivists."

The recommendation does not oblige the President of the Republic to grant a pardon nor does an adverse ruling or absence of a ruling force him to refuse pardon.

D. Prohibition of torture and cruel, inhuman or degrading treatment or punishment

*(article 5 of the Universal Declaration;
articles 7 and 10 of the International Covenant on
Civil and Political Rights)⁵*

Article 234 (1) of the Constitution provides that no one may be subjected to torture or to inhuman or degrading treatment.

Anyone may request the judge to order an immediate medical examination of a prisoner, if he believes that the latter is the victim of ill-treatment.

The purpose of the penitentiary system is to re-educate and rehabilitate and to reintegrate the prisoner in society, in accordance with the Prison Code.

E. Right to recognition as a person before the law

*(article 6 of the Universal Declaration;
article 16 of the International Covenant on
Civil and Political Rights)⁶*

In Peru, everyone has the right to recognition as a person before the law.

Article 1 of the Constitution refers to the individual as the supreme end of society and of the State.

Article 2 (1) goes on to state that he has the right to his own name and to the free development of his personality, and that an unborn child is considered to have been born for the purposes of all provisions working to his advantage.

Article 2 (11) says that everyone has the right to become a member of and to establish foundations for lawful purposes without prior authorization.

Legal persons are listed in a public register. They cannot be dissolved by administrative decision.

Article 3 states: "Fundamental rights also obtain for Peruvian legal persons in so far as they are applicable to them."

Article 95 of the same instrument states: "The nationality of legal persons is governed by the law and treaties, especially those pertaining to integration."

Article 159 (4) embodies the special standards which are required, in the interests of the ecological balance, for the Amazon region in order to develop its agricultural potential. The State may grant the land of this region in ownership or in trust to natural or legal persons, in conformity with the law.

⁵ *Ibid.* (CCPR/C/6/Add.9).

⁶ *Ibid.* (CCPR/C/6/Add.9).

F. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 6 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 2 of the International Covenant on
Civil and Political Rights)*⁷

Under the Peruvian Constitution, all persons without distinction or discrimination based on race, colour or national or ethnic origin, are entitled to equality before the law in the enjoyment of all political, civil, economic and social rights and may appeal to the Judiciary to claim the full exercise of any such rights whose enjoyment has been impaired by the authorities or any other person. If the Judiciary denies them that right, they may apply to the Court of Constitutional Guarantees and, if they still consider that their rights have been infringed and have exhausted Peruvian legal remedies, article 305 of the Constitution allows them to apply to the international courts or organizations established under the treaties to which Peru is a party.

It should be noted that the Constitution recognizes compensation for errors committed during criminal proceedings or for arbitrary arrest as a guarantee of due process of law.

If individual rights recognized in the International Covenant on Civil and Political Rights are infringed, the victim can bring an action under title V (constitutional guarantees) of the Constitution. Under article 295 the remedy of *habeas corpus* is available in cases where an act or omission on the part of any authority, official or individual injures or threatens the liberty of the individual.

The remedy of *amparo* safeguards other rights recognized by the Constitution which may be injured or threatened by any authority, official or individual. In the case of applications for *amparo*, the procedures are *mutatis mutandis* the same as those for *habeas corpus*.

The authorities competent in human rights matters are also designated in the Peruvian Constitution.

G. Right not to be subjected to arbitrary arrest or detention

*(article 9 of the Universal Declaration;
article 11 of the International Covenant on
Civil and Political Rights)*⁸

In Peru, all rules pertaining to contractual obligations are embodied in the Civil Code, and there is no legislation prescribing imprisonment or similar punishment for an act of a contractual nature.

Article 2 (12) of the Political Constitution. Everyone has the right to enter into contracts for lawful purposes. The law regulates the exercise of this freedom in order to safeguard the principles of justice and prevent misuse of the law.

Article 2 (20) of the Political Constitution. Everyone has the right to personal freedom and security. Consequently (subparagraph (c)) there is no debtor's prison. The principle does not affect court orders for non-fulfilment of maintenance obligations.

⁷ *Ibid.* (CERD/C/90/Add.7; CCPR/C/6/Add.9).

⁸ *Ibid.* (CCPR/C/6/Add.9).

**H. Right of everyone charged with a penal offence
to all the guarantees necessary for his defence**

*(article 11 of the Universal Declaration;
article 14 of the International Covenant on
Civil and Political Rights)*⁹

In article 2 (20) (f), the Constitution specifically proclaims that every individual is considered innocent as long as he has not been found guilty by a court.

In article 2 (20) (h), the Constitution lays down guarantees for any person accused of committing an offence.

Minors are protected by the Code of Minors.

In Peruvian legislation, the sentence or judgement in criminal proceedings may be appealed before a higher court.

Article 233 of the Constitution under administration of justice guarantees compensation for miscarriage of justice committed in criminal actions, in the manner prescribed by law.

The plea of *res judicata* exists in Peru when a matter complained of has been the subject of a definite decision, either in Peru or elsewhere, in criminal proceedings instituted against the same person. This provision is also taken up in article 5 of Legislative Decree No. 126.

I. Protection against arbitrary interference with privacy

*(article 12 of the Universal Declaration;
article 17 of the International Covenant on
Civil and Political Rights)*¹⁰

Peruvian law guarantees this precept by the following constitutional provisions:

“(a) *Article 2 (7)*. Everyone has the right to inviolability of his home. No one may enter it or undertake investigations or searches without the authorization of the individual residing in it or by court order, except in the case of *flagrante delicto* or imminent danger of commission of crime. Exceptions for reason of public health or serious risk are regulated by law.

“(b) *Article 2 (8)*. Everyone has the right to inviolability and secrecy in respect of private papers and communications. Correspondence may be seized, intercepted or opened only by order of a magistrate, stating the reasons and subject to the guarantees provided by law. Confidentiality is maintained in respect of matters having no relation to the matter which motivated the inspection. The same principle is observed in respect of telegraphic and cable communications. Interference with telephone communications is forbidden. Letters and other private documents obtained in violation of this principle are not legally admissible. Books, vouchers and accounting documents may be inspected or audited only by the competent authorities, in accordance with the law.”

⁹ *Ibid.* (CCPR/C/6/Add.9).

¹⁰ *Ibid.* (CCPR/C/6/Add.9).

J. Freedom of movement and residence
*(article 13 of the Universal Declaration;
 article 12 of the International Covenant on
 Civil and Political Rights)*¹¹

These rights and obligations are guaranteed by article 2 (9) of the Constitution, which states:

“Everyone has the right to choose freely his place of residence, to travel throughout the national territory, to leave it and enter it.

“Anyone is free to leave Peru, subject to restrictions imposed for reasons of public health.

“No one shall be arbitrarily deprived of the right to enter his own country.”

K. Right of asylum
*(article 14 of the Universal Declaration;
 article 5 of the International Convention on the
 Elimination of All Forms of Racial Discrimination)*¹²

Article 77 of the Political Constitution stipulates that “extradition shall be refused if there is sufficient evidence to suggest that it has been requested for the purpose of persecuting or punishing an individual for reasons of race, religion, nationality or political opinion”.

L. Protection of the family, motherhood and childhood
*(articles 16 and 25 (2) of the Universal Declaration;
 articles 23 and 24 of the International Covenant on
 Civil and Political Rights)*¹³

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

The Political Constitution of the State is the main source of protection of the family. There is also special legislation such as the Civil Code, the organic law of the Ministry of Justice and other instruments.

Article 5 of the Constitution. The State protects marriage and the family as the natural society and fundamental institution of the nation. The forms of marriage and the causes of separation and dissolution are regulated by law.

The law lays down the conditions for the establishment of unattachable inalienable family assets transmissible through inheritance.

Children are the future of the nation and are protected in the Constitution and in other legislation such as the Civil Code, the Code of Minors, the organizational law of the Ministry of Justice, and other instruments.

Article 8 of the Political Constitution. Children, adolescents and the aged are protected by the State from economic, physical or moral neglect.

¹¹ *Ibid.* (CCPR/C/6/Add.9).

¹² *Ibid.* (CERD/C/18/Add.7).

¹³ *Ibid.* (CCPR/C/6/Add.9).

Article 2 (19) of the Political Constitution. Everyone has the right to a nationality. No one can be deprived of it. Nor can he be deprived of the right to obtain a passport or renew it inside or outside the territory of the Republic.

Birth is established by registering the child at the civil registry office.

M. Right to own property

*(article 17 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹⁴*

Article 112 of the Political Constitution states that property “is inviolable. The State shall safeguard it. No person may be deprived of his property except for reasons of public necessity and use or social interest declared to be in accordance with the law and subject to the payment in cash of an officially assessed indemnity.”

N. Freedom of thought, conscience and religion

*(article 18 of the Universal Declaration;
article 18 of the International Covenant on
Civil and Political Rights)¹⁵*

Article 2 (3) of the Political Constitution reads:

“Everyone has the right to freedom of conscience and religion in individual or collective form. There can be no persecution on grounds of ideas or beliefs. The public exercise of all faiths is free, provided it does not offend morals or disturb the public order.”

No one shall be subject to coercion which would prejudice his freedom to have or to adopt the religion or belief of his choice.

Article 2 (17) of the Political Constitution states:

“Everyone has the right not to disclose his political, philosophical, religious or other convictions.”

The precept quoted below indicates that there is no coercion in respect of beliefs in Peruvian law.

Article 63 of the Political Constitution:

“No one may exercise the public functions designated in the Constitution if he does not swear to comply with it.

“A citizen who does not profess religious beliefs may omit the invocation to God in taking an oath.”

The Peruvian State respects the liberty of parents or legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 22 of the Political Constitution reads:

“Education promotes the knowledge and practice of the humanities, art, science and technology. It fosters national and Latin American integration, and international solidarity.

¹⁴ *Ibid.* (CERD/C/18/Add.7).

¹⁵ *Ibid.* (CCPR/C/6/Add.9).

“Ethical and civic training is obligatory throughout the educational process. Religious education is imparted without infringing freedom of conscience. It is freely decided by the parents of families.

“Systematic teaching of the Constitution and human rights is obligatory in civilian and military education centres and at all its levels.”

O. Freedom of opinion and expression

*(article 19 of the Universal Declaration;
article 19 of the International Covenant on
Civil and Political Rights)¹⁶*

Article 2 (4) of the Political Constitution states that everyone has the right to freedom of information, opinion, expression and the diffusion of ideas through words, writing, or image, by any social communication medium, without prior authorization, censorship or impediment of any kind, subject to liability under the law.

Article 2 (3) of the Constitution states that everyone has the right to freedom of conscience and that there shall be no persecution because of ideas or beliefs.

The public practice of all faiths is free, provided that it does not offend morality or disturb the public order.

P. Freedom of peaceful assembly

*(article 20 of the Universal Declaration;
article 21 of the International Covenant on
Civil and Political Rights)¹⁷*

Article 2 (10) of the Constitution of Peru guarantees the right of peaceful assembly.

Article 2 (10). Everyone has the right

“to meet peacefully, without weapons. Meetings, whether in private or in places open to the public, do not require prior notification. Those convened out of doors require prior notification to the authorities, which may prohibit them only for sound reasons of security or public health.”

The exercise of this right is subject to modifications prescribed in the law of terrorism concerning groups whose purpose is to create alarm among the population.

Legislative-Decree No. 46, article 5 (Offence of Terrorism).

“Anyone who belongs to an organization or band of three or more persons which uses terrorism to achieve its short-term or long-term objectives, whatever they may be, shall be liable, because of the mere fact of being a member of the organization, to a penalty of not less than two years, nor more than four years’ rigorous imprisonment.

“If the member is a head or ring leader of the organization or band, the penalty shall be not less than six years’ nor more than 12 years’ rigorous imprisonment.”

In order to protect public health or public morals, unlawful association has been defined. Since the law cannot remain indifferent when it comes into conflict with a form of criminality organized on a permanent basis to achieve the criminal purposes of its unlawful activities, the

¹⁶ *Ibid.* (CCPR/C/6/Add.9).

¹⁷ *Ibid.* (CCPR/C/6/Add.9).

State in its protective functions must regard unlawful association intended to produce or market drugs as an offence and punish its members for the mere fact of belonging to it.

Q. Right to take part in government

*(article 21 of the Universal Declaration;
article 25 of the International Covenant on
Civil and Political Rights)*¹⁸

The rights and options referred to in this article are protected in the following articles of chapter VII of the Political Constitution:

Article 64. Citizens have the right to participate in public affairs, directly or through representatives freely chosen at periodic elections and in accordance with the conditions determined by the law.

Any act by which a citizen or party is barred or restricted from participating in the nation's political life is null and void and punishable.

Article 65. All citizens who enjoy civil capacity have the right to vote.

Article 68. The political parties are an expression of democratic pluralism. They assist in the formation and expression of the popular will. They are a fundamental tool for the political participation of the citizens. Their foundation and the exercise of their activity are free, within the framework of the Constitution and the law.

All citizens entitled to vote have the right to join political parties and to participate democratically in them.

R. Realization of economic, social and cultural rights

*(article 22 of the Universal Declaration;
article 1 of the International Covenant on
Civil and Political Rights)*¹⁹

With regard to self-determination, article 88 of the Constitution says that the State rejects all forms of imperialism, colonialism, neo-colonialism and racial discrimination. The State exercises sovereignty and territorial jurisdiction. The State exercises sovereignty and jurisdiction over the air space above its territory and the adjacent seas up to the limit of 200 miles in conformity with the law and international agreements ratified by the Republic.

The Peruvian Constitution deals with natural resources in chapter II, title III, articles 118 to 122.

S. Right to work; labour law; trade union rights

*(article 23 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 22 of the International Covenant on
Civil and Political Rights)*²⁰

The State recognizes work as the main source of wealth and it is protected as such, without discrimination of any kind, in the context of a system of equal treatment. Out of a

¹⁸ *Ibid.* (CCPR/C/6/Add.9).

¹⁹ *Ibid.* (CCPR/C/6/Add.9).

²⁰ *Ibid.* (CERD/C/90/Add.7; CCPR/C/6/Add.9).

natural desire to protect Peruvians, the law stipulates the proportion of Peruvian workers to be employed by private enterprises and their share in total remuneration in such undertakings. With regard to Government service, foreigners, regardless of race or any other factor, may work for the State, but they must do so as private employees, i.e. as part of the private system of employment.

The Constitution protects the right to form trade unions in article 51, which states:

“*Article 51.* The State recognizes the right of workers to form trade unions without prior authorization. No one is obliged to become a member of a trade union or prevented from doing so.

“Trade unions have the right to create higher organs, but the establishment, operation and administration of trade union organizations may not be impeded or prevented. Trade union organizations may be dissolved by agreement of their members or by decision of the Supreme Court in the last instance. Trade union leaders at all levels enjoy guarantees for the performance of the functions devolving upon them.”

Article 61 of the Constitution. The rights of public servants to form trade unions and to strike are recognized. This provision does not apply to State officials invested with decision-making powers or occupying positions of trust, or to members of the armed forces or police.

Article 243 (2) of the Constitution. Judges are barred from taking part in politics, forming trade unions, or striking.

Seventeenth transitional provision of the Constitution. ILO Convention No. 151, Labour Relations (Public Service), concerning protection of the right to organize and procedures for determining conditions on employment in the public service is hereby ratified.

T. Right to an adequate standard of living

*(article 25 (1) of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²¹

Article 14 of the Political Constitution states that “every person has a right to the protection of his health and a duty to participate in promoting and safeguarding his health, that of his family and of the community”.

Under article 17, the State is required to “give attention to the provision of the basic needs of the individual and his family as regards food, housing and leisure”.

U. Right to education

*(article 26 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²²

Article 18 of the Political Constitution stipulates that “the right to education and culture is inherent in the human person”, thus confirming the provisions of Legislative Decree No. 19326 of 21 March 1972, which prescribes liberty and equality of free educational opportunities and prohibits all education “harmful to human dignity or likely to foster any type of discrimination”.

Under article 27, the State also guarantees “the right of the Quechua, Aymara and other indigenous communities to receive basic education in their own dialect or language”.

²¹ *Ibid.* (CERD/C/18/Add.7).

²² *Ibid.* (CERD/C/18/Add.7).

V. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²³

As a means of defending the Constitution and democracy, article 22 of the Constitution provides for the systematic teaching of the Constitution and of human rights at all levels in civilian and military educational institutions.

On 28 May 1979 the Presidents of the five countries members of the Andean Pact, including the President of Peru, endorsed at Cartagena, Colombia, a document known as the "Cartagena Mandate"; this includes strict provisions for formalizing the consolidation and deepening the interdependent co-operative will of the countries members of that Pact.

One of the provisions of the Mandate states that integration "permits man effectively to enjoy a life of dignity, in an atmosphere of freedom and respect for human rights".

W. Limitations on the exercise of rights and freedoms; states of emergency

*(article 29 of the Universal Declaration;
article 4 of the International Covenant on
Civil and Political Rights)*²⁴

Chapter VIII, article 231 of the Constitution, relates to the states of exception.

A state of emergency, in the event of disturbances of the peace or internal public order, disaster or serious circumstances affecting the life of the nation. In this eventuality, the constitutional guarantees relating to individual liberty and security, the inviolability of the home, the right of assembly and of passage through the territory, referred to in article 2, paragraphs 7, 9, 10 and 20 (g) may be suspended. Under no circumstances may the penalty of exile be imposed. The duration of a state of emergency may not exceed 60 days. A further decree is required to extend it. In a state of emergency the armed forces assume control of public order if the President of the Republic so decides.

A state of siege, in the event of invasion, foreign war or civil war, or imminent danger of their occurrence; in this case the individual rights which continue in force are specified. The duration of a state of siege may not exceed 45 days. When a state of siege is declared, the Congress shall meet as a matter of law. Congress must approve the extension of a state of siege.

The State takes appropriate steps to safeguard its own stability and security against a form of perverse delinquency which jeopardizes and injures mankind's most highly prized individual and collective interests.

At the present time, the guarantee provided by article 56 of the Constitution is suspended for 30 days by Supreme Decree No. 020-79-IN, of 4 June 1979.

²³ *Ibid.* (CERD/C/18/Add.7; CERD/C/90/Add.7).

²⁴ *Ibid.* (CCPR/C/6/Add.1 and Add.9).

PHILIPPINES

A. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹*

Presidential Decree No. 1618 of 25 July 1979 describes the powers of the Autonomous Governments and their relationship to the Central Government, all in accordance with the Tripoli Agreement and the results of the 17 April 1977 referendum-plebiscite. Accordingly, the relevant provisions and highlights of the Decree are as follows:

That internal autonomy shall be construed as within the framework of the national sovereignty and territorial integrity of the Republic of the Philippines and its Constitution;

That the autonomous regions shall undertake all internal administrative matters for their respective regions but that they shall not act on matters which are within the jurisdiction and competence of the National Government;

That all security and/or police forces in the autonomous regions shall be organized, maintained and utilized in accordance with applicable laws, policies and rules and regulations, and shall be under the supervision and control of the National Government;

The Sangguniang Pampook has the power of regional legislation over such matters that will promote the general welfare of the people in the region. It is the Sanggunian that determines the development goals and objectives of the autonomous regions;

The Autonomous Government has the following as its sources of income: taxes, fees or charges through enactment of regional tax measures; appropriations and grants-in-aid from the National Government; amounts realized from commercial, industrial and agricultural projects owned or controlled by the Autonomous Government; contributions from local governments as provided by law; a percentage of the national income from mines and mineral resources from within the region as provided by law; transfer of the proceeds of certain national and local taxes as prescribed by law; and donations, endowments and other forms of aid from individuals, organizations or governments in accordance with national policy. Moreover, the autonomous regions are entitled to a yearly amount of at least 1/13th of 1 per cent of the total national internal revenue collections;

The Lupon Tagapagpaganap implements the policies, programmes and legislative enactments by the Sanggunian; formulates operational policies and prepares the budget and submits it to the Sanggunian for enactment. The Lupon exercises full supervision and control over the implementation of regional development projects funded from the income of the Autonomous Governments;

The Lupon oversees the activities and performance of the regional directors of the Ministries of Health, Education and Culture, Public Works and Highways, Agriculture, Social Services and Development, Human Settlements, Industry and Youth and Sports Development.

¹ Report submitted by State (CERD/C/91/Add.7).

B. Right to take part in government

*(article 21 of the Universal Declaration)*²

Aliens permanently residing in the Philippines who have developed and demonstrated love for, and loyalty to, the Philippines and affinity to Philippine customs, duties and traditions, and contributed to the cultural and economic development of the Philippines, may be integrated in the Philippine Government—Law No. 270 of 11 April 1979.

²Contribution submitted by State.

POLAND

A. Protection of the family, motherhood and childhood

*(articles 16 (3) and 25 (2) of the Universal Declaration;
article 10 of the International Covenant on Economic,
Social and Cultural Rights)¹*

The Council of Ministers Order of 19 January 1979 concerning the list of occupations prohibited to women is an additional regulation to those in existence on matters of maternity protection.

The Labour Code prohibits employment of women for jobs that are especially hard and harmful to health (a list of these jobs was defined by the Council of Ministers in the Order of 19 January 1979).

B. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on
Economic, Social and Cultural Rights)²*

The legal status of teachers is regulated by the law entitled "The Charter of Rights and Obligations of the Teacher", passed in 1974. The law and the subsequent regulations of the Council of Ministers and of the Minister of Education, issued between 1976 and 1980, are designed to steadily improve the material conditions of teachers.

C. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)³*

Polish law on associations precludes a possibility of a legal establishment in Poland of organizations promoting hatred and discrimination of any kind. Hatred and racial contempt in any form are alien to the system of moral and political education of the young generation in Poland. This is taken into account by the educational system which depicts the nature of these phenomena, criticizing them and promoting actions aimed at preventing the occurrence and development of racial prejudice among youth. The UNESCO programme introduced in 76 schools (including 67 of the secondary level) affiliated with UNESCO serves this purpose among others. Apart from that, problems of racism and racial discrimination receive wide treatment in all Polish school programmes taught in various types of schools and at various levels of teaching. For example, as regards history, much attention is devoted to problems of colonial expansion in the fifteenth and sixteenth centuries, the liberation of colonies in Latin America, and to decolonization processes in the 1950s and 1960s in Africa and Asia. Apart from that, the phenomena of neo-colonialism, *apartheid* and racial discrimination also receive due treatment. A considerable part of the programme of geography is devoted to the

¹ Report submitted by State (E/1980/6/Add.12).

² *Ibid.* (E/1982/3/Add.21).

³ *Ibid.* (CERD/C/66/Add.17).

developing countries. Thus it deals with political, social, economic and cultural problems of countries embarking upon the road of independent statehood. International co-operation within the United Nations system and bilateral relations between socialist and developing countries also find their due place in the programme. In the courses of study of civic science and the introduction to social sciences, considerable importance is attached to such issues as the right of every country to utilize its own natural resources, the struggle against racial discrimination and colonialism, or equal rights of nations to development. Much attention is focused on the ideas of internationalism, sovereignty and peaceful co-existence of nations. Lectures on the contents of the above-mentioned issues provide basic knowledge and make children and youth aware of the complex nature of the basic processes occurring in the contemporary world, such as economic development, the formation of nations and the changes occurring in the consciousness of people.

The educational system shaped along such lines is meant to produce condemnation of all manifestations of chauvinism, racism, discrimination and all anti-humanitarian attitudes, and, at the same time, to inspire sympathy with peoples fighting for social and political liberation, human dignity and ideals of social equality and justice.

PORTUGAL

A. Equal rights for men and women (*article 2 of the Universal Declaration;* *article 3 of the International Covenant on* *Civil and Political Rights*)¹

The Portuguese Constitution provides that all citizens shall enjoy the rights and be subject to the duties laid down therein (art. 12). In addition, they have the same social dignity and are equal before the law, which forbids all discrimination on grounds of sex, *inter alia* (art. 13).

Conscious of the difficulties inherent in the task imposed by article 13 of the Constitution, the first Constitutional Government decided to set up a Commission on the Status of Women answerable to the Prime Minister and specifically responsible for proposing the amendments required for full implementation of this constitutional principle.

The Commission was extremely active in the protection of women's rights. It participated in the work of many committees specially entrusted with the preparation of amendments to basic instruments (for example, the Civil Code) and tried to give practical form to full equality of rights and duties for both sexes. With regard to the right to work, it submitted preliminary draft legislation designed to prevent discrimination in work and employment to the Government.

The fourth Constitutional Government accepted this text as a basis for discussion and set up an interministerial commission responsible for improving it. The Commission on the Status of Women was, of course, represented on the latter commission. The final text was subsequently submitted for public discussion and was again amended as a result of the suggestions made.

It provides, *inter alia*, for the establishment of a tripartite commission on equality in work and employment responsible in particular for identifying violations of the principle of non-discrimination on grounds of sex. Such violations will be judged according to the concept of a "comparable man"; in other words discrimination will be considered to exist whenever a woman does not receive the same remuneration as a male colleague in the same occupation and grade working in identical conditions and for the same employer.

In addition, the text provides for the automatic amendment of discriminatory provisions in instruments on the collective regulation of work, such as those which provide for the creation of occupations and grades reserved solely for women or establish lower remuneration for them. Such provisions will, by law, be replaced by the provisions relating to male workers who receive more favourable treatment.

The instrument is, however, still only at the drafting stage; it will have to be revised again by the fifth Constitutional Government, which, it is believed, will draw up the final text.

B. Prohibition of slavery and forced labour (*article 4 of the Universal Declaration;* *article 8 of the International Covenant on* *Civil and Political Rights*)²

Decree-law No. 637/74 of 20 November 1974, amended by Decree-law No. 23-A/79 of 14

¹ Report submitted by State (CCPR/C/6/Add.6).

² *Ibid.* (CCPR/C/6/Add.6).

February 1979, defines the principles governing conscription. This can be ordered only in particularly grave circumstances and covers the public services and enterprises listed in article 3 of the text.

Decree-law No. 63/79 of 30 March 1979 established the emergency operational centre for civil defence which will increase the effectiveness of measures in this field.

C. Prohibition of torture and cruel, inhuman or degrading treatment or punishment

*(article 5 of the Universal Declaration;
articles 7 and 10 of the International Covenant on
Civil and Political Rights)³*

Reference should be made to Decree-law No. 783/76 which concerns the judge responsible for the application of penalties. Complaints may be lodged with this judge and he may intervene in all matters of importance in prisoners' lives and can therefore prevent them from being subjected to abuse, ill-treatment or any form of torture.

The new Prisons Act (Decree-law No. 265/79) of 1 August 1979 follows the same trend. Title XII on methods of coercion (arts. 122 *et seq.*) and title XIII on the disciplinary measures (arts. 128 *et seq.*) are good examples of this. The principle of proportionality is the rule in both cases (arts. 124 and 130).

Furthermore, title XIV (arts. 138 *et seq.*) concerns the right to be heard and to lodge a complaint or an appeal. The latter right even includes the possibility of recourse to the European Commission of Human Rights and the European Court of Human Rights (art. 151).

The new Prisons Act (Decree-law No. 265/79 of 1 August 1979) contains several references to the principle that a person deprived of his or her liberty must be treated with humanity and with respect for the inherent dignity of the human person.

The general principles embodied in articles 2 *et seq.* of this instrument are sufficient indication of the new institutional philosophy it embodies. The protection guaranteed by the law against any abuse of authority is another example of this. A prisoner is considered to be a human being who enjoys his fundamental rights like any other citizen, with the exception of those rights which the sentence restricts or even suspends.

The criteria for committing a prisoner to a correctional institution must take into account sex, age, legal status (remanded pending trial, convicted, first offender, habitual offender), length of sentence, physical and mental condition, special needs regarding treatment, and proximity of the family's place of residence, together with security, training and labour considerations, which are important for the social rehabilitation of the prisoner (Decree-law No. 265/79, art. 11).

The same instrument guarantees (art. 12) complete separation of detainees according to sex, age and legal status. Separation of first offenders from habitual offenders is to be encouraged.

The new Prisons Act also guarantees a different system appropriate to their status of non-convicted persons for persons held in custody pending trial. This régime is set out in articles 209 *et seq.* In addition, persons under 25 years of age held pending trial are separated from adults (art. 210, para. 4). The separation of young offenders from adults is also guaranteed by this Act (art. 12).

The main aim of the treatment of convicted prisoners is their reformation and social rehabilitation, as can clearly be seen from articles 2, 3, 9, 63, 65, 79, 80 and 83 of Decree-law

³ *Ibid.* (CCPR/C/6/Add.6).

No. 265/79. Convicted persons under 25 years of age receive special treatment and are interned in detention centres where they may be given accelerated vocational training (arts. 201 and 202).

D. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 2 of the International Covenant on
Civil and Political Rights)*⁴

Decree-law No. 191-D/79 of 25 June 1979, contains new provisions concerning the disciplinary status of central, regional and local administrative officials and staff. This instrument seeks to guarantee respect for a number of constitutional provisions relating to the officials or staff of the public administrative authorities. Article 24, for instance, prescribes the penalty of dismissal for any official or staff member who, as a result of a serious offence or wilful misconduct, has infringed the obligation of impartiality in the performance of his duties (para. 2 (c)). Article 25 prescribes the penalty of compulsory retirement and dismissal for any official or staff member who, in the performance of his duties, has committed acts clearly injurious to the institutions and principles established in the Constitution. This instrument, in fact, contains a set of rules which reflect the aim of the legislative authorities, as set out in article 267 of the Constitution, namely, respect for the Constitution and for the individual rights and interests of the citizen by all public administrative staff and officials.

E. Political rights

*(article 21 of the Universal Declaration;
article 25 of the International Covenant on
Civil and Political Rights)*⁵

The general principles of electoral law are set out in article 116 of the Constitution.

The electoral law for the Assembly of the Republic was approved in Act No. 14/79 of 16 May 1979. The law on electoral registration is contained in Act No. 69/78 of 3 November 1978 (amended by Act No. 72/78 of 28 December 1978 and Act No. 4/79 of 10 January 1979).

⁴ *Ibid.* (CCPR/C/6/Add.6).

⁵ *Ibid.* (CCPR/C/6/Add.6).

ROMANIA

Elimination of racial discrimination: Development and protection of certain racial groups or individuals belonging to them

*(articles 2 and 26 of the Universal Declaration;
articles 2 and 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

New legislative measures include Act No. 28 of 21 December 1978 concerning education and teaching, which contains provisions relating to the application of the Convention, such as:

Article 4, which guarantees to all nationalities in the country the right to use their mother tongue for teaching at all levels;

Articles 105-110, which provide, *inter alia*, for the organization of teaching units, sections, classes or groups where teaching is also carried out in the languages of the nationalities concerned; for the right of young people of these nationalities to assurance of equal conditions of training for any form of teaching; for the right to take entrance examinations in the language of their nationality; and for the publication of text-books and other teaching materials in the languages of the various nationalities concerned;

Article 153, which makes mandatory the representation of teachers of the co-existing nationalities on boards of management of teaching units, on district education and teaching councils, and on other bodies responsible for the management and supervision of teaching.

¹ Report submitted by State (CERD/C/50/Add.4).

RWANDA

A. Protection of fundamental rights and freedoms

*(article 2 of the Universal Declaration;
article 2 of the International Covenant on
Civil and Political Rights)¹*

A new Constitution of the Rwandese Republic was adopted by the Rwandese people by referendum on 17 December 1978. The new Constitution guarantees all the civil and political rights referred to in the Covenant, namely, the inherent dignity of the human person and freedom, *inter alia*, of thought, of expression, of religion, of the Press and of association.

The Rwandese Republic is endowed with a well-structured legal system. Articles 76, 83, 84 and 85 of the Constitution recognize and provide for the following courts: cantonal courts, courts of first instance, courts of appeal, the Court of Cassation, the Council of State, the State Audit Office and the Constitutional Court.

Under the Constitution of the Rwandese Republic, no restriction may be placed on public freedoms, which are exercised within the confines of the law.

B. Elimination of racial discrimination; equality before the law

*(articles 2 and 7 of the Universal Declaration;
articles 2 and 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²*

The Rwandese Constitution, adopted by referendum on 17 December 1978, guarantees the right of every person to equality before the law. Article 16 of the Constitution reads: "All citizens are equal before the law, without any discrimination whatsoever, particularly with regard to race, colour, origin, ethnic group, clan, sex, opinion, religion or social position." Article 95 of the Constitution reads: "All aliens shall enjoy the protection accorded to persons and property, as well as the civil rights recognized by the present Constitution, save for the exceptions established by law."

C. Right to life, liberty and security of person

*(article 3 of the Universal Declaration;
article 6 of the International Covenant on
Civil and Political Rights)³*

In pursuance of the provisions of the Criminal Code concerning pardon and amnesty, there have been two instances of Presidential pardon, namely:

(a) Presidential Decree No. 17/01 of 8 January 1979, granting commutation of sentence to persons finally convicted by 8 January 1979 at the latest, no distinction being made between convictions under the ordinary law and convictions of a political character;

¹ Report submitted by State (CCPR/C/1/Add.54).

² *Ibid.* (CERD/C/16/Add.5).

³ *Ibid.* (CCPR/C/1/Add.54).

(b) Decree Law No. 3/79 of 15 February 1979 concerning the amnesty granted to Mr. Grégoire Kayibanda, the former President of the Republic.

D. Right of asylum

*(article 14 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

Since October 1979, Rwanda has ratified the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees and the Convention Governing the Specific Aspects of Refugee Problems in Africa adopted by the Organization of African Unity in 1969.

E. Political rights

*(article 21 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁵

With regard to the election of the President, article 40 of the Constitution provides that, at the start of each legislative session, the President of the Republic shall be elected through direct universal suffrage by a majority of the votes cast, in accordance with the procedures provided for by law. Those procedures were established by Decree law No. 40/78, of 21 December 1978, relating to the organization of presidential elections.

With regard to the election of municipal councillors, Decree law No. 36/79, of 13 November 1979, on the organization of municipal elections contains the provisions regarding electors, eligibility and voting.

⁴ *Ibid.* (CERD/C/88/Add.4).

⁵ *Ibid.* (CERD/C/88/Add.4).

SENEGAL

A. Prohibition of discrimination or incitement to it (articles 2 and 7 of the Universal Declaration; articles 2 and 4 of the International Convention on the Elimination of All Forms of Racial Discrimination)¹

Act No. 79-02 of 4 January 1979 amended Act No. 68-08 of 26 March 1968, which amends *chapter II of book VI of the Code of Civil and Commercial Obligations, concerning associations, and provides for measures to check the establishment of illegal associations.*

Article 1, paragraph 2

“All discrimination based on race, sex, religion . . . shall be prohibited for the purposes of admission to the association . . .”

Act No. 79-02 of 4 January 1979

“Anyone who runs or attempts to run an association without registration or previous authorization or who attempts to reconstitute an association dissolved by the judicial authority or by the executive authority under article 816 of the Code of Civil and Commercial Obligations *shall be liable to a fine of 200,000 to 2 million francs and a term of imprisonment of one month to one year or to one or other of the above penalties, without prejudice to any more severe penalties that may be prescribed by specific laws.* The sentence shall in all cases provide for deprivation of the civil rights enumerated in article 34 of the Penal Code.”

Article 166 bis of the draft law concerning measures for combating racial discrimination:

“Any official of the administration or the judiciary, any agent or officer of the Government, of public establishments or of mixed economy companies under State control who prevents an individual or a legal entity from exercising a right or undertaking a legitimate act by reason of the origin or the adherence or non-adherence to a particular ethnic group, race or religion of that individual or of an associate or member of that legal entity shall be liable to a term of imprisonment of three months to two years and a fine of 100,000-2 million francs.”

B. Marriage and the family (article 16 of the Universal Declaration; article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination)²

As regards marriage and the family, reference can be made to *Act No. 72-61 of 12 June 1972* (as amended by Act No. 74-37 of 18 July 1974 and Act No. 79-31 of 24 January 1979), incorporating the code of family law.

¹ Report submitted by State (CERD/C/48/Add.9).

² *Ibid.* (CERD/C/48/Add.9).

C. Right to a nationality

*(article 15 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*³

Act No. 61-10 of 7 March 1961, as amended by Act No. 79-01 of 4 January 1979, defines Senegalese nationality, as does Act No. 72-61 of 12 June 1972 (as amended by Act No. 74-37 of 18 July 1974 and Act No. 79-31 of 24 January 1979) incorporating the code of family law.

D. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

Since its accession to international sovereignty, Senegal has striven for the establishment of a fruitful dialogue among peoples as a means of bringing about mutual understanding and hence peace. Colleges and Lycées provide instruction not only in the French language and civilization but also in the Arabic, Anglo-American, Spanish-American, Portuguese Afro-American, German and Russian languages and civilizations.

The Act establishing Les Mutants University for Cultural Dialogue and Act. No. 79-44 of 11 April 1979 concerning organs of the Press and the profession of journalism are the most striking illustrations of this policy.

E. Right to take part in cultural life

*(article 27 of the Universal Declaration;
article 15 of the International Covenant on
Economic, Social and Cultural Rights)*⁵

In order to enable all citizens to exercise their right to culture, the Senegalese Government has established training schools that are open without discrimination to all Senegalese citizens: the Conservatory of Dramatic Art, which trains cultural leaders, music teachers and dance specialists; the School of Fine Arts, which trains painters, sculptors, etc.; the School of Architecture and Town Planning, which trains architects and town planners; and the School of Advanced Education in the Arts.

The Conservatory was established and organized by Decree No. 78-708 of 19 July 1978, the School of Fine Arts by Decree No. 79-574 of 13 June 1979 and the School of Advanced Education in the Arts by Decree No. 79-360 of 17 April 1979.

³ *Ibid.* (CERD/C/48/Add.9).

⁴ *Ibid.* (CERD/C/48/Add.9).

⁵ *Ibid.* (E/1982/3/Add.17).

SEYCHELLES

A. Protection of fundamental rights and freedoms

*(article 2 of the Universal Declaration;
articles 2 and 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹*

Since acceding to the International Convention on the Elimination of All Forms of Racial Discrimination, the Government has been fully engaged in the drawing up of a new Constitution more suited to the requirements of the people of Seychelles. This was a necessary step before legislative measures could be considered in order to eradicate all incitement to, or acts of, racial discrimination.

The Preamble to the Constitution effective from 5 June 1979, sets out the fundamental rights and freedoms of every person in Seychelles.

B. Right to work

*(article 23 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²*

The Government regards it as of the greatest importance that all people wishing to work should be able to do so. It is vital that Seychellois should be trained in all skills required for the future of Seychelles. This entails planning training requirements in the light of present and future manpower needs.

In December 1978, a reform in employment conditions was set up in order to alleviate certain inequalities which existed before the 5 June 1977 revolution.

The three main objects were:

- (a) Excessive privilege for Senior Civil Servants;
- (b) A wide differential between the lowest and highest paid workers;
- (c) Discrimination between the established and unestablished staff.

To remedy the above situation very important steps were taken, such as discontinuation of permanent and pensionable posts; abolition of contract status with gratuity; introduction of a new salary scale with varying entry points; the distinction between established and unestablished staff also disappeared.

Appropriate legislation is now in force requiring all employers to notify their vacancies and all job seekers to register with the employment centres of the Labour Division. This is considered necessary in order to control employment effectively, to prevent discrimination in job selection and to provide the necessary employment statistics to monitor trends from which manpower projections can be accurately ascertained.

In order to implement its policy of providing employment, a full employment scheme was set up to give paid work to those who are for the time being unemployed so that they can

¹ Report submitted by State (CERD/C/45/Add.1).

² *Ibid.* (CERD/C/72/Add.1).

support their families. In seeking to develop employment opportunities, the Government will face many obstacles. The Government does not believe in the creation of jobs as an end in itself. Employment policy must be seen principally as the effective deployment of the manpower resources in a manner which will ensure the optimum social and economic advantages for the country.

SPAIN

Introduction: general legal framework¹

The draft constitution was approved by the Cortes and subsequently ratified by the Spanish people in a referendum on 6 December 1978 and was solemnly affirmed by His Majesty, the King, when he appeared before the Chamber of Deputies and the Senate on 27 December 1978.

The final text of the Constitution signifies the establishment of a new political and legal system for the protection of the human rights that are so liberally recognized in the Constitution. The Constitution is the framework for the future development of the entire organization of the powers and institutions of the State established as the surest guarantee of the rights of the individual. The preamble of the Constitution itself amply reflects the spirit of the Constitution:

“The Spanish nation, desirous of establishing justice, freedom and security and of promoting the well-being of all who form part of the nation, in the exercise of its sovereignty, proclaims its wish to:

“ . . .

“Establish a State of law that will assure the rule of law as the expression of the will of the people.

“Protect all Spaniards and peoples of Spain in the exercise of human rights, their culture and traditions, languages and institutions . . .”

This objective is guaranteed in the Constitution by a “Bill of Rights” which forms the subject of title I of the Constitution that bears the heading “Concerning Fundamental rights and duties” and that opens with article 10 as amended by the addition of an interpretative rule in the following terms:

“The rules concerning the fundamental rights and liberties recognized by the Constitution shall be interpreted in conformity with the Universal Declaration of Human Rights and with the international treaties and agreements ratified by Spain relating to the same subject.”

A. Equal protection of the law; equal rights for men and women; non-retroactivity of criminal law
(articles 2, 7, 10 and 11 of the Universal Declaration; articles 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination; articles 2, 3, 14 and 15 of the International Covenant on Civil and Political Rights)²

Right to equal treatment before the tribunals. This right is contained in article 24 of the Constitution, which states:

“1. Every person has the right to obtain the effective protection of the Judges and Courts in the exercise of his legitimate rights and interests, and in no case may he go undefended.

¹ Report submitted by State (CCPR/C/4/Add.3).

² *Ibid.* (CERD/C/91/Add.6; CCPR/C/4/Add.5).

"2. Likewise, all persons have the right to access to the Ordinary Judge predetermined by law, to the defence and assistance of a lawyer, to be informed of the charges brought against them, to a public trial without undue delays and with full guarantees, to the use of the evidence pertinent to their defence, not to make declarations against themselves, not to confess themselves guilty, and to the presumption of innocence."

The principle of non-discrimination permeates the entire Spanish Constitution from the preamble to every article of the text. The preamble expresses the intention of the Spanish nation to "protect all Spaniards and Spanish peoples in the exercise of human rights, their cultures, traditions, languages and institutions". Article 14 proclaims, in terms similar to those of the Convention, the principle that "Spaniards are equal before the law, and there shall be no discrimination on grounds of birth, race, sex, religion, opinion or any other personal or social condition or circumstance". Article 13 provides that aliens shall enjoy in Spain the public freedoms guaranteed in title I of the Constitution "in conformity with the provisions contained in treaties and in the legislation" although they are excluded from the right to participate in public affairs and to hold public office, "subject to the proviso that, on the basis of reciprocity, other provisions may be made by treaty or law as regards the right to vote in municipal elections" (article 13, para. 2). In this respect, article 27 of the Civil Code provides that "aliens shall enjoy in Spain the same civil rights as Spaniards, except as otherwise provided in special laws or treaties".

The principle of non-discrimination is also developed in the articles of the Constitution that form section 1 ("Fundamental Rights and Public Freedoms") and section 2 ("The Rights and Duties of Citizens") of chapter II and chapter III, both in title I. These rights are always intended for "all people", or "everyone", or "Spaniards" or "citizens", without distinction of any kind on grounds of race, sex, language or religion, etc., except for the provisions concerning aliens, which were referred to above. On other occasions the principle of non-discrimination is expressed in very specific provisions such as article 32, paragraph 1 ("Men and women have the right to enter into matrimony with full legal equality"); or article 39, paragraph 2 ("the authorities ensure, moreover, the integral protection of children, who are equal before the law regardless of their parentage, and of mothers, whatever their civil status"); finally, explicit reference is made to "discrimination" in other articles, such as article 35 which, in recognizing the duty to work and the right to work and to obtain adequate remuneration, states "and in no case may discrimination be exercised for reasons of sex".

These provisions of the Constitution, which will be reflected in the supplementary legislation that will give effect to the basic text, and are designed to establish full "equality before the law", are being developed by a series of laws which are reforming the previous legislation to that end and to which reference has been made in earlier parts of this report; thus, for instance, the Penal Code has been amended to delete or change rules which discriminated against women, in such matters as differential penal treatment of spouses for adultery. All these laws appear in the annexes to the report and include removal of adultery and co-habitation as well as the sale of contraceptives from the list of punishable offences, and reduction of the age for penal protection of women in cases of sexual offences. The Civil Code will be amended with regard to parental authority and marital law in order to give women equality with men, and another draft reform of the Civil Code is being prepared to ensure equal rights for children born in or out of wedlock. The Danger to Society Act has been amended to exclude homosexual acts between consenting adults from the list of acts of a dangerous nature (Act No. 77/1978 of 26 December).

The procedural guarantees recognized in the seven paragraphs of article 14 of the Covenant are essentially embodied in article 24 of the Constitution. Article 14, and article 9, paragraphs 1 and 2, proclaim equality before the law. The Criminal Procedure Act recognizes the majority of those rights and is at present in the process of being reformed to make it consistent with the Constitution and the Covenant in the few instances where they do not coincide.

Article 21, paragraph 1, of the Constitution is drafted in similar terms to those of

paragraph 1 of article 15 of the Covenant. However, in the Constitution, the principle of non-retroactivity of unfavourable criminal law, which is traditional in Spanish penal legislation (article 23 of the Penal Code), is stricter since it is absolute, and provision is made (article 9, paragraph 3) for "non-retroactivity of unfavourable penal provisions or those which restrict individual rights" without any distinction or nuances.

**B. Elimination of racial discrimination:
development and protection of certain racial groups or
individuals belonging to them**

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 27 of the International Covenant on
Civil and Political Rights)³*

With respect to Spaniards, article 14 of the Constitution reproduces the substance of article 2, first paragraph, of the Universal Declaration of Human Rights and article 2, paragraph 1, of the International Covenant on Civil and Political Rights. The only difference is that membership of a minority is not provided for, inasmuch as there are no national minorities in Spain: there are "nationalities and regions" which form part of the Spanish nation within the meaning of the terms of article 2 of the Constitution. So far as linguistic differences are concerned, article 3 provides that "Spanish (Castilian) is the official language of the State" and that "the other Spanish languages shall likewise be official languages in the various autonomous Communities, in conformity with the Statutes governing such communities".

The right of the nationalities and regions to autonomy as recognized and guaranteed by article 2 of the Constitution is developed in title VIII ("Territorial organization of the State"), chapter 3 of which ("Autonomous Communities") contains an article 143 that provides that in the exercise of this right "the neighbouring provinces that have common, historic, cultural and economic characteristics, the island territories and the provinces which constitute a historic region may attain self-government and form Autonomous Communities in conformity with the provisions of this title and with the relevant Statutes".

Participation of the gipsy community in the Interministerial Commission to consider problems affecting the gipsy community

Interministerial Commissions, whatever their nature, are composed of members who must be officials of ministerial departments in accordance with existing Spanish legislation: the Decree of 7 July 1965, the Order of the Office of the Prime Minister of 24 May 1969, B.O.E. (Official Gazette) of 28 May 1969 (24 July 1979). According to this, the inclusion of a member representing the gipsy community is not provided for by law. However, since the Government wished members of the gipsy community to take part in the work of the Commission, as agreed with the gipsy associations, article 4 of Royal Decree 250/79, setting up the Interministerial Commission, provides as follows: "The Interministerial Commission to consider the problems of the gipsy community shall, in its work, comply with the provisions of chapter II, title I of the Administrative Procedures Act, and may set up one or more working groups whose members shall include, where appropriate and with the prior agreement of the Commission, representatives of the bodies or associations concerned and experts on the problems of the gipsy community."

At present the Interministerial Commission does not have its own budget, and gipsy

³ *Ibid.* (CCPR/C/4/Add.3; CERD/C/91/Add.6; CERD/C/66/Add.16).

advancement programmes are financed out of the ordinary budgets of the different ministerial departments. This is the effect of the Sixth Additional Provision of the 1980 Budget Act which was passed by the Cortes:

“Programmes and studies proposed by the Interministerial Commission set up by Royal Decree 250 of 11 January 1979 to examine questions affecting the gypsy community shall be submitted to the ministry responsible for the subject concerned, for execution by that ministry under suitable appropriations according to its budgetary resources.”

The work already carried out by the Working Groups and the plenary Commission may throw light on this.

C. Right to life, liberty and security of person

*(article 3 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 6 of the International Covenant on
Civil and Political Rights)⁴*

Right to security of person, etc.

The principle governing this right is article 15 of the Constitution, which states that “Every person has the right to life and physical and moral integrity, and may under no circumstance be subject to torture or to inhuman or degrading punishment or treatment.”

The right to security of person and to protection by the State against violence or bodily harm is protected by the definition of the corresponding offences, with reference both to officials and to private persons.

The fundamental rights recognized by the Constitution are defined in chapters 2 and 3 of title I (articles 14-38), with the important proviso that the text provides expressly for the abolition of the death penalty “save as may be otherwise provided by the criminal law in time of war” (article 15).

The Royal Decree law No. 25 of 21 December 1978 reformed the Code of Military Justice, the Penal and Procedural Law of the Air Force and the Penal and Disciplinary Law of the Merchant Marine in order to bring them into line with article 15 of the Constitution which abolished the death penalty.

D. Prohibition of forced labour

*(article 4 of the Universal Declaration;
article 8 of the International Covenant on
Civil and Political Rights)⁵*

The prohibition of forced labour (paras. 3 (a) and (b)) is expressly formulated in article 25, paragraph 2, of the Constitution. Furthermore, article 26 of the General Penal Institutions bill states that work shall be considered a right and a duty of the prisoner and shall not be of a distressing nature nor used as a corrective measure or in such a way as to constitute an affront to the prisoner’s dignity.

With regard to work or services which, according to paragraph 3 (c), are not considered to be “forced or compulsory labour”, article 30, paragraph 2, of the Constitution states that

⁴ *Ibid.* (CERD/C/91/Add.6; CCPR/C/4/Add.3).

⁵ *Ibid.* (CCPR/C/4/Add.5).

“the law shall determine the military obligations of Spaniards and shall regulate, with the proper safeguards, conscientious objection as well as other grounds for exemption from compulsory military service”. The same article (paras. 3 and 4) provides that “a civil service shall be established to pursue objectives that are in the public interest” and “the duties of citizens in cases of grave danger, disaster or public calamity shall be regulated by law”.

E. Prohibition of torture and inhuman or degrading treatment or punishment; treatment of offenders

*(article 5 of the Universal Declaration;
articles 7 and 10 of the International Convention on
Civil and Political Rights)*⁶

The prohibition of torture and of cruel, inhuman or degrading treatment or punishment is expressly formulated in article 15 of the Constitution.

The treatment of persons deprived of their liberty (paras. 1 and 2) is included in the general principle enunciated in article 7 of the Covenant and recognized in article 15 of the Constitution, which prohibits cruel, inhuman or degrading treatment or punishment. Moreover, article 25, paragraph 2, of the Constitution provides that “persons sentenced to imprisonment and serving a prison term shall enjoy the fundamental rights referred to in this chapter (chap. 2 of title I, “Fundamental Rights and Duties”) except for those which have been expressly limited by the nature of the sentence and the penalty and by prison law. In any case, they shall be entitled to paid employment and the corresponding social security benefits, as well as to access to culture and opportunities for the full development of their personality.

The General Penal Institutions bill has incorporated almost word for word the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Geneva in 1955, and approved by the Economic and Social Council in resolution 663 (XXIV) of 31 July 1957 and 2076 (LXII) of 10 May 1977. However, it should be stressed that these principles are fully developed in the Criminal Procedure Act of 1882 which is still in force.

F. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 6 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 2 of the International Covenant on
Civil and Political Rights)*⁷

Article 24 of the Constitution stipulates that:

“1. Every person has the right to obtain the effective protection of the Judges and Courts in the exercise of his legitimate rights and interests, and in no case may he go undefended.”

Article 14 of the Constitution already quoted, reinforces protection by the following means:

1. Legal protection in the threefold form of criminal, administrative and civil law, in accordance with Act 62/1978 (26 December) concerning the legal protection of the rights of

⁶ *Ibid.* (CCPR/C/4/Add.5).

⁷ *Ibid.* (CERD/C/91/Add.6; CCPR/C/4/Add.5).

the individual, supplemented by Royal Decree 342/1979 (20 February) and the Second Transitional Provision of the Organization Act of the Constitutional Court.

2. Constitutional *amparo*, under the terms of article 161.1.B and article 41 of the Organization Act of the Constitutional Court No. 2/1979 (3 October), article 44 of which also covers acts and omissions attributable to judicial organs.

Article 124, paragraph 1, of the Constitution provides that the Public Prosecutor's Department is responsible for promoting legal action to defend legality, citizens' rights and the public interest as defined by the law, as a matter of routine or at the request of interested parties, as well as for ensuring the independence of the courts and satisfying the demands of the public interest in those courts.

The People's Advocate is a new institution introduced into Spanish law, similar to that of the "ombudsman". His purpose is to supervise the activities of the administration so as to ensure the protection of individual rights and, to that end, he is not authorized to appear before the ordinary courts, but only before the Constitutional Court to appeal on grounds of unconstitutionality against laws and regulatory provisions having the force of law and to apply for action for enforcement of rights; this in no way affects his relations with the general courts (articles 162 and 54).

With regard to the judicial organs responsible for the proper implementation of the law and its application in the protection of individual rights, the Constitution has provided for two distinct and separate orders: judges and courts, constituting the judiciary (under article 117, para. 1) which is responsible for "the exercise or jurisdictional authority in all types of cases and for passing and carrying out sentence"; and the Constitutional Court with exclusive jurisdiction within Spanish territory, over appeals on the ground of unconstitutionality against laws and "*amparo*" or enforcement of fundamental rights, and over jurisdictional disputes between the State and the autonomous communities or among the latter.

Since the laws giving effect to article 53, paragraph 2, and article 161, paragraph 1 (b), have not yet been formulated, the legislation in force consists of Act No. 62/1978 of 26 December concerning "Jurisdictional Protection of the Fundamental Rights of the Individual"—document No. 2 of the first part of the report (referred to in para. 21 (j) of the report as a draft law). The scope of this Act is, according to article 1, paragraph 2, limited to the "freedoms of expression, assembly and association, freedom and privacy of correspondence, religious freedom and freedom of residence, the guarantee of inviolability of the home, legal protection against unlawful arrest and, in general, against penalties imposed in matters involving law and order": in other words, the freedoms recognized in articles 16 to 22 of the Constitution. The final clause of the Act provides that, pending the formulation of the definitive legislation concerning the procedure for the protection of individual rights and remedies for their violation, such judicial protection should be extended provisionally to cover other freedoms. To that end, Royal Decree No. 342/1979, of 20 February, supplementing Act No. 62/1978 of 26 December, extended such protection to cover "the right to honour, to personal and family privacy and protection of one's physical image, privacy of telephonic and telegraphic communications, freedom of movement throughout the national territory, freedom of entry into and exit from Spain in legal terms, freedom of opinion, and freedom of association". (In other words, the rights recognized in articles 18, 19, 20 (c) and 28 of the Constitution—documents 2 and 3 of the supplement to the report.)

The legal protection procedures provided for in Act No. 62/1978 of 26 December comprise penal guarantees, under the provisions of the Criminal Prosecution Act with the curtailment of certain proceedings; this procedure is of a summary and preferential nature and its duration, from initiation to sentencing, may not exceed 60 days except in the case of proceedings concerning offences committed through the mass media, when it shall not exceed 45 days. It also comprises the administrative and the civil jurisdiction guarantees, both of which are abridged litigation procedures.

G. Right not to be subjected to arbitrary arrest or detention

*(article 9 of the Universal Declaration;
articles 9 and 11 of the International Covenant on
Civil and Political Rights)*⁸

In accordance with article 25 of the Constitution, prison sentences may only be imposed on convicted persons.

The right of a person who has been unlawfully detained to receive compensation (article 9, para. 3) will be expressly regulated by a law currently in the drafting stage, in accordance with article 121 of the Constitution which states that “injury caused by judicial error, as well as that resulting from the malfunctioning of the administration of justice, shall entitle the injured party to damages payable by the State, in accordance with the law”.

H. Protection against arbitrary interference with privacy

*(article 12 of the Universal Declaration;
article 17 of the International Convention on
Civil and Political Rights)*⁹

Article 18 (para. 4) of the Constitution stipulates that “the law shall limit the use of computer data in order to safeguard the honour and the personal and family privacy of citizens as well as the full exercise of rights”.

The Act on the Jurisdictional Protection of the Fundamental Rights of the Individual (No. 62/1978 of 28 December, supplemented by Royal Decree No. 342/1979 of 20 February), provides appropriate channels for the protection of the “right to honour, to personal and family privacy, protection of one’s physical image and privacy of telephonic and telegraphic communications” (single article).

I. Freedom of movement and residence

*(article 13 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 12 of the International Covenant on
Civil and Political Rights)*¹⁰

This right is guaranteed by the Constitution in article 19, which states:

“Spaniards have the right to choose their place of residence freely, and to move about freely in the national territory.

“Likewise, they have the right to freely enter and leave Spain under the terms to be laid down by the law. This right may not be restricted for political or ideological reasons.”

Since this right is recognized in the Constitution, no safe conduct or other document is required in Spain to move from one part of the territory to another, nor is there any restriction on free choice of residence or temporary or casual residence within the borders of Spain.

⁸ *Ibid.* (CCPR/C/4/Add.5).

⁹ *Ibid.* (CCPR/C/4/Add.5).

¹⁰ *Ibid.* (CERD/C.91/Add.6; CCPR/C/4/Add.5).

J. Right of asylum

*(article 14 of the Universal Declaration;
articles 12 and 13 of the International Covenant on
Civil and Political Rights)*¹¹

So far as aliens are concerned article 13 of the Constitution provides:

“1. Aliens enjoy in Spain the public freedoms guaranteed by this title in conformity with the provisions contained in treaties and in the legislation.

“2. The rights recognized in article 23 (participation in public affairs and access to public office) shall be exercisable only by Spaniards, subject to the proviso that, on the basis of reciprocity, other provisions may be made by treaty or by legislation as regards the right to vote in municipal elections.

“4. The conditions under which the citizens of other countries and stateless persons may be eligible for asylum in Spain shall be laid down by legislation.”

K. Right to a nationality

*(article 15 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹²

Article 11.2 of the Constitution states that no person of Spanish origin may be deprived of his nationality.

**L. Marriage law; protection of the family,
motherhood and childhood**

*(articles 16 and 25 (2) of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 10 of the International Covenant on Economic,
Social and Cultural Rights;
article 24 of the International Covenant on Civil and Political Rights)*¹³

The right to marriage and choice of spouse is embodied in article 32.1 of the Constitution, which states that “Men and women are entitled to enter into marriage on a basis of full legal equality.”

The protection of children is recognized in article 39, paragraph 4, of the Constitution which establishes that “children shall enjoy the protection provided in international agreements which guarantee their rights. Even before this declaration was made, however, children always were covered by protective legislation, to ensure both their physical integrity and the full development of their personality as well as to preserve their property and rights until they come of age. The age for criminal responsibility is set at 16 years and over, and persons below that age are not regarded as criminals when they commit acts which are considered criminal in penal law, but are subjected to corrective measures of a tutelary nature ordered by a special court (the “Tutelary Courts for Minors”). As already explained under

¹¹ *Ibid.* (CCPR/C/4/Add.3).

¹² *Ibid.* (CERD/C/91/Add.6).

¹³ *Ibid.* (CERD/C/91/Add.6; CCPR/C/4/Add.5; E/1980/6/Add.28).

article 2 of the Covenant, the legislative reform undertaken is designed to achieve legal equality among children, regardless of their parentage (article 39, para. 2, of the Constitution) and to providing assistance "of every kind for children born in or out of wedlock, while they are minors" (article 39, para. 3).

In applying article 39, paragraph 1, of the Constitution, the Government found it advisable to set up a commission within the Ministry of Culture for the purpose of drafting a bill on the protection of the family, which is to be submitted to the Congress of Deputies in October 1979.

Furthermore, by Decree No. 3378/1978 of the Ministry of Culture, of 29 December 1978, an Interministerial Commission on the problems of minors was set up to implement article 39, paragraph 4, of the Constitution and draft a bill on the protection of children for submission to the Congress of Deputies in November 1979.

M. Right to own property

*(article 17 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of Forms of Racial Discrimination)¹⁴*

Article 33.1 of the Constitution states that "The right to private property is recognized" and article 33.3 states that "No one may be deprived of his property and rights, except on justified grounds of public utility or social interest in return for proper compensation in accordance with the provisions of the law".

The right to inherit is explicitly included in article 33.1 of the Constitution.

N. Freedom of thought, conscience and religion

*(article 18 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 18 of the International Covenant on
Civil and Political Rights)¹⁵*

Article 16 of the Constitution embodies this right as follows:

"1. Freedom of ideology, religion and worship of individuals and communities is guaranteed, with no more restrictions on their expression than may be necessary in order to maintain the public order protected by law.

"2. Nobody may be compelled to make declarations regarding his religion, beliefs or ideologies."

The Constitution states, in article 16, paragraph 3, that "there shall be no State religion".

The obligation laid down in article 18, paragraph 4, of the Covenant is reflected in the provisions of article 27, paragraph 3, of the Constitution, which establishes that "the authorities shall guarantee the right of parents to ensure that their children receive a religious and moral education consonant with their own convictions".

¹⁴ *Ibid.* (CERD/C/91/Add.6).

¹⁵ *Ibid.* (CERD/C/91/Add.6; CCPR/C/4/Add.5).

O. Freedom of opinion and expression

*(article 19 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 19 of the International Covenant on
Civil and Political Rights)¹⁶*

Freedom of opinion, referred to in paragraph 1, is part of the ideological freedom guaranteed in article 16, paragraph 1, of the Constitution. Freedom of expression (paras. 2 and 3) in the most varied forms is provided for in detail in article 20 of the Constitution, with certain restrictions (para. 4) that coincide with those in article 19, paragraph 3, of the Covenant.

Article 20 of the Constitution recognizes the right to freedom of opinion and expression and states:

“1. The following rights are recognized and protected:

“(a) The right to freely express and disseminate thoughts, ideas and opinions by word, in writing or by any other means of divulgation.

“(b) The right to literary, artistic, scientific and technical production and creation.

“(c) The right to professional freedom.

“2. The exercise of these rights may not be restricted by any kind of prior censorship.”

P. Freedom of peaceful assembly and association

*(article 20 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
articles 21 and 22 of the International Covenant on
Civil and Political Rights)¹⁷*

Article 21 of the Constitution embodies the principle of freedom of assembly in the following terms:

“1. The right to peaceful assembly without arms is recognized. The exercise of this right shall not require previous authorization.”

With regard to the right of association, the Constitution states (article 22):

“1. The right to association is recognized.

“2. Associations which pursue ends or use means classified as criminal offences are illegal.

“3. Associations set up on the basis of this article must be recorded in a register for the sole purpose of public knowledge.

“4. The associations may only be dissolved or have their activities suspended by virtue of a considered judicial ruling.

“5. Secret and paramilitary associations are prohibited.”

A bill designed to establish regulations to govern this right in conformity with the principles of the Constitution and the Covenant is under consideration.

¹⁶ *Ibid.* (CCPR/C/4/Add.5; CERD/C/91/Add.6).

¹⁷ *Ibid.* (CERD/C/91/Add.6; CCPR/C/4/Add.5).

The rights laid down in article 22 of the Covenant are recognized in the Constitution in articles 23 (right to freedom of association) and 28 (right to join or form a trade union), which also specify their limits: thus, "associations which pursue objectives or use means defined as offences" are declared illegal (article 22, para. 2).

Q. Political rights

*(article 21 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 25 of the International Covenant on
Civil and Political Rights)*¹⁸

The Royal Decree law No. 33 of 16 December 1978 concerns the age of majority; under this Decree Law persons over the age of 18 were able to participate in the constitutional referendum even before the entry into force of article 12 of the Constitution which fixed the age of majority at 18 years.

The full exercise of political and civil rights is legally guaranteed to all Spaniards, including the right to participate in the electoral process, to vote and to stand for election. The Spanish Constitution states in article 23:

"1. Citizens have the right to participate in public affairs, directly or through their representatives freely elected in periodic elections by universal suffrage.

"2. They likewise have the right to accede on equal terms to public functions and offices, in accordance with the requirements to be prescribed by law."

In article 143, paragraph 1 of the Constitution, it is stated that "in the exercise of the right to autonomy recognized in article 2 of the Constitution, neighbouring provinces with common historical, cultural and economic characteristics, the island territories and the provinces with historical regional entity may acquire autonomy and constitute self-governing communities in accordance with the provisions of this title and of the respective statutes". Title VIII ("Territorial Organization of the State") devotes chapter 3 to the organization of the "autonomous communities" and establishes a system of fields of competence shared between the State and the organs of each community.

R. Right to social security

*(article 22 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹⁹

Article 41 of the Constitution: "The public authorities shall maintain a public Social Security system for all citizens which will guarantee adequate social assistance and benefits in needy situations, especially in cases of unemployment."

S. Right to work; trade union rights

*(article 23 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²⁰

Article 40 of the Constitution says that the public authorities shall devote special attention to carrying out a policy directed towards full employment.

¹⁸ *Ibid.* (CERD/C/91/Add.6; CCPR/C/4/Add.3; CCPR/C/4/Add.5).

¹⁹ *Ibid.* (CERD/C/91/Add.6).

²⁰ *Ibid.* (CERD/C/91/Add.6).

The right to form and join trade unions is embodied in article 28 of the Constitution, which states:

“Everyone has the right to freely join a trade union. The law may limit the exercise of this right or make an exception to it in the case of the Armed Forces or Institutes or other Corps subject to military discipline, and shall regulate the special features of its exercise by public officials. Trade union freedom includes the right to found trade unions and to join the union of one’s choice, as well as the right of the trade unions to form confederations and found international trade union organizations, or to become members of same. Nobody may be compelled to join a trade union.”

T. Right to an adequate standard of living
(*article 25 (1) of the Universal Declaration;*
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
article 11 of the International Covenant on
Economic, Social and Cultural Rights)²¹

The rights to public health, medical care, and social services are covered by article 43 of the Constitution, which states (article 43):

“The right to protection of health is recognized”,
and article 43.2:

“It is incumbent upon the public authorities to organize and safeguard public health through preventive measures and the necessary benefits and services.”

The following orders and resolutions have been issued in 1979 with a view to reducing crop losses caused by pests:

Order dated 10 April 1979 regulating the campaign against grain insects (bugs and borers);

Order dated 10 April officially acknowledging the presence of and outlining the treatment for the pest *tortrix viridiana* during the present harvest season in the live oak groves in various areas of the provinces of Badajoz, Cáceres, Córdoba, Huelva and Jaén;

Order dated 27 June establishing the plan of campaign against cotton pests for the crop years 1979/80 to 1983/84.

Among legal regulations relating to livestock, reference can be made to the Royal Decree 791/1979 and to the Order of 10 March 1979.

Article 17 of the Constitution expressly recognizes the right to housing.

Since water plays a major role in the transmission of many diseases, drinking-water must meet the specifications of the Spanish Food Code. Achieving uniformity in methods of analysis and involving the health authorities in all actions aimed at regulating this natural resource are indispensable measures for proper sanitary management of water intended for human consumption.

The General Sub-Directorate of Environmental Health, through the Local Offices of the Ministry, monitors the chlorination of the water supply for the various municipalities throughout the country, under Royal Decree 928/1979 of 16 March on health safeguards for drinking-water supply.

Legislation on environmental matters, except for atmospheric pollution, is generally outdated and cannot fully cope with the problems created by industrial development and population growth.

²¹ *Ibid.* (CERD/C/91/Add.6; E/1980/6/Add.28).

The Government is at present drafting a General Environmental Act, which will be submitted to the Cortes in December 1979.

This new legislation will incorporate all the measures for protecting and improving the environment.

**U. Limitations on the exercise of
rights and freedoms; states of emergency**

*(article 29 of the Universal Declaration;
article 4 of the International Covenant on Civil and Political Rights)²²*

The possibility of public emergencies which necessitate provisions or measures suspending the exercise of fundamental rights has been provided for in the Constitution, of which article 55 in chapter V of title I, is entitled "Suspension of Rights and Freedoms".

Article 55, together with article 116, provides for the suspension of certain rights "when a state of emergency or state of siege is declared as provided for in the Constitution".

The fact that other rights may not be suspended is in conformity with the provisions of article 4, paragraph 2, of the Covenant. In that regard it should be noted that articles 6, 7, 8 (paras. 1 and 2), 11, 15 and 18 of the Covenant correspond with articles 15 (right to life and prohibition of torture), 10 (personal dignity), 25 (principle of legality, rehabilitative character of imprisonment and prohibition of administrative penalties involving deprivation of liberty), 25, paragraph 1 (non-retroactivity of penal laws) and 16 (freedom of thought).

The constitutional criterion for the suspension of fundamental rights is therefore stricter than that of the Covenant, in that it specifies the rights which may be suspended, while the remainder may not.

The conditions under which suspension of rights may be granted are laid down in article 116.

Article 53, paragraph 2, provides for a special form of "individual" suspension of the rights to a time-limit on detention pending trial, to inviolability of domicile and to privacy of communications (article 17, para. 2, and article 18, paras. 2 and 3), "for specific persons, in connexion with investigations into the acts of armed bands or terrorist groups".

V. Prevention of terrorism; protection of rights and freedoms

*(article 30 of the Universal Declaration;
article 20 of the International Covenant on
Civil and Political Rights)²³*

Act No. 56 of 4 December 1978 provides for special measures in connection with the offence of terrorism committed by armed groups; this is a transitional law in that it will remain in force for one year only. Under this Act it is possible to prolong police custody with the authority of the court and to intercept communications of persons who may be connected with or members of such armed groups; the Act vests jurisdiction in such cases in the Special National Court (*Audiencia Nacional*). Act No. 22 of 28 December 1978, to amend the Penal Code in its provisions regarding terrorism, abolished the specific offence of terrorism and replaced it by a number of individual offences: "the criminal offences of murder, serious injury, unlawful arrest and holding to ransom or subject to some other condition, unlawful arrest on the pretence of exercise of public functions, possession of arms or ammunition, possession of explosives, causing wilful damage, and criminal offences connected with the

²² *Ibid.* (CCPR/C/4/Add.5).

²³ *Ibid.* (CCPR/C/4/Add.3).

foregoing offences, if committed by persons who are members of organized and armed groups" (article 13). For the like purpose of dealing by legislative measures with the phenomenon of terrorism and other forms of criminality that affect the safety of the citizen, the Royal Decree Law No. 23 of 26 January 1979 concerning the security of the citizen introduced new kinds of offences, including acts connected with terrorism, and provides for a simplified procedure for the trial of persons charged with such offences. Act No. 55 of 4 December 1978, the Police Act enacts provisions relating to the State security forces, consisting of the police and the Guardia Civil, whose functions are defined as being "to defend the constitutional order, to protect the free exercise of rights and freedoms and to guarantee the safety of the citizen" (article 2, para. 1).

SRI LANKA

A. Right to life, liberty and security of person

*(article 3 of the Universal Declaration;
article 6 of the International Covenant on
Civil and Political Rights)*¹

The law provides that no person below the age of 18 years may be sentenced to death. (section 53 of the Penal Code read with section 281 of the Code of Criminal Procedure Act No. 15 of 1979.)

B. Equality before the law; right to a prompt and fair hearing; right of everyone charged with a penal offence to all the guarantees necessary for his defence

*(articles 7, 10 and 11 of the Universal Declaration;
articles 9 and 14 of the International Covenant on
Civil and Political Rights)*²

The Code of Criminal Procedure of Sri Lanka provides that a person arrested shall be produced before a magistrate within 24 hours of the time of his arrest.

Chapter 18 of the Criminal Procedure Code of Sri Lanka states that, no person may be tried twice for the same offence. Provision is made for review of conviction and sentence by a Higher Court when new facts come to light after conviction or sentence.

C. Protection against arbitrary interference with privacy

*(article 12 of the Universal Declaration;
article 17 of the International Covenant on
Civil and Political Rights)*³

The Civil and Criminal Procedure Codes of Sri Lanka state that no one can be arrested or his home subjected to search otherwise than in accordance with the due process of law.

D. Prevention of terrorism; protection of rights and freedoms

*(article 30 of the Universal Declaration;
articles 4 and 9 of the International Covenant on
Civil and Political Rights)*⁴

Against the background of an extremist group who started a campaign of violence in the Northern and Eastern Provinces of Sri Lanka, agitating for the setting up of a separate State called "Ealam", the Government of Sri Lanka, for the purpose of maintaining law and order and its authority in the Northern and Eastern parts of the country and in order to preserve the

¹ Report submitted by State (CCPR/C/14/Add.4).

² *Ibid.* (CCPR/C/14/Add.4).

³ *Ibid.* (CCPR/C/14/Add.4).

⁴ *Ibid.* (CCPR/C/4/Add.6).

unity of the country and its territorial integrity, was constrained to enact Special Legislation in the form of the Prevention of Terrorism (Temporary Provisions) Act which came into operation on 20 July 1979.

Certain in-built safeguards have been introduced into the Act to safeguard the rights of an individual:

(a) Section 6 of the Prevention of Terrorism Act gives the power of arrest only to a Superintendent of Police. A Sub-Inspector of Police may also make an arrest, provided he is authorized in writing to do so by a Superintendent of Police.

(b) The suspect arrested and any of his relations or his friends, who may be present, are informed by the officer making the arrest of the reasons for arrest.

(c) Where a person is taken into custody on a detention order, he is served with a copy of the detention order. This copy sets out the reasons for detention and also specifies the place at which he is to be detained.

(d) An important safeguard with regard to the rights of a person detained under the Prevention of Terrorism Act is the establishment under the Act, of an Advisory Board consisting of three persons appointed by the President. Any person in respect of whom any detention order has been made or any other person on his behalf is entitled to make representations to the Advisory Board. After considering the representations made to the Board, it is the duty of the Chairman of the Board to advise the Minister in respect of such representations.

(e) The right to a writ of *habeas corpus* is not taken away in the Prevention of Terrorism Act.

SURINAME

A. Right to life

*(article 3 of the Universal Declaration;
article 6 of the International Covenant on
Civil and Political Rights)¹*

The death penalty may not be executed against a pregnant woman (article 499a of the Code of Criminal Procedure).

B. Prohibition of torture and inhuman or degrading treatment or punishment; treatment of offenders

*(article 5 of the Universal Declaration;
articles 7 and 10 of the International Covenant on
Civil and Political Rights)²*

The new Code of Criminal Procedure went into effect in Suriname on 1 January 1979. It gives extensive consideration to the modern and humane treatment of persons who have been legally deprived of their liberty.

The principle of release on bail is unknown in Suriname's Code of Criminal Procedure. The important feature of the new Surinamese Code of Criminal Procedure is the principal idea that a person who is suspected of having committed a crime and who is detained on that ground may in principle be held no longer than 120 days in detention under remand (cf. article 60a, para. 1, of the Code of Criminal Procedure).

Paragraph 2 of article 60a specifies the grounds on which the 120-day period of detention under remand can be extended. Also as the result of provisions in the new Code of Criminal Procedure, other legal measures have come into being that govern the treatment and the rights of persons being detained on remand and the legal assistance that must be provided to a suspect even if he cannot pay for it himself.

The penal statutes, as well as the regulations based on the Code of Criminal Procedure, offer protection against the penalties specified in article 7 of the Covenant to persons who have been lawfully deprived of their liberty.

Based on the Code of Criminal Procedure, legal regulations have been established governing the treatment of persons detained on remand and the rights they enjoy during the period before their trial.

C. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 2 of the International Covenant on
Civil and Political Rights)³*

In Suriname compensation for violation of rights can be obtained in a number of ways. If the violation also involves an act designated as punishable in the Criminal Code, it will be officially prosecuted by the Public Prosecutor (article 2, Code of Criminal Procedure).

¹ Report submitted by State (CCPR/C/4/Add.4).

² *Ibid.* (CCPR/C/4/Add.4).

³ *Ibid.* (CCPR/C/4/Add.4).

In his action the party injured can demand restitution up to a certain material maximum for the damages caused him by such action (article 316, Code of Criminal Procedure).

If the office of the Public Prosecutor does not prosecute a criminal action on its own initiative, the party concerned may bring his complaint to the Court of Justice, and the Court can order the Attorney-General to undertake or advance prosecution (article 4, Code of Criminal Procedure).

**D. Right not to be subjected to arbitrary trial or detention;
right to a prompt and fair hearing; right of everyone
charged with a penal offence to all the guarantees
necessary for his defence**

*(articles 9, 10 and 11 of the Universal Declaration;
articles 9 and 14 of the International Covenant on
Civil and Political Rights)⁴*

With regard to paragraphs 2, 3, and 4 of article 9 of the Covenant, the situation of a person who is being held under suspicion of having committed a punishable act is governed by the Code of Criminal Procedure, the relevant articles of which will be referred to in the discussion of the procedure following immediately hereafter.

He may be detained for a maximum of six hours after arrest for hearing by the police (article 53, para. 2). If there are grounds for detaining the suspect longer than six hours, on the basis of article 48 the prosecutor or an auxiliary prosecutor (namely, a superior police officer) may issue a "precautionary" order against him for a maximum of seven days. This may be done only if the action of which the individual is suspected warrants detention on remand according to the law (article 56). From this time on the suspect has the right to be assisted by counsel, whom he himself may select or who will be assigned to him at the expense of the Government if he himself cannot pay for counsel. As provided in article 54a, the suspect has the right to petition the judge charged with the preliminary judicial investigation for his release. If this judge finds that he has been unlawfully deprived of his liberty, he orders immediate release of the suspect. If extension of the "precautionary" detention is necessary for reasons of urgent need, the suspect will be brought before the public prosecutor, who in accordance with article 50 may order seven more days of "precautionary detention". If in the interests of the investigation the suspect cannot thereafter be released, according to article 55 he must be brought before the judge charged with the preliminary judicial investigation, who may grant an order for his "custody" for a maximum of 30 days. In the interests of the investigation, this period may be extended for another 30 days.

Pursuant to article 60a, except in special cases specified by law no one may be held for more than 120 days in detention on remand without being brought to trial before a judge.

A "custody" order, which in principle can cover a period of 120 days, will be issued pursuant to law if the investigation uncovers serious facts against the suspect, or if the possibility of flight or preponderant concern for the safety of the community exists.

The right to compensation in the event of unlawful deprivation of liberty is governed by articles 77-81 inclusive of the Code of Criminal Procedure.

Suriname's penal system includes the principle that no one may be sentenced unless lawful and convincing proof is given against him at a trial that he committed the deed.

The requirement that he be summoned to appear before the judge on a specific day guarantees the defendant that he will be present when he is judged. As already mentioned in connection with article 9, he has the right to choose his attorney, and he must be informed of

⁴ *Ibid.* (CCPR/C/4/Add.4).

this right immediately after his arrest. If he cannot pay his attorney, an attorney will be assigned to him at Government expense.

Pursuant to article 178 of the Code of Criminal Procedure, an interpreter must be appointed for the accused if he does not speak Dutch, the language of the Courts in Suriname.

Immediately upon his arrest the accused must be informed that he is not obliged to answer the questions put to him (article 21, Code of Criminal Procedure).

In Surinamese criminal procedure the accused can always appeal from the judge's decision if he is sentenced to imprisonment (article 368).

SWEDEN

A. Condemnation of racial segregation and *apartheid* *(articles 1 and 2 of the Universal Declaration; article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination)*¹

As regards the legislation which prohibits new Swedish investments in South Africa and Namibia, the Act, which became effective on 1 July 1979, restricts Swedish investments in South Africa and Namibia, the purpose being to increase international pressure on the South African régime and to combat its racial policy. Sweden seems to be the only country so far which has used legislation to restrict the commercial operations of its companies in South Africa and Namibia, and the Swedish Government hopes that other States will follow this example.

The 1979 Act prohibits any new Swedish investments to be made in those countries. It is true that exemptions may be granted for a particular investment or for investments in a particular company during one year, but such exemptions may not enable a company to extend its operations in South Africa and Namibia. Every year the Swedish Government presents a white paper to Parliament on the business activities of Swedish companies in South Africa and Namibia. So far no violations of the law have been discovered which necessitated prosecution or other action.

Sweden gives humanitarian aid to the liberation movements ANC, which works for a South Africa free from *apartheid*, and SWAPO, which works for an independent Namibia. During the present fiscal year, Swedish aid amounts to 20 million Swedish crowns to ANC and 33 million crowns to SWAPO. The aid is used to support refugees in the neighbouring countries. It consists of food, vehicles, clothes, equipment to refugee camps, school education, medicine and medical equipment. Agricultural equipment and tools are obtained to make the camps self-supporting. Sweden also pays substantial contributions to UNTF, UNETPSA, the Namibia Institute and UNHCR in order to provide for aid to refugees from South Africa and Namibia and to give legal aid and other support to the victims of *apartheid* and their families. The total Swedish financial support to liberation movements, refugees and the victims of the *apartheid* régime in southern Africa amounted during the last fiscal year (1 July 1979-30 June 1980) to 136.6 million Swedish crowns.

B. Elimination of racial discrimination: development and protection of certain racial groups or individuals belonging to them *(article 2 of the Universal Declaration; article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination)*²

In 1979, a Government Commission was entrusted with the task of making a study of the profitability of reindeer breeding and of the economic conditions of those who engage in that occupation. The purpose of the study is to ensure a satisfactory economic standard and stable employment to Lapps engaged in reindeer breeding. In this connection, the Commission has also been asked to consider the most appropriate forms of Government support of the Lapps in connection with reindeer breeding.

¹ Reports submitted by State (CERD/C/75/Add.1; CERD/C/106/Add.2).

² *Ibid.* (CERD/C/75/Add.1).

As regards consultations with immigrant groups, it should be pointed out that, according to its instruction, the National Immigration and Naturalization Board shall be a "contact organ" between the Swedish society and the immigrants, the linguistic minorities and their organizations. It has been left to the discretion of the Board to determine the forms in which these contacts are to be established. During the last couple of years the National Immigration and Naturalization Board has, on a provisional basis, worked together with two "reference groups" composed of representatives of the immigrant organizations.

In addition to the meetings of these "reference groups", the National Immigration and Naturalization Board has had a number of other consultations with representatives of immigrant organizations. The Board also co-operates with these organizations in preparing conferences and seminars. A leaflet on the work of the immigrant organizations is being prepared by the Board in consultation with these organizations. The Ministry of Labour, which at governmental level is responsible for questions of immigration, has also occasionally organized consultations with representatives of the immigrants.

C. Prohibition of incitement to racial discrimination

*(article 7 of the Universal Declaration;
article 4 of the International Convention on the Elimination of
All Forms of Racial Discrimination)*³

In 1979, the Chancellor of Justice decided to institute criminal proceedings against a person for distributing a publication of an anti-semitic character. He was charged with agitation against an ethnic group as prohibited under chapter 16, section 8, of the Penal Code. The trial has been delayed because of difficulties in locating the accused person.

D. Protection of the family, motherhood and childhood

*(articles 16 (3) and 25 (2) of the Universal Declaration;
article 10 of the International Covenant on Economic, Social and Cultural Rights)*⁴

On 1 July 1979 new legislation regarding the obligation to pay maintenance allowance entered into force. The new law emphasizes the responsibility of both spouses for the family, the home and the children. During the marriage, both spouses shall provide for their joint as well as for their personal needs. After the dissolution of the marriage, the main rule is that each spouse shall only provide for his or her own maintenance.

As from 1 July 1970 the right to obtain an advance payment of a maintenance allowance also exists in regard to children who are under the custody of both parents, provided that the parents do not live together.

A Government commission called the Commission on Children's Rights is now engaged in reviewing the provisions of Swedish law regarding custody of children, the right of access to children and certain enforcement measures in regard to children. According to its terms of reference, the Commission shall examine, *inter alia*, the possibilities of strengthening further the rights of the child itself in matters of custody. In this context, the Commission will also examine the question as to how the interests of the child can be best represented and defended, for instance through a special Children's Ombudsman or any other person specifically entrusted with this task.

³ *Ibid.* (CERD/C/75/Add.1).

⁴ *Ibid.* (E/1980/6/Add.8).

E. Freedom of opinion and expression

(*article 19 of the Universal Declaration;
article 19 of the International Covenant on Civil and Political Rights*)⁵

Certain amendments have recently been made in the Radio Act (1966:755). Thus, instead of one single broadcasting corporation the Act as amended provides for several enterprises, the exact number of which will be fixed by the Government. The Act will be supplemented by agreements between these enterprises and the Government. The Act lays down the fundamental principles for the exercise of the radio and television activities. These principles have not been changed. Section 8 of the Act provides that no authority or other public organ may examine in advance or order an advance examination of a broadcast, nor may a broadcast be prohibited on account of its contents.

F. Right to social security

(*article 22 of the Universal Declaration;
article 5 of the International Convention on the Elimination of All Forms of Racial
Discrimination*)⁶

As regards the right of aliens to a basic Swedish old-age pension, a Bill was submitted to Parliament in 1978. The proposals contained in the Bill were approved by Parliament, and the new legislation entered into force on 1 July, 1979. According to this new legislation, a person who is not a Swedish citizen but is a resident of Sweden is entitled to a basic old-age pension on the same conditions as a Swedish citizen, provided that he has resided in Sweden during the last five years and that he has resided in Sweden for at least 10 years after he reached the age of 16.

G. Right to an adequate standard of living; right to health

(*article 25 (1) of the Universal Declaration;
article 12 of the International Covenant on Economic, Social and Cultural Rights*)⁷

In the spring of 1979, the National Board of Health and Welfare presented a draft programme for the medical care of mothers and children. This programme is meant to provide guidelines for the public bodies which are responsible for providing medical care.

According to the draft programme, the principal aims of the system of medical care for mothers and children are said to be:

To reduce mortality, diseases and handicaps among future mothers or mothers of small children, as well as among pre-school children;

To reduce any harmful strain on parents and children;

To support and activate parents in their roles as parents and thereby to create favourable conditions for the all-round development of children.

The contemplated activities will include preparations for parenthood, providing advice to young people on birth control, teaching to parents, providing information on sexual matters and on children's development.

In 1979 a law was adopted in Sweden, according to which children must not be subjected to corporal punishment or to any other degrading treatment.

⁵ *Ibid.* (CCPR/C/1/Add.42).

⁶ *Ibid.* (CERD/C/75/Add.1).

⁷ *Ibid.* (E/1980/6/Add.8).

H. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the Elimination of
All Forms of Racial Discrimination)⁸

In the existing plans of instruction for the Swedish compulsory school and secondary school, attention is given to instruction regarding human rights. Many of the basic ideas embodied in the Universal Declaration of Human Rights are to be found under "Objectives and guidelines" in these plans of instruction. One of the over-all objectives of the Swedish school is, for instance, stated to be the promotion of "the personal maturing (of the pupils) to free, independent and harmonious individuals . . . to create understanding for the situation of other peoples and to be able to feel solidarity with them . . .".

The theme "human rights and fundamental freedoms" is not a separate subject in Swedish schools but is dealt with within the framework of several general subjects, such as history, civics and religion. In the plan of instruction for the compulsory school it is stated *inter alia* that "the United Nations Declaration should be kept alive in such a way that its rules are dealt with in appropriate situations, for instance when one speaks or reads about children who are different, or about people who live in conditions alien to us, when one tries to teach the pupils to respect the cultural contributions and the social thinking of other groups, or when one speaks about legal norms under different historic eras and in different social systems etc."

An important task for the teachers is to combat any prejudiced and negative attitudes among the pupils in regard to other peoples and their habits. The teaching should promote respect for and understanding of all peoples, their cultures, views and customs so as to encourage international solidarity and co-operation.

As a result of an extensive immigration into Sweden during the post-war period, Sweden has developed into a multilingual and multicultural society. This has made it necessary, in the Swedish school system, to pay special attention to the needs and wishes of the immigrant children and their parents. At the same time it has made it essential to teach the other children respect for the immigrants and their home countries and understanding of their special problems.

In the plan of instruction for the compulsory school it is also indicated that the school shall strengthen, in the minds of the pupils, "the democratic principles of tolerance, co-operation and equality of human beings". It shall "create among the young people an increased understanding of the lives and conditions of people belonging to other, more distant societies and teach them to realize the importance of good international relations and of international co-operation".

The plan of instruction mentions, by way of example, as matters to be dealt with in the teaching of international questions, "racial problems and international co-operation in different areas". It emphasizes "the increasing requirements of solidarity between all men, which should be independent of national and racial boundaries".

Similarly, the plan of instruction for the secondary school refers to "racial and minority questions" and to "racial antagonism" as matters which should be dealt with in the teaching of civics.

It should be added that the same principles of respect for human rights are the basis of the teaching at university level.

In the training of teachers, the universities shall pay special attention to the problems connected with the teaching of immigrant children.

⁸ *Ibid.* (CERD/C/48/Add.1).

I. Right to take part in cultural life

*(article 27 of the Universal Declaration;
article 15 of the International Covenant on
Economic, Social and Cultural Rights)*⁹

While the Swedish press is entirely free and has no responsibility to the State, the Swedish Radio Corporation is bound by an agreement with the State regarding the principles that should be complied with in its broadcasting activities. According to the latest agreement of that kind, which was concluded in 1979, the Swedish Radio Corporation is responsible not only for supplying culture to the public, but also for encouraging and stimulating the creation of cultural works. One way of doing this on a large scale has been to set up the so-called Neighbourhood Radio. Another activity of an experimental character which has been initiated by Swedish radio and television is carried out by the so-called tape workshops which put technical facilities for programme production at the disposal of the public.

Archives for sound and picture were created from 1 January 1979. Their task is to preserve radio and television programmes, films, phonograms and videograms. The archives may be used for research purposes.

⁹ *Ibid.* (E/1982/3/Add.2).

SYRIAN ARAB REPUBLIC

A. Condemnation of racial segregation and *apartheid*

(articles 1 and 2 of the Universal Declaration;
article IV of the International Convention on the Suppression and
Punishment of the Crime of Apartheid)¹

The Syrian Arab Republic whether through governmental or non-governmental organizations has continuously imparted information on the dangers that the policies of *apartheid* and racism pose to the freedom and to the equality and dignity of man as well as to world peace and security. School textbooks and all information media have been systematically denouncing the evils of *apartheid* as a system of colonial economic exploitation as well as a gross violation of the basic principles of human rights.

B. Right to a nationality

(article 15 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²

The Syrian Nationality Act of 1979 considers, *inter alia*, a person as Syrian Arab citizen in the following cases:

- (a) He or she who is born in Syria or born abroad of a Syrian Arab father;
- (b) He or she who is born in Syria from parents whose nationality is unknown or stateless;
- (c) An illegitimate child, provided he or she is minor, is to be considered Syrian Arab, if one of the parents recognizes him or her to be his or her child before the other parent does so;
- (d) A foundling is considered Syrian-born unless the contrary is proven.

No Syrian citizen can be deprived of his/her nationality except when a Court of Law decides to deprive him/her of it for offences punishable by law. One such offence is the fraudulent acquisition of Syrian nationality, or serving the interests of a foreign army.

C. Right to social security

(article 22 of the Universal Declaration;
article 9 of the International Covenant on
Economic, Social and Cultural Rights)³

Act No. 1344 of 22 October 1978 provides for the application of work accident insurance and old-age, disability and death insurance provisions to all workers employed in agriculture by the State and the public sector as at 1 January 1979.

¹ Report submitted by State (E/CN.4/1353/Add.2).

² *Ibid.* (CERD/C/91/Add.36).

³ *Ibid.* (E/1978/8/Add.31).

D. Right to an adequate standard of living (right to health)

(article 25 (1) of the Universal Declaration; article 12 of the International Covenant on Economic, Social and Cultural Rights)⁴

Act No. 1 of 6 February 1979 was promulgated to establish the General Department of Health Security, which aims at providing health insurance for all citizens of the country.

E. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

(article 26 (2) of the Universal Declaration; article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination)⁵

The Syrian Arab Republic has since the creation of the world organization adopted adequate national directives and measures in the fields of teaching, education, culture and information in order to achieve the objectives of article 7 of the Convention and all this before it ratified the foregoing instrument. History and national education books in secondary schools extensively deal with the role of the Charter of the United Nations and the Universal Declaration of Human Rights as well as other instruments for the establishment of friendly relations and the creation of a world system based on justice, sovereign equality, self-determination, the non-use of force and the liquidation of aggression, racism, colonialism and economic exploitation.

The Syrian mass media have been constantly and systematically denouncing the evils of racism, particularly *apartheid* and zionism or any other racist doctrine that violates the Charter of the United Nations, the International Convention and other humanitarian instruments.

Needless to state that the Syrian Arab Republic commemorates every year the anniversary of the Universal Declaration of Human Rights, and takes active part at both popular and governmental levels in the activities of the International Day to combat Racism and Racial Discrimination, in addition to activities of the International Day for Solidarity with the People of Palestine.

⁴ *Ibid.* (E/1980/6/Add.9).

⁵ *Ibid.* (CERD/C/66/Add.22).

TOGO

Introduction: general legal framework¹

The Togo Constitution of 30 December 1979 proclaims the will of the people of Togo to consolidate its new-found national unity and to remain faithful to the human values which constitute the common heritage of peoples who believe in human dignity, justice and freedom and who are striving for peace, progress and co-operation among nations.

Article 7 of the preamble to the Constitution indicates that Togo has acceded to the Charter of the United Nations, the Charter of the Organization of African Unity, the Charter of the Economic Community of West African States (ECOWAS) and the Universal Declaration of Human Rights of 10 December 1948.

Article 9 of the preamble also describes the country's will to establish ties of friendship and co-operation with all peoples in accordance with the principles of equality, mutual interest and mutual respect for national sovereignty and territorial integrity.

Article 4 of the Constitution provides that

“All Togolese, without distinction as to origin, sex, belief or opinion, shall have equal rights and duties.”

Article 6 states that

“The Republic of Togo guarantees every citizen respect, in conformity with the law, for the rights and freedoms of the human person, the family and the local community, including political freedoms; philosophical and religious freedoms; trade union freedoms; the right to own property either individually or collectively; and economic and social rights.”

Article 49 provides that

“The judicial authority, the guardian of freedoms, shall ensure respect for the fundamental rights of the citizen.

“No one may be arbitrarily detained.

“No one may be tried without defence counsel.

“No one may be deprived of his freedom and rights, except as provided for by law.”

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²*

At the international level, Togo has always spoken out against *apartheid* and racism and has always supported the national liberation movements in southern Africa that are struggling to free their peoples from the colonial yoke, racial discrimination and *apartheid*.

A Togolese National Committee for Activities to Support the Struggle Against *Apartheid* is being established.

The Government of Togo has always strongly condemned racial discrimination in

¹ Report submitted by State (CERD/C/75/Add.12).

² *Ibid.* (CERD/C/75/Add.12).

general and *apartheid* in particular. It regards *apartheid* as an odious crime against mankind and has taken specific measures to combat it.

The policy of the Government of the Republic of Togo is not to maintain any diplomatic, economic or other relations with the racist South African régime. In accordance with the relevant resolutions of the Organization of African Unity and the General Assembly and Security Council of the United Nations, it scrupulously observes the sanctions taken against South Africa.

B. Elimination of racial discrimination or incitement to it; equal treatment before the law

*(articles 2 and 7 of the Universal Declaration;
articles 2, 4 and 5 of the International Convention on the Elimination of
All Forms of Racial Discrimination)*³

The provisions of the Constitution of the Republic of Togo relating to the fundamental rights of citizens (articles 4 to 6 of the Constitution of Togo) constitute sufficiently effective measures to combat any manifestation of racial discrimination. These constitutional provisions, as well as the watchwords and resolutions of the Party (Togolese People's Rally), which prohibit racial discrimination, are binding on all national and local Government authorities. Any incitement to racial or ethnic hatred is, of course, regarded as a failure to observe the Party's principles and as a criminal offence.

Article 4 of the Constitution of Togo establishes the principle of equality, which rules out discrimination in the administration of justice and provides for the right to equal treatment before the courts.

**C. Right to life, liberty and security of person;
right not to be subjected to arbitrary arrest or detention;
right of everyone charged with a penal offence to all the guarantees necessary for his defence**

*(articles 3, 9 and 11 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

The right to security of person and protection by the State against violence or bodily harm is guaranteed by article 49 of the Constitution of Togo, which states that

“The judicial authority, the guardian of freedoms, shall ensure respect for the fundamental rights of citizens.

“No one may be arbitrarily detained.

“No one may be tried without defence counsel.

“No one may be deprived of his freedom and rights except as provided for by law.”

D. Right to an effective remedy

*(article 8 of the Universal Declaration;
article 6 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁵

Everyone in Togo is entitled to seek from the courts guarantees of respect for his rights and interests. No one may be denied the protection of the judicial authorities.

³ *Ibid.* (CERD/C/75/Add.12).

⁴ *Ibid.* (CERD/C/75/Add.12).

⁵ *Ibid.* (CERD/C/75/Add.12).

Citizens may seek remedies from the courts against any acts of racial discrimination which violate their individual rights and fundamental freedoms.

In this connection, article 49, paragraph 1, of the Constitution of Togo provides that “The judicial authority, the guardian of freedoms, shall ensure respect for the fundamental rights of citizens.”

E. Political rights

*(article 21 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁶

The full exercise of political and civil rights and, in particular, the right to participate in elections, to vote and to stand for election by universal, equal and secret vote is expressly guaranteed to all Togolese by the Constitution.

Article 3 of Constitution states that:

“The vote may be either direct or indirect, as specified by the Constitution. It shall always be universal, equal and secret. Citizens of Togo of both sexes who are of full age and in full possession of their civil and political rights shall be entitled to vote under the conditions established by law.”

F. Trade union freedoms

*(article 23 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁷

Trade-union freedoms are recognized and guaranteed by article 6 of the Constitution and by the provisions of the Labour Code. Trade-union life in Togo is very active. The right to strike is recognized. There is a single trade union, the National Confederation of Togolese Workers (CNTT), one of whose watchwords is “building in unity”. Disputes and social conflicts are usually settled by negotiation, conciliation and dialogue. CNTT is one of the pivots of the Togolese People’s Rally.

⁶ *Ibid.* (CERD/C/75/Add.12).

⁷ *Ibid.* (CERD/C/75/Add.12).

TRINIDAD AND TOBAGO

A. Condemnation of racial segregation and *apartheid* *(articles 1 and 2 of the Universal Declaration; article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination)*¹

In 1979 the Government of the Republic of Trinidad and Tobago increased benefits to the victims of *apartheid* by contributing to a third fund for victims of *apartheid* — the United Nations Educational and Training Programme for Southern Africa. In addition, Trinidad and Tobago agreed to extend its continuing programme of assistance to southern Africa by awarding 15 scholarships in agricultural science and engineering for use by the Government of Zimbabwe.

B. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups *(article 26 (2) of the Universal Declaration; article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination)*²

The Government of the Republic of Trinidad and Tobago will reaffirm its adherence to the principles, values and ideas contained in the Universal Declaration of Human Rights with special emphasis on the rights of the child which will be the focus of attention during the International Year of the Child in 1979.

The Public Relations Division of the Prime Minister's Office will collaborate with the United Nations Secretariat in order to obtain and publicize materials relevant to the Universal Declaration of Human Rights with particular emphasis on the Rights of the Child;

Implementation of the recommendation of the International Year of the Child Committee that ecumenical services be held throughout the nation on Human Rights Day;

Participation by public and private primary and secondary schools in an appropriate programme to be arranged to mark the occasion on Friday, 7 December. The programme will focus on the theme "Peace and Equality" and also on the President's address to the nation's youth.

On the occasion of the Observance of the International Day for the Elimination of Racial Discrimination, 21 March 1979, the Government of the Republic of Trinidad and Tobago addressed a message to the Special Committee against *Apartheid* of which Trinidad and Tobago is a member.

The commitment of the Government of Trinidad and Tobago to the promotion of racial harmony is exemplified at the regional level by paragraph 12 of a Memorandum of understanding signed by the Prime Ministers of Trinidad and Tobago and Barbados, on 30 April 1979, which states:

"Conscious of the importance of the proper functioning of a multiracial society to the promotion of stability within their territories, and aware of the demise of the Centre for Multiracial Studies at Cave Hill, Barbados, . . . agreed to take all necessary action for the early revitalization of a Caribbean Centre for Multiracial Studies and specifically

¹ Report submitted by State (CERD/C/64/Add.3).

² *Ibid.* (CERD/C/17/Add.3; CERD/C/64/Add.3).

for the preservation of the Richard Moore Library in the interests of West Indian scholarship and the availability of these records to the widest possible audience.”

C. Right to a social and international order in which human rights can be realized
(*article 28 of the Universal Declaration*)³

Trinidad and Tobago deposited its instruments of accession in respect of both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights with the Secretary-General on 8 December 1978 and 21 December 1978 respectively.

³ *Ibid.* (CERD/C/17/Add.3).

TUNISIA

A. Condemnation of racial segregation and *apartheid*
(*articles 1 and 2 of the Universal Declaration;*
article VI of the International Convention on the
Suppression and Punishment of the Crime of Apartheid)¹

Tunisia responded favourably to the United Nations request to participate in United Nations operations in Namibia. Its reply was transmitted to the Secretary-General of the United Nations on 7 March 1979.

B. Political rights
(*article 21 of the Universal Declaration;*
article 25 of the International Covenant on Civil and Political Rights)²

Tunisian law has developed in a progressive and liberal form, from the single list to the expanded single list, and to several competing but non-expanded lists (Organizational Law 79-35 of 15 August 1979).

¹ Report submitted by State (E/CN.4/1983/24/Add.14).

² *Ibid.* (CCPR/C/1/Add.61).

UKRAINIAN SOVIET SOCIALIST REPUBLIC

Introduction: general legal framework¹

The process of the development and improvement of legislation in the Ukrainian SSR has been particularly active since the adoption in 1978 of the Republic's new Constitution. Effect is gradually being given to the plan, approved by the Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR of 19 June 1978, for aligning the laws of the Republic with the Constitutions of the USSR and the Ukrainian SSR.

At a meeting on 12 September 1979, the Presidium of the Supreme Soviet of the Ukrainian SSR discussed the status of work on the improvement and systematization of the laws of the Republic and adopted a Decree which notes, in particular, that the measures to improve and systematize the laws of the Ukrainian SSR have enabled the workers to become more widely acquainted with those laws and has helped to strengthen the protection afforded to the interests of society and the rights and freedoms of citizens.

Numerous legislative instruments adopted in 1979 are of direct relevance to the development and realization of the rights and freedoms enshrined in, and guaranteed by, the Constitution of the Ukrainian SSR.

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
articles VI and VII of the International Convention on the Suppression and Punishment of the
Crime of Apartheid)²*

In accordance with article VII of the Convention, the Ukrainian SSR offers political, moral and material assistance and support to the fighters against *apartheid*, colonialism and racism and to the national liberation movements of South Africa and Namibia, and contributes regularly to the United Nations Trust Fund for South Africa. Students from southern Africa are being trained in the Ukrainian SSR.

B. Treatment of offenders

(article 5 of the Universal Declaration)³

The purpose of the Decree of the Plenum of the Supreme Court of the Ukrainian SSR "On the sentencing practice of courts of the Ukrainian SSR in criminal cases", adopted on 11 May 1979, was to guarantee socialist legality, protect the rights and freedoms of citizens and educate them in a spirit of respect towards the rights, honour and dignity of other persons.

The Decree states that courts must eliminate any shortcomings in their practice and take steps to ensure that the penalty imposed, while representing a punishment for the crime committed, at the same time contributes as far as possible to the correction and re-education of the convicted person and the prevention of further crimes.

¹ Contribution submitted by State.

² Report submitted by State (E/CN.4/1415/Add.5).

³ Contribution submitted by State.

The Decree provides that, in imposing penalties upon minors, courts should consider the possibility of deferring execution of the sentence and should scrupulously fulfil their legal obligation to take into account the crime's nature and degree of danger to the public, the offender's personality and other circumstances, and the possibility of correcting and re-educating him without isolating him from society.

C. Political rights

*(article 21 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁴*

On 13 December 1979, the Supreme Soviet of the Ukrainian SSR made a number of changes in and additions to the Republic's laws concerning regional, city, urban district, settlement and rural Soviets and approved the new wording of those laws. The new texts of the laws concerning the local Soviets of People's Deputies now embody the constitutional provisions concerning the organization of those organs of State power and reflect the further development of the democratic principles underlying their activity and their enhanced role in the resolution of major issues involved in building up the State, the economy and the social and cultural structure. The powers of the Soviets have been extended and clarified, particularly as regards safeguarding the rule of law, public order and citizens' rights.

On 27 June 1979, the Supreme Soviet of the Ukrainian SSR adopted the Act of the Ukrainian SSR on Elections to Local Soviets of People's Deputies of the Ukrainian SSR. The Act reflects all the constitutional principles of the Soviet electoral system and declares that the election of deputies to all Soviets shall be carried out by secret ballot on the basis of universal, equal and direct suffrage. The whole tenor of the Act is permeated by a desire to create the most favourable conditions and genuine guarantees for the exercise by citizens of their electoral rights. The Act provides for fuller involvement of public organizations, labour collectives and citizens in the preparation and conduct of elections.

The Act devotes substantial attention to the question of publicity in connection with the preparation and conduct of elections. It has promoted still more active participation by working people in the management of State and public affairs.

On 27 June 1979, the Supreme Soviet of the Ukrainian SSR also promulgated changes in and additions to the laws of the Republic concerning the recall of Ukrainian Supreme Soviet deputies and regional, district, city, urban-district, settlement and rural Soviet deputies and approved the new wording of those laws.

D. Right to an adequate standard of living

(article 25 (1) of the Universal Declaration)⁵

At its tenth session, the ninth Supreme Soviet of the Ukrainian SSR examined an item entitled "The status of the medical services provided for the population of the Republic and measures for their future improvement in the light of the provisions of the USSR Constitution, the Constitution of the Ukrainian SSR and the Health Care Act of the Ukrainian SSR" and, on 27 June 1979, adopted a corresponding decree. The decree notes that, on the basis of the gradual implementation of the socio-economic programme mapped out by the Twenty-fifth Congress of the CPSU, significant progress has been achieved in the Republic with respect to the protection and improvement of the health of citizens, the training of medical staff, and improvement of the environment.

⁴ *Ibid.*

⁵ *Ibid.*

In the Decree, the Supreme Soviet of the Ukrainian SSR, considering protection of the people's health to be a prime concern of the Communist Party and the Soviet State and a social task of the first importance, prescribed specific measures for further improvement of the medical services provided for the Republic's population.

A decree of the Central Committee of the Communist Party of the Ukraine and the Council of Ministers of the Ukrainian SSR of 9 January 1979 "On additional measures for further improvement of the living conditions and welfare of participants in the Great Patriotic War" establishes privileges and benefits for participants in the Great Patriotic War (in respect of the use of public transport, the receipt of subsidies for individual housing construction, annual leave, free passes to sanatoria and rest homes, etc.) and provides additional privileges for invalids of the Great Patriotic War.

E. Protection of motherhood and childhood

*(article 25 (2) of the Universal Declaration;
article 10 of the International Covenant on
Economic, Social and Cultural Rights)⁶*

Much useful work was done during the International Year of the Child (IYC) in 1979 towards further enhancing motherhood and childhood in the Ukrainian SSR.

Care for the rising generation inspired the Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR of 15 March 1979 "On the International Year of the Child in the Ukrainian SSR". The Decree expresses support for resolution 31/169 of the United Nations General Assembly which proclaimed 1979 the International Year of the Child and urged Governments to expand their efforts to provide lasting improvements in the well-being of their children. The Decree provided for the institution of a system of State and public measures designed to afford mother and child fuller protection, improve child health and give children a better upbringing and education. The Decree also established a commission for marking the International Year of the Child in the Ukrainian SSR.

F. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁷*

In 1978-1979 constant attention was devoted in the Ukrainian SSR to further publicizing the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and the Declaration and Convention on the Elimination of All Forms of Racial Discrimination. In response to appeals by the United Nations and other international organizations, public organizations in the Ukrainian SSR organize events every year dedicated to the International Day for the Elimination of Racial Discrimination, the Day of Solidarity with the Palestinian People, the Week of Solidarity with the Struggle of the Peoples of Southern Africa and other dates set aside for the purpose of rallying the world's progressive forces struggling for the elimination from our planet of racism, *apartheid* and racial discrimination, the most flagrant and massive violations of human rights and freedoms.

⁶ Report submitted by State (E/1980/6/Add.24); contribution submitted by State.

⁷ Report submitted by State (CERD/C/66/Add.15).

G. Duties to the community
(*article 29 of the Universal Declaration*)⁸

On 13 December 1979 the Supreme Soviet of the Ukrainian SSR approved the Forestry Code of the Ukrainian SSR, confirming, *inter alia*, the constitutional principle that forests are the property of the State and establishing the rights and duties of citizens in connection with the use of forest resources.

⁸ Contribution submitted by State.

UNION OF SOVIET SOCIALIST REPUBLICS

Introduction: general legal framework¹

The second session of the tenth USSR Supreme Soviet, held in November 1979, devoted considerable attention to the further strengthening of socialist legality and the further improvement of Soviet legislation. The following laws of the USSR were adopted at the session: "Law on popular control in the USSR", "Law on the Supreme Court of the USSR", "Law on the Procurator's Office of the USSR", "Law on State arbitration in the USSR" and "Law on the legal profession in the USSR".

These laws provide vivid testimony of the continued and consistent development of socialist democracy and the strengthening of the legal basis of State and public life. In this connection, the maintenance of legality and law and order are inextricably linked with the education of citizens in the spirit of scrupulous and unswerving implementation of the Constitution of the USSR and other legislative acts and the observance of State discipline. The main goal of improving and developing the Soviet legislative system is to ensure the fullest possible satisfaction of the material and spiritual needs of Soviet citizens and comprehensive guarantees of their rights and freedoms.

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the
Elimination of All Forms of Racial Discrimination;
articles IV and VI of the International Convention on the
Suppression and Punishment of the Crime of Apartheid)*²

¹ Widespread public activity in support of the peoples struggling against colonialism and racism, racial discrimination and *apartheid* continued in the Soviet Union in 1978-1979.

Public meetings and gatherings were held in many cities of the Soviet Union to mark the International Day for the Elimination of Racial Discrimination (21 March) and the beginning of International Anti-*Apartheid* Year. A Week of Solidarity with the Struggle of the Peoples of Southern Africa was held from 25 to 31 May.

Soviet public organizations took an active part in organizing expressions of solidarity with the struggle of the peoples of southern Africa against racism and *apartheid*: Zimbabwe Day on 17 March, Day of Solidarity with the Struggle of the Peoples of Southern Africa on 16 June, Southern Africa Freedom Day on 26 June, Namibia Day on 26 August, International Day of Solidarity with Political Prisoners in Southern Africa on 11 October, Day of Heroes of Southern Africa on 16 December.

Delegations of southern African national liberation organizations—African National Congress (ANC), Patriotic Front of Zimbabwe and SWAPO—visited the Soviet Union and their leaders spoke at public meetings and gatherings.

Soviet public organizations provided direct assistance to the national liberation movements of South Africa, Namibia and Zimbabwe. Students recommended by national liberation movements are studying in Soviet educational establishments on scholarships

¹ Report submitted by State (E/1980/6/Add.17).

² *Ibid.* (CERD/C/66/Add.14; E/CN.4/1415/Add.2).

offered by Soviet public organizations. Food, clothes, other industrial goods, medicines, medical equipment, vehicles, etc. are sent to the movements. In 1978-1979, for example, the Soviet Committee for Solidarity with the Countries of Asia and Africa provided such assistance to the Patriotic Front of Zimbabwe, the South West Africa People's Organization (SWAPO) and the African National Congress (ANC) of South Africa.

Representatives of the Soviet public took an active part in international public meetings aimed at combating racism, including the International Conference of Activities of Non-Governmental Organizations Against *Apartheid* (Geneva, 1978), the International Solidarity Conference with the Struggle of the African and Arab People Against Imperialism and Reaction (Addis Ababa, September 1978), the International Conference for the Liberation of Southern Africa and Against *Apartheid* (New Delhi, September 1978), the International Conference on Solidarity with Front-Line States and Liberation Movements in Southern Africa (Lusaka, April 1979) and others.

In May 1979, the Soviet Committee for Solidarity with the Countries of Asia and Africa together with the Africa Institute of the Academy of Sciences of the USSR and in collaboration with the United Nations Special Committee against *Apartheid*, organized an international seminar at Alma-Ata on "The role of public opinion in support of the struggle of the peoples of southern Africa against racism, *apartheid* and colonialism". Representatives from over 30 countries, national liberation movements and international organizations, together with Soviet and foreign scholars and public figures, took part in the work of the seminar. Participants in the seminar discussed the results of International Anti-*Apartheid* Year, questions concerning the activities of international and national public organizations relating to the implementation of United Nations decisions in support of the peoples of southern Africa, and measures in connection with the political, economic, cultural and sports boycott of racist régimes.

B. Protection of civil rights and freedoms
(*article 2 of the Universal Declaration*)³

A number of new legislative acts concern the protection of civil rights and freedoms. The Act of the USSR relating to the Supreme Court of the USSR, the Act relating to the Procurator's Office of the USSR, and the Act relating to the Advocate General's Office of the USSR, adopted by the Supreme Soviet of the USSR on 30 November 1979, expressly state that the functions of these bodies are subservient to the aim of ensuring socialist legality, protecting civil rights and freedoms, and teaching citizens to respect the rights, honour and dignity of others.

**C. Elimination of racial discrimination;
development and protection of certain racial groups or individuals belonging to them**

(*article 2 of the Universal Declaration;
article 2.2 of the International Convention on the
Elimination of All Forms of Racial Discrimination*)⁴

The requirements of article 1, paragraph 4, and article 2, paragraph 2, of the Convention are met by provisions of the "Decision on standing commissions of the Soviet of the Union and the Soviet of Nationalities of the Supreme Soviet of the USSR", revised in April 1979, which stipulate that:

"In their activities, standing commissions of the Soviet of the Union and the Soviet of Nationalities shall proceed on the basis of the unity of interests of the Union of Soviet

³ Contribution submitted by State.

⁴ Report submitted by State (CERD/C/66/Add.14).

Socialist Republics and the Union Republics and the need for rational deployment of productive forces, improved efficiency of public production and quality of labour at all levels of the national economy, and integrated development and specialization of the economies of the Union Republics and economic regions, and shall also take into consideration the national and other particularities of the Union and Autonomous Republics, autonomous regions and autonomous areas" (article 3).

D. Elimination of racial discrimination; principle of equal treatment

*(articles 2 and 7 of the Universal Declaration;
articles 2 and 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁵*

With a view to bringing USSR legislation into line with the new USSR Constitution, the Presidium of the Supreme Soviet of the USSR in 1979 revised the provisions of a number of Fundamental Principles of Legislation of the USSR and of the Union Republics, bearing in mind, *inter alia*, the need to guarantee national and racial equality. Thus, provisions of the Fundamental Principles of Civil Procedure of the USSR and the Union Republics concerning the administration of justice only by the court and on the basis of the equality of citizens before the law and the court have been redrafted in greater detail, to read as follows:

"Justice in civil cases is administered exclusively by the court and on the basis of principles of equality of all citizens before the law and the court, without distinction as to origin, social or property status, race, nationality, sex, education, language, attitude to religion, type and nature of occupation, domicile, or other circumstances" (article 7).

The equality of all USSR citizens in receiving an education is guaranteed irrespective of any of the above factors. A provision to that effect has been introduced in article 4 of the Fundamental Principles of Legislation of the USSR and the Union Republics on Public Education.

The Act on the Supreme Court of the USSR, the Act on the Procurator's Office of the USSR and the Act on the Legal Profession in the USSR, adopted by the Supreme Soviet of the USSR on 30 November 1979, do not contain any discriminatory limitations on the grounds of race, nationality or other circumstances for persons elected to the Supreme Court of the USSR, appointed as procurators or investigators within the Procurator's Office or admitted to the college of advocates. At the same time, these Acts provide that the activities of the above bodies are directed towards guaranteeing socialist legality, the protection of the rights and freedoms of citizens, and the education of all citizens in a spirit of respect for the rights, honour and dignity of other persons.

A number of legislative measures newly enacted or revised during this period impose on the appropriate State and public bodies and deputies the obligation to take the necessary steps consistently to guarantee racial and national equality and the observance of the rights and freedoms of all Soviet citizens.

Guaranteeing the right of all USSR citizens, irrespective of their race, nationality or language, to information concerning the activities of the supreme body of State power of the USSR, the Regulations of the Supreme Soviet of the USSR, adopted by the Supreme Soviet of the USSR on 19 April 1979, provide, in accordance with the USSR Constitution, that:

"Laws of the USSR, decisions and other acts of the Supreme Soviet of the USSR, and decrees and decisions of the Presidium of the Supreme Soviet of the USSR shall be published in the languages of the Union Republics not later than 7 days after their

⁵ *Ibid.* (CERD/C/66/Add.14).

adoption over the signatures of the Chairman and Secretary of the Presidium of the Supreme Soviet of the USSR (article 66).

“Verbatim records of sessions of the Supreme Soviet of the USSR shall be published in the languages of the Union Republics” (article 68).

**E. Treatment of offenders;
right to an effective remedy; right to a fair trial;
right of everyone charged with a penal offence to all the
guarantees necessary for his defence**

(articles 5, 8, 10 and 11 of the Universal Declaration; article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination)⁶

On 29 June 1979 the Plenum of the Supreme Court of the USSR adopted a decision on the practical application by courts of general principles for the imposition of punishment and on 7 December 1979 of the decision on the tasks of courts in the light of the decision of the Central Committee of the Communist Party of the Soviet Union on improving the maintenance of law and order and countermeasures against breaches of the law. The first decision states that courts should take measures to eliminate shortcomings in their activities, to wage a resolute and unremitting fight against criminality and other breaches of the law, on the basis of strict observance of socialist legality. It also stresses the need for courts to improve their consideration of cases, thus ensuring the handing down of lawful and soundly based sentences. To this end, the courts must be guided strictly by the requirements of the standards of material and procedural legislation and by the authoritative interpretations of the Plenum of the Supreme Court of the USSR; they must take all steps to prevent judicial errors, especially the conviction of innocent persons, which is a most flagrant violation of civil rights and freedoms.

Consistently observing the principle of the inevitability of responsibility for a crime that has been committed, the courts should, in considering cases, carefully check to what extent the preliminary investigation has been carried out in a comprehensive and objective manner, determine whether the circumstances surrounding the crime have been fully and thoroughly investigated, whether the role of each accused has been established and whether all the persons involved in the commission of the criminal act have been identified and charged, and, where necessary, take a decision on the question of instituting proceedings against them.

The decision states further that unwarranted custodial sentences must not be passed on minors who have committed crimes which do not constitute a great danger to society if they can be rehabilitated without being isolated from society or by compulsory measures of an educational nature. In passing custodial sentences on minors, the court is obliged, where there are circumstances which are provided for by law, to consider the possibility of suspending the sentence. This decision also notes that representatives of the community and of work collectives should be involved in activities relating to the correction and re-education of minors given non-custodial sentences or suspended sentences, and that close business-like relationships should be strengthened with commissions responsible for the care of minors, the militia, trade-union, Komsomol and sports organizations, and educational and vocational-technical training bodies.

On 30 November 1979 the Act on the Supreme Court of the USSR was adopted.

The second decision stresses that courts which impose penalties within the limits established by the article of law ascribing responsibility for the crime committed, in strict accordance with the provisions of the Basic Principles of Criminal Legislation of the Union of Soviet Socialist Republics and Union Republics and the criminal code of the union republic,

⁶ Contribution submitted by State, and report submitted by State (CERD/C/66/Add.14).

are under an obligation to proceed from the premise that the penalty is not only punishment for the crime committed but that its objective is also that of correcting and re-educating convicted offenders and of deterring them and others from committing further crimes.

The standards of civil legal proceedings have been further developed. A Decree by the Presidium of the Supreme Soviet of the USSR of 9 October 1979 made certain additions to the Basic Principles of Civil Procedure of the Union of Soviet Socialist Republics and the Union Republics, flowing from the Constitution of the USSR of 1977 and designed to expand the democratic foundations of justice and strengthen guarantees protecting civil rights.

F. Right to a nationality

*(article 15 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)⁷*

On 1 December 1978 the Supreme Soviet of the Union of Soviet Socialist Republics adopted a new Act on Citizenship of the USSR, which entered into force on 1 July 1979. The principles of internationalism, humanism and democratism, which form the basis of laws on Soviet citizenship, are further developed in this Act in accordance with the provisions of the Constitution of the USSR.

The preamble of the Act reads as follows: "The Soviet socialist national State protects the rights and freedoms of USSR citizens and guarantees their equal rights in all fields of economic, political, social and cultural life."

Guaranteeing racial and national equality, the Act provides in article 1:

"In accordance with the Constitution of the Union of Soviet Socialist Republics, uniform federal citizenship is established for the USSR.

"Every citizen of a Union Republic is a citizen of the USSR.

"USSR citizenship is equal for all Soviet citizens irrespective of the grounds upon which it has been acquired."

In the USSR there are no discriminatory conditions or limitations of any kind with regard to questions relating to the acquisition of USSR citizenship. Article 15 of the new Act provides:

"Citizens of other countries and stateless persons may, upon application, be granted USSR citizenship in accordance with the present Act, irrespective of their race, nationality, sex, education, language or domicile."

Under articles 1 and 26 of the Act, a decision by the Presidium of the Supreme Soviet of a Union Republic to grant citizenship of that Union Republic to citizens of other countries or stateless persons having their permanent domicile in its territory signifies that they are *ipso facto* admitted to citizenship of the USSR.

The Act does not establish any connection between the forfeiture of USSR citizenship and any circumstance relating to the race or nationality of the person concerned (articles 16-18 of the Act on Citizenship of the USSR).

G. Protection of the family, motherhood and childhood

(articles 16 (3) and 25 (2) of the Universal Declaration)⁸

The rights of citizens in the field of family relations are ensured by a Decree adopted on 9 October 1979 by the Presidium of the Supreme Soviet of the USSR concerning amendments

⁷ Report submitted by State (CERD/C/66/Add.14).

⁸ Contribution submitted by State.

and additions to the Basic Principles of legislation of the Union of Soviet Socialist Republics and Union Republics on marriage and the family. The Decree defined in greater detail the principle of the equality of women and men in family relations, the obligation of the State to protect the family, mothers and children and to encourage motherhood, and the rights and duties of parents and children. The Basic Principles now incorporate further development of the democratic principles underlying the application of Soviet legislation on marriage and the family to citizens of other countries and stateless persons.

The decision of the Presidium of the Supreme Soviet of the USSR of 19 February 1979 concerning the observance in the USSR of the International Year of the Child is imbued with a concern for children.

Guided by the directives of the Communist Party of the Soviet Union and its Central Committee enjoining ever-greater consideration for the rising generation, the Presidium of the Supreme Soviet of the USSR decided to implement in the USSR a series of State and public measures designed to improve mother and child protection, child health and upbringing and education. In accordance with the decision, a special commission was set up for the observance of the International Year of the Child in the USSR.

H. Political rights

(article 21 of the Universal Declaration)⁹

In the field of political relations, an Act was adopted on 30 November 1979 on the system of people's control in the USSR. It provides for people's control as a form of socialist democracy, which is an effective means of involving the masses in the management of State and public affairs and constitutes an important manifestation of the constitutional right of citizens of the USSR to participate in the management of the State. It also clearly defines the rights of committees, people's control groups, people's controllers and the guarantees for the protection of their rights.

On 19 April 1979, the Supreme Soviet of the USSR made a number of amendments in an Act relating to the status of people's deputies in the USSR, which had been in force since 1972, defining more fully on the basis of the Constitution of the USSR the legal situation of people's deputies and the guarantees of their activity as deputies. Special attention is given in the amended Act to questions relating to a deputy's activities in an electoral district.

On 19 April 1979 the Supreme Soviet of the USSR also made a number of amendments and additions to an Act adopted in 1959 concerning procedures for recalling a deputy of the Supreme Soviet of the USSR. The Supreme Soviet of the USSR, on the basis of the Constitution of the USSR, defined in greater detail the right of electors to recall their deputy, which is one of the fundamental provisions of socialist democratism, and which expresses the sovereignty of the Soviet people and guarantees the effective accountability of the deputy to the electors.

I. Right to social security; realization of economic, social and cultural rights

(article 22 of the Universal Declaration)¹⁰

In 1979, legislation guaranteeing the socio-economic and socio-cultural rights of Soviet citizens was further developed. It relates primarily to the right to work, to social security, to health protection and to education.

⁹ *Ibid.*

¹⁰ *Ibid.*

A Decree of the Presidium of the Supreme Soviet of the USSR of 11 September 1979 provided for an increment in pensions for persons continuing to work after attaining pensionable age. These Decrees were confirmed by the Supreme Soviet of the USSR at its session on 27 November 1979.

On 3 July 1979, the Presidium of the Supreme Soviet of the USSR adopted a Decree relating to consolidation of general regulations concerning orders, medals and honorary awards of the USSR. State awards are most important moral incentives to development of the occupational and socio-political activity of Soviet citizens, efforts to fulfil the tasks of communist construction, and education of the working people in the spirit of constant readiness to defend their socialist homeland. The "General Regulations" define the rights and duties of recipients of awards.

J. Right to work; trade union freedoms
(*article 23 of the Universal Declaration*)¹¹

A Decree of the Presidium of the Supreme Soviet of the USSR of 11 November 1979 concerning amendments to the regulations on the rights of factory and local trade union committees stipulated that elected trade union organizers at enterprises, establishments and organizations enjoy the rights accorded in the above-mentioned regulations within the limits of their competence.

On 13 November 1979, the Presidium of the Supreme Soviet of the USSR adopted a Decree on the working conditions of manual and non-manual workers employed in the timber industry and forestry. The Decree provided for an increase in the leave entitlement for this category of manual and non-manual workers.

K. Right to an adequate standard of living
(**right to health**)

(*article 25 (1) of the Universal Declaration; article 12 of the International Covenant on Economic, Social and Cultural Rights*)¹²

Particular attention is paid to protecting the health of the younger generation; a system of special medical-preventive and health measures is being devised and a network of institutions for children and young people is being developed. It is a significant fact that during the years of Soviet power, there has been an almost tenfold decline in child mortality.

The Decree of the Presidium of the USSR Supreme Soviet of 19 February 1979 entitled "The observance in the USSR of the International Year of the Child" made special reference to the implementation in the USSR of a system of State and public measures aimed at further improving maternal and child welfare and strengthening child health. The Presidium of the Supreme Soviet of the USSR instructed the Presidiums of the Supreme Soviets of the Union and Autonomous Republics and the local soviets of peoples' deputies and their permanent commissions to pay increased attention to fulfilling the targets of the country's Tenth Five-Year Plan in respect of developing a network of children's hospitals and polyclinics, sanatoria and pre-school institutions and improving medical facilities.

In order to bring legislation on public health into line with the Constitution of the USSR and to develop it further, the Presidium of the Supreme Soviet of the USSR by a Decree of 18 June 1979 made amendments and additions to the basic principles of public health legislation

¹¹ *Ibid.*

¹² *Ibid.*; report submitted by State (E/1980/6/Add.17).

of the Union of Soviet Socialist Republics and Union Republics. The Decree set out in detail the constitutional right of citizens of the USSR to health care. State bodies, enterprises and establishments have a duty to provide comprehensive health care for the population. Trade unions, co-operative organizations, the Red Cross and Red Crescent Societies and other public organizations also participate, in accordance with their statutes, in providing health care.

L. Right to education

(article 26 of the Universal Declaration)¹³

On 14 August 1979, the Presidium of the Supreme Soviet of the USSR made some amendments and additions to the basic principles of the legislation of the Union of Soviet Socialist Republics and Union Republics on public education in order to develop such legislation further and define the powers and duties of state bodies with regard to the right of citizens of the USSR to education accorded by the Constitution of the USSR. On the basis of the Constitution, the basic principles enunciate in detail the constitutional right of citizens of the USSR to education, a right ensured by the free provision of all forms of education and by other guarantees. They clearly affirm the equal right of all citizens of the USSR to receive education irrespective of their origin, social or property status, race or nationality, sex, language, attitude to religion, type or nature of occupation, domicile, or any other circumstance.

At its session on 27 November 1979, the Supreme Soviet of the USSR confirmed the above-mentioned Decrees.

M. Promotion of understanding, tolerance and friendship among all nations, racial and ethnic groups

*(article 26 (2) of the Universal Declaration;
article 7 of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹⁴*

The provisions of the "General ordinance on decorations, medals and honorary titles of the USSR", approved on 3 July 1979 by decree of the Presidium of the Supreme Soviet of the USSR, play an important role in educating USSR citizens in a spirit of friendship among all the nations and nationalities of the USSR and in a spirit of internationalism. The preamble of the "General ordinance" states that

"It is the sacred duty of every citizen of the USSR . . . to consolidate friendship among the nations and nationalities of the multinational Soviet State . . . Meritorious services in the struggle for peace and friendship among peoples . . . are held in high regard and given recognition by the Communist Party and the Soviet State."

An Order of the Friendship of Peoples has been instituted in the USSR as a reward for developing friendship and co-operation among peoples and for other meritorious services (para. 14 of the "General ordinance"). The "General ordinance" also provides that:

"Persons who are not citizens of the USSR, as well as enterprises, institutions, organizations and localities of foreign States may be awarded USSR State decorations" (article 3).

The Act on the status of people's deputies in the USSR, revised by the Supreme Soviet of the USSR in April 1979, lists among the duties of deputies to all Soviets of People's Deputies,

¹³ Contribution submitted by State.

¹⁴ Report submitted by State (CERD/C/66/Add.14).

in particular, the provision of all possible assistance to the further strengthening of friendship among all the nations and nationalities of the USSR. Article 2 of the Act provides:

“In his activities the deputy shall be guided by State interests and shall take account of the requirements of the population of the electoral district as well as of the economic, cultural, national or other particularities of the Union or Autonomous Republic, autonomous region or autonomous area for which he has been elected or in the territory of which his electoral district is located.”

N. Right to participate in cultural life

*(article 27 of the Universal Declaration;
article 15 of the International Covenant on Economic,
Social and Cultural Rights)¹⁵*

In order to enhance the opportunities for worker creativity, on 23 March 1979 the Council of Ministers of the USSR adopted a resolution on measures to further develop amateur artistic creativity in the country (Compendium of resolutions of the Government of the USSR, 1979, No. 10, p. 62). The resolution adopted by the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR on 13 August 1979 on the further development of medical science in Siberia and the Far East (Compendium of resolutions of the Government of the USSR, 1979, No. 23, p. 144) was motivated by concern for scientific creativity. On 8 May 1979, the Council of Ministers of the Russian Soviet Federated Socialist Republic (RSFSR) adopted a special resolution on the further improvement of the conditions of remuneration for the creative labour of Soviet writers (Compendium of resolutions of the Government of the RSFSR, 1979, No. 14, p. 90). In order to improve such conditions, similar resolutions have been adopted in other Union Republics.

¹⁵ *Ibid.* (E/1982/3/Add.1).

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

A. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2.1 (e) of the International Convention on the
Elimination of All Forms of Racial Discrimination)¹*

Section 44(1) of the Race Relations Act allows the Commission for Racial Equality to give financial or other assistance to any organization appearing to the Commission to be concerned with the promotion of equality of opportunity, and good relations between persons of different racial groups.

In the financial years 1978-1979 and 1979-1980 the Commission allocated between £1 million and £1.5 million to grants under this section to provide support for the over 100 community relations councils which exist over the country. These councils are voluntary organizations which work towards the elimination of discrimination and promote equal opportunities in a particular locality. A typical community relations council is provided with office facilities by its local authority while the Commission pays for the salary of one or more full-time professional community relations officers.

B. Elimination of racial discrimination:

development and protection of certain racial groups or individuals belonging to them

*(article 2 of the Universal Declaration;
article 2.2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)²*

In February 1979 the previous Government proposed replacing section 11 by the Local Government Grant (Ethnic Groups) Bill, which would have facilitated the payment of grants to local authorities to help them meet the needs of ethnic groups in their areas. The Bill did not complete its passage before the dissolution of Parliament. The present Government is reviewing the operation of section 11.

The Committee of inquiry into the causes of underachievement of children of West Indian origin in maintained schools which first met in June 1979, has divided its work among six specialist sub-committees dealing with the following areas: language, school to work, teacher education, pastoral care and pre-school influences, curriculum, examinations and monitoring, and special provision (including all non-mainstream provision).

Each sub-committee will give priority to the underachievement of children of West Indian origin and is at present seeking specific evidence in that regard. In the meanwhile the main Committee has called for more general evidence from a wide range of interested bodies at both national and local levels as well as the media.

The Committee has undertaken to present an interim report on the underachievement of children of West Indian origin to the Secretary of State for Education and Science by the end of 1980. It is envisaged that the final report will be issued approximately two years later.

¹ Report submitted by State (CERD/C/66/Add.13).

² *Ibid.* (CERD/C/66/Add.13).

**C. Prohibition of torture and cruel,
inhuman or degrading treatment or punishment**
*(article 5 of the Universal Declaration)*³

On 8 June 1978 the Secretary of State for Northern Ireland, in the course of a parliamentary statement on behalf of Her Majesty's Government concerning an Amnesty International report on that organization's mission to Northern Ireland, announced that a Committee of Inquiry into Police Interrogation Procedures in Northern Ireland would be appointed. Its terms of reference were:

"To examine police procedures and practice in Northern Ireland relating to the interrogation of persons suspected of scheduled offences; to examine the operation of the present procedures for dealing with complaints relating to the conduct of police in the course of the process of interrogation; and to report and make recommendations."

The report of the Bennett Committee was published on 16 March 1979. Despite the sweeping allegations made in some quarters about the Royal Ulster Constabulary's conduct of interrogations, none of the evidence studied by the Bennett Committee led it to believe that there was widespread practice of ill-treatment.

However, the report did recommend a number of changes in the administrative procedures observed during the questioning of suspects by the Royal Ulster Constabulary and certain modifications to the existing machinery for the investigation of complaints.

The Government immediately announced its acceptance of two of the most important of the Committee's recommendations which related to access by solicitors to persons in custody and to the installation of closed circuit television in interview rooms. Subsequently a summary of the action to be taken on all of the Committee's recommendations was placed in the library of both Houses of Parliament.

D. Right to an effective remedy
*(article 8 of the Universal Declaration;
article 6 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

A strategy statement published shortly after the Commission for Racial Equality was established attached great importance to the formal investigation as a weapon in the fight against discrimination, and the Commission has launched an ambitious programme of formal investigations. In the period ending in December 1979 the Commission had started 37 formal investigations of which about one half were in the field of employment and the others in housing, goods, facilities and services and education. In the same period, seven of the investigations were concluded, and in each case the Commission issued a non-discrimination notice requiring the respondent in the investigation not to act unlawfully.

E. Protection of the family, motherhood and childhood
*(articles 16 (3) and 25 (2) of the Universal Declaration;
article 10 of the International Covenant on Economic, Social and Cultural Rights)*⁵

Isle of Man laws supporting and protecting the family as the natural and fundamental group unit of society follow those of England and Wales covering marriage, family benefits, social security benefits, children and young persons, income tax, maintenance orders,

³ Contribution submitted by State.

⁴ Report submitted by State (CERD/C/66/Add.13).

⁵ Reports submitted by State (E/1980/6/Add.26; E/1980/6/Add.25).

married women's property and matrimonial causes. New legislation is being prepared concerning legitimacy and the adoption of children.

The Tynwald (legislature) has applied the United Kingdom Social Security Acts of 1973 to 1979 to the Isle of Man by order. Maternity benefit comprises a grant of £25 for each birth and an allowance of £18.50 a week for a period of 18 weeks for a working mother. The allowance is payable for 11 weeks before, and six weeks after, the week of confinement. In addition, beneficiaries can receive an earnings-related supplement based on their earnings in a previous income tax year. The amount varies between 20 pence and £17.67 a week.

The Social Security Acts provide for payment of a widow's allowance, with additions for dependent children, on widowhood. The addition is payable until the child attains the upper limit of compulsory school age or until age 19 if the child continues to attend school.

For one-parent families additional provisions are included in both supplementary benefit and family income supplements. The lone parent on supplementary benefit may earn up to £6 a week (£4 a week for others) before the benefit is reduced and, if working and earning low wages, is regarded as being in full-time employment for the purposes of claiming family income supplement when working for 24 hours or more (32 hours for other claimants).

Falkland Islands

Under the Guardianship of Minors Ordinance (8 of 1979) the welfare of the minor in any court proceedings relating to the custody, upbringing or property of the minor is made the first and paramount consideration. The Matrimonial Causes Ordinance (14 of 1979) contains provisions to safeguard the position of the children on breakdown of marriage; the judge is required to express his satisfaction that the arrangements for the children of the family are the best that can be devised in the circumstances.

Medical attention is, generally speaking, provided to residents free of charge subject to a contribution from earned income (at present 1 per cent) fixed under the Medical Levy Services Ordinance (13 of 1979). The Senior Medical Officer may authorize special treatment abroad for residents, for instance, in Argentina, in appropriate cases, in which event the cost of travel and the hospital expenses will generally be met by Government: Medical Fees Regulations (5 of 1979).

Hong Kong

The minimum age of employment in Hong Kong is 14. Employment of children under that age is generally prohibited under the Employment Ordinance, the Factories and Industrial Undertakings Ordinance and Regulations, and the Employment of Children Regulations 1979 except where specific conditions are laid down in the regulations. No children can be employed in any prohibited occupations listed in the Schedule to the Employment of Children Regulations 1979.

In implementation of the policy of compulsory junior secondary education up to the age of 15, the Employment (Miscellaneous Provisions) Ordinance 1979 was enacted in September 1979. It provides, *inter alia*, that the minimum age of employment in Hong Kong will be raised to 15 by 1 September 1980, and already the Employment of Young Persons and Children at Sea Ordinance has been amended to the effect that as from 1 September 1979 no child under 15 years of age shall be employed to work as a crew member on any vessel except where only members of the same family are employed.

F. Political rights

*(article 21 of the Universal Declaration)*⁶

Legislation was enacted in 1978 to provide for the first direct election of representatives from the United Kingdom to the European Parliament in 1979. As in other member States,

⁶ Contribution submitted by State.

elections were held in June 1979 to return 66 representatives from England, 8 from Scotland, 4 from Wales (all elected in single member constituencies by a simple majority system) and 3 in one constituency in Northern Ireland (elected by the single transferable vote system of proportional representation).

Since the dissolution of the Northern Ireland Convention in March 1976, the United Kingdom Government has sought, through bilateral discussions with the main political parties in Northern Ireland, to reach agreement on the restoration of a form of devolved government capable of securing broad-based acceptance throughout the Northern Ireland community.

In the absence of agreement, direct rule of Northern Ireland by Ministers answerable to the United Kingdom Parliament has continued. In March 1979 the House of Commons (Redistribution of Seats) Act provided that the number of Northern Ireland constituencies returning Members to the House of Commons at Westminster should be increased from 12 to 17.

In the Queen's speech in May 1979, the Government stated that its immediate aim was to find "an acceptable way of restoring to the people of Northern Ireland more control over their own affairs".

G. Right to work

*(article 23 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁷

The Commission for Racial Equality has a statutory duty to review the workings of the Race Relations Act 1976. No substantial problems have arisen in the first two years of its operation. A recent ruling by the House of Lords (*Nasse v. Science Research Council* and *Vyas v. Leyland Cars*) will help to overcome any problems which may be caused by the fact that documents indicating that discrimination has taken place may be held by employers (e.g. where the details of other candidates for promotion are concerned); in this case, their Lordships said that such documents should be inspected by members of the tribunal and, where they consider that "discovery is necessary for disposing fairly of the proceedings", passed to the complainant.

In 1979 both the Trades Union Congress and the Confederation of British Industries published equal opportunity statements for the guidance of their members.

Planned expansion of the Department of Employment's Race Relations Advisory Service to 26 full-time advisers was duly achieved. In the 12 months ending September 1979, advisers visited over 1,200 firms in Great Britain to offer advice and practical assistance to employers on a wide range of issues that can arise in the employment of a multiracial workforce. The advisers also perform an educative role by conducting talks, seminars and training sessions involving staff from the Department of Employment Group, representatives from both sides of industry and a variety of other public contacts. The Service maintains close working links with a number of bodies active in the employment field, including community relations councils, language training units and ethnic minority organizations.

H. Right to an adequate standard of living

*(article 25 (1) of the Universal Declaration;
articles 11 and 12 of the International Covenant on Economic,
Social and Cultural Rights)*⁸

Selective financial assistance is provided to promote the modernization and efficiency to

⁷ Report submitted by State (CERD/C/66/Add.13).

⁸ *Ibid.* (E/1980/6/Add.16, Add.25 and Add.26).

expand or sustain productive capacity, and to encourage reorganization and rationalization of a company or an industry. Finance can be made available to create or preserve employment, either in the form of an interest relief grant or a loan. In July 1979, the Secretary of State for Industry outlined his revised policy for regional assistance. He stated that it was the Government's intention to be more selective when assessing applications, providing assistance only where it was necessary to enable projects to go ahead. Particular attention would be paid to the provision of more productive and more secure jobs.

Finance made available to applicants under the Selective Investment Scheme is designed to assist projects likely to be beneficial to the industry or the economy, as a whole, rather than to a particular region. Criteria state that projects should lead to very substantial improvements in performance or to the introduction of new products. The level of assistance is designed to be the minimum to bring the project forward in either scale or time. It will normally be expected that the resulting productivity of assisted projects will be significantly better than the average for the industry. Assistance is also designed to continue to attract internationally mobile projects to the United Kingdom. In the clothing and knitting sector there have been six successful applicants and over a dozen further applications are currently being assessed. The Scheme closed to applications on 30 June 1979.

A Conference organized jointly by the Department and the Children's Committee is planned for December 1979, the aim of which is to help those with a direct concern in the problem to obtain a clearer view of relevant issues and to identify the measures most likely to be effective in ensuring a continuing reduction and where possible to encourage local action towards improving understanding of existing services, dissemination of health education and the mobilization of voluntary effort. The Conference will include representatives from health authorities, professional medical and nursing organizations, voluntary bodies and the Health Education Council.

A Royal Commission on the National Health Service was set up in 1975 and made its report to the recently elected Conservative Government in July 1979. The Commission recommended that the National Health Service administration should be simplified by eliminating one tier of management in most cases. The Government's stated view, subject to consultation, is that "early progress is essential to simplify the structure of the Health Service and to devolve management authority to the lowest effective level".

The Isle of Man Board of Agriculture and Fisheries is responsible for the promotion, development, organization and fostering of co-operation within the agricultural, horticultural and fishing industries, and the provision and maintenance of an experimental farm on the Island. The general policy in these matters is perhaps best described by reference to a resolution of Tynwald dated 21 February 1979, which, *inter alia*, provides that:

"It is the policy of the Isle of Man Government to maintain prosperous agricultural and fishing industries in the Isle of Man and, to ensure this and to reassure those participating in such industries, Tynwald affirms that, subject to the complete acceptance and implementation by the Board of Agriculture and Fisheries of such European Economic Community policies as are compatible with the Isle of Man's relationship with the Community, it is the policy of the Board of Agriculture and Fisheries to maintain Government assistance to agriculture and fisheries on a basis similar to that from time to time afforded to those industries in the United Kingdom irrespective of whether such assistance emanates from United Kingdom or European Economic Community sources."

Within the scope of such general policy the Board attempts to concentrate on maximizing the use of indigenous resources to ensure, as far as possible, that the Island is self-sufficient in the principal foodstuffs.

Hong Kong

Following consultants' recommendations in 1976, a new Environmental Protection Unit was established to formulate and co-ordinate research policy and legislation on

environmental control measures. The consultants also proposed that work should commence on environmental legislation in the areas of air, water, noise and solid waste pollution, and environmental impact statements on major development projects. At present, the Waste Disposal Bill should be enacted by the end of 1979.

I. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic, Social and Cultural Rights)⁹*

The Committee of Inquiry into the Education of Children from Ethnic Minority Groups began its work in 1979 to review the educational needs and attainments of these children in England, and to recommend how necessary improvements in provision might be made.

Among statutory instruments relating to educational matters in Guernsey and Alderney, reference can be made to the Teachers' Superannuation (Amendment) (Guernsey) Regulations, 1979.

Regarding the States of Jersey, mention can be made of the Règlements (1979) sur l'Enseignement de la langue française dans les écoles publiques élémentaires.

Cayman Islands

The Middle School was constructed and phase one came into operation in September 1979.

Montserrat

Provision is made for the improvement of conditions of teachers specifically, under cap. 132 of the Revised Laws of Montserrat, with particular attention paid to section 39 (d). Generally, as public and private sector employees, their rights are protected under the Public Service Commission Ordinance (cap. 233) of the Revised Laws of Montserrat, the Pension Act (cap. 134) of the Revised Laws of Montserrat; and Employment Ordinance No. 19/1979.

J. Protection of moral and material interests of authors

*(article 27 of the Universal Declaration;
article 15 of the International Covenant on Economic,
Social and Cultural Rights)¹⁰*

In 1979, the Public Lending Right Act was passed, fulfilling an obligation to provide a statutory right of payment to authors whose books are borrowed from public libraries. When the scheme comes into force in 1981/1982, a long-standing imbalance in the law will have been corrected by creating a new right of personal property to exist for 50 years after an author's death. The appointment of the first Public Lending Right Registrar was announced in July, and a scheme, to be financed by the Government, is now in the process of consultation.

⁹ *Ibid.* (E/1982/3/Add.16).

¹⁰ *Ibid.* (E/1982/3/Add.16).

UNITED REPUBLIC OF TANZANIA

General legal framework¹

The 1979 Zanzibar Constitution governs the affairs of the Zanzibar Government over all non-Union matters. The 1979 Zanzibar Constitution had the purpose of defining the powers and duties of the President of Zanzibar, the Revolutionary Council and the House of Representatives in Zanzibar.

However, it does not encroach on the obligations of the Union Government on issues of external policy, such as arising out of conventions entered into by the United Republic of Tanzania. This includes human rights instruments. The Government of Zanzibar remains fully bound as a constituent part of the United Republic.

As to the consolidation effect of the 1979 Zanzibar Constitution on the Union, it suffices to say here that this constitution does not in any way undermine the Union between Zanzibar and the mainland.

¹ Report submitted by State (CERD/C/75/Add.10).

UNITED STATES OF AMERICA

I. INTRODUCTION¹

The standards of the Universal Declaration of Human Rights are guaranteed within the jurisdiction of the United States by the Constitution. The first 10 amendments to the Constitution, the Bill of Rights, are the specific guarantees of rights to citizens. By way of judicial interpretation, the individual rights are made applicable to actions by the states through the 14th Amendment. Each branch in the Federal System acts as a check and balance on the other two. The legislature makes the law, the executive branch enforces it and, through cases and controversies brought before the judiciary, the law is interpreted. It is this inter-relationship which both assures those rights set down by the framers of the Constitution and extends them to meet the changing demands of a modern, complex society.

This dynamic process has resulted in continued refinement of the Constitution's guarantees of individual rights during the year 1979. The following representative sample serves to display this process in the three branches of the Federal system.

II. NEW LEGISLATION

A. All free and equal in dignity and rights—should act towards one another in a spirit of brotherhood

(article 1 of the Universal Declaration)²

Aid to Uganda restored

The Congress had banned all aid to Uganda in 1977. Responding to the April 11 overthrow of dictator Idi Amin, Congress on September 11, 1979 repealed a ban on trade with Uganda and lifted the trade embargo which had been enacted in September, 1978 (S 1019—Public Law 96-67).

Indochinese refugee aid

Aid to Indochinese refugees topped \$900 million in fiscal year 1980 as Congress gave its approval to numerous administration requests. About half the money was intended for the care of refugees in South-East Asia and to settle up to 14,000 refugees a month in the United States. The other half was to pay for welfare, food stamps and schooling for those settled in the United States (HR 4955, Public Law 69-110). The Bill also responded to the plight of hundreds of thousands of starving Cambodians, by authorizing nearly \$100 million for food and medicine being shipped to Cambodia by international relief agencies.

B. Non-discrimination

(article 2 of the Universal Declaration)³

Public Law 96-81 authorized \$14 million for the fiscal year 1980 operation of the Civil Rights Commission. The Commission is an independent fact-finding body which concerns

¹ Contribution submitted by State.

² *Ibid.*

³ *Ibid.*

itself with discrimination in the United States based on race, colour, national origin, religion, sex, age or handicap.

C. Entitlement to a fair hearing

*(article 10 of the Universal Declaration)*⁴

The Congress has established the date of 1 July 1980 as the date on which the provisions of the Speedy Trial Act (Public Law 93-619) will go into effect. According to Public Law 96-43 (S 961), the provisions of the Act, which established a 100-day arrest-to-trial deadline, will have, as of that date, become operative. Barring further Congressional action, after that date federal criminal cases not brought to trial within the deadline will be dismissed.

D. Right to housing

*(article 25 (1) of the Universal Declaration)*⁵

The right, especially of low income American city dwellers, to adequate housing was aided by Congressional approval of the fiscal year 1980 Budget and Appropriations for Housing and Urban Development (HR 4394, Public Law 96-103) totalling over \$33 billion. The largest single item was \$1.14 billion in new contract authority for low-income housing assistance. This is expected to fund 240,000 to 265,000 units under the rent subsidy and public housing programmes. This figure represents \$26.7 billion in actual appropriations, reflecting the run-out costs of the programmes, some of which span many years. As requested by President Carter, Congress also boosted the authorization for the Urban Development Action Grants from \$400 million to \$675 million in fiscal year 1980.

E. Right to food; children as entitled to special care and assistance

*(article 25 of the Universal Declaration)*⁶

During 1979, about 19 million Americans were receiving government aid in the form of food stamps with which to purchase food. During this same period, an additional \$620 million was approved by Congress so that the 1979 food stamp programs, confronted by rising costs, would not need to engage in across-the-board cuts in benefits. So that the 1980 program would not be beset by similar problems, Congress passed the Agriculture Appropriations Act (HR 4387, Public Law 96-108) which appropriated over \$8.5 billion for Domestic Food Programs. In the Act, the 1979 cap on food stamp spending of \$6.16 billion was raised to \$6.78 billion. The Act also authorized \$1.45 billion for the Child Nutrition Program and \$32 million for the Special Milk Program. A total of \$771 million was also authorized for the Special Supplemental Food Program which provides food to mothers, infants and children before, during and after birth.

F. Right to an education

*(article 26 (1) of the Universal Declaration)*⁷

On September 27, 1979 Congress approved the establishment of a Department of Education, as a single cabinet-level Department (education had previously been part of the

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

Department of Health, Education and Welfare, now named the Department of Health and Human Services). General provisions of the law, Public Law 96-88 (S 210), declared that educational opportunities should not be denied because of race, creed, colour, national origin or sex. In addition, the law noted that primary responsibility for education was reserved to the states' and local school systems. The Act also established the following goals for the Department of Education: to strengthen the federal commitment to equal educational opportunity; to assist states, local governments and private institutions in improving education, to encourage increased involvement by parents, students and the public; to promote the quality and usefulness of education through federally supported research; to improve the co-ordination and efficiency of federal programs, and to make federal education programs more accountable to the President, Congress and the public. The act also prohibited the Department from exercising any control over the curriculum, administration, personnel, library resources or textbooks, except to the extent authorized by law.

III. EXECUTIVE ACTION

Major responsibility for the enforcement of federal laws and Executive Orders concerning those rights guaranteed by the Bill of Rights lies with the Civil Rights Division of the Department of Justice. During the fiscal year 1979, the Division initiated or participated in much important litigation within its area of responsibility, filing a total of 15 civil suits, bringing 49 criminal actions against defendants, and participating in 293 other suits. In addition, the Division reviewed almost 2,000 submissions made under the Voting Rights Act. At the end of the year, the Division had approximately 2,800 cases and matters under its supervision.

Most of the Division's activity falls within the prohibition against discrimination contained in the Universal Declaration's article 2. Specific sections within the Division concern themselves with non-discrimination in education, employment, housing, places of public accommodation, credit, voting and in programs receiving federal funding. In addition, the Division is concerned with protecting the rights of persons confined in state and local prisons and jails as well as with criminal procedure (article 5 of the Universal Declaration). The Division also enforces the rights of children and mentally or physically handicapped persons of all ages (article 25 of the Universal Declaration). The complex relationship existing between federal and state as well as tribal authorities as to both responsibility and authority create equally complex cases and a special section within the Division is concerned with Indian Rights. Also, a Sex Discrimination Task Force has been operating since 1977.

A. State violations of civil rights; discrimination based on sex; rights of American Indians *(article 2 of the Universal Declaration)^a*

Federal law makes it illegal for persons, under colour of law, to interfere with an individual's constitutional rights. It is under this authority that the Civil Rights Division's Criminal Section pursues those allegations of misuses of authority by law enforcement and prison officials. An example of the Criminal Section's work is the case, *United States v. Zozio, et al.* No. 78-62-P (D.R.I.) wherein two police officers in Rhode Island were convicted of conspiring to coerce a confession from a defendant.

During 1979, the Criminal Section reviewed approximately 11,000 complaints alleging criminal interference with the civil rights of citizens. More than 3,100 of them were investigated by the Federal Bureau of Investigation. The results of 68 investigations were presented to federal grand juries. Forty-six indictments were returned, charging a total of 118

^a *Ibid.*

defendants. Investigations into complaints alleging summary punishment by law enforcement officials accounted for much of the Section's activity.

The Justice Department's Task Force on Sex Discrimination has, since August 1977, been reviewing all federal policies, programmes and procedures so as to identify and eliminate any that discriminate on the basis of sex. By the end of 1979, appropriate corrective action had been completed by 11 of the 65 federal agencies. To date, statutory revisions have taken place in such disparate areas as mine regulation and immigration, with the review process continuing in all sectors of the federal bureaucracy.

Of note as an example of the meticulous care being given to this effort, the task force has worked with the Bureau of the Census and the Office of Federal Statistical Policy and Standards to eliminate sexually biased terminology which had previously been used.

The Indian Rights Section of the Civil Rights Division is concerned with enforcing federal civil rights statutes in matters involving American Indians.

Of the five suits filed in 1979, four stressed the Section's priority to eliminate barriers to Indian participation in elections.

The Section also participated in a wide variety of non-litigious actions intended to further the civil rights of Indians. Among these were the Section's consultation with several Indian and tribal officials in an effort to learn of civil rights problems affecting the Indian community, and its initiation of a number of investigations designed to uncover potential civil rights violations.

B. Non-discrimination in housing and credit (articles 2, 17 (1) and 25 (1) of the Universal Declaration)⁹

During the year 1979, the Special Litigation Section filed 26 suits and two motions for contempt or supplemental relief under the Fair Housing Act of 1968. These actions were taken in 18 different states, and potentially affect about 15,000 units of housing. Most of these cases involved racial discrimination; however, the right to be protected from discrimination based on sex, national origin and religion was also protected in a number of cases. For example, a suit against a Colorado landlord challenged the use of a citizenship requirement that had had the effect of discriminating against Iranians on the basis of their national origin. *United States v. Henry C. Glisan, d/b/a Prospect Plaza Apartments and Motel*. C.A. No. 78-A-1195 (D. Colo.), filed November 13, 1978.

During the year, the Section brought five cases under the Equal Credit Opportunity Act. The defendants included creditors that have nation-wide operations and collectively process several million credit applications each year. Complaints were based on alleged discriminatory conduct relating to age, sex or marital status or failure to provide credit applicants with adequate reasons for adverse action. Four of these cases were resolved by consent decrees.

C. Non-discrimination in voting and representation (articles 2 and 21 of the Universal Declaration)¹⁰

The Voting Section of the Department of Justice ensures that, under the Voting Rights Act of 1965, all qualified citizens have the opportunity to register and vote without discrimination on account of race, colour or membership in a language minority group. In

⁹ *Ibid.*

¹⁰ *Ibid.*

1979, the Attorney-General assigned almost 1,000 observers to monitor elections throughout the nation to make certain that the right to vote and to have the vote properly counted was not denied during the election process.

The Section also reviews all changes in voting practices and procedures from covered jurisdictions. During the year, 1,914 submissions involving a total of 3,400 voting-related changes were submitted to the Attorney-General for review, to make certain that they did not accomplish discrimination through dilution of minority voting strength. These submissions were processed and analyzed by a special unit of the Section, recently enlarged and reorganized to deal effectively with this complex task.

Illustrative of the Section's litigation efforts to maintain non-discrimination in voting are five cases which presage the end to 14 years of litigation in Mississippi over redistricting plans, clearing the way for the State's 1979 elections. *Conner et al. and United States v. Finch*, C.A. No. 3830 (A) (S.D. Miss. April 13, 1979); *Mississippi v. United States and Aaron Henry, et al.*, C.A. No. 78-1425 (D.D.C. June 1, 1979).

D. Non-discrimination in employment

*(articles 2 and 23 of the Universal Declaration)*¹¹

The Federal Enforcement Section of the Civil Rights Division enforces statutes that prohibit employment discrimination by state and local governments and Executive Order 11246, which calls for equal employment opportunity among federal contractors. In addition, the Section reviews allegations of discrimination brought under Title VII of the Civil Rights Act of 1964. During 1979, the Section responded to 3,700 individual requests and 300 referrals by the Equal Employment Opportunity Commission.

As an illustrative example of the effect of the Sections's efforts, a suit by the Uniroyal Corporation challenging the Department of Labor's enforcement of Executive Order 11246 is noteworthy. The Section represented the Department of Labor when Uniroyal brought a suit for judicial review of a final administrative order of the Secretary of Labor, declaring Uniroyal ineligible for federal contracts. This action was based on Uniroyal's failure to make records and witnesses available so as to allow a determination of the existence of equal employment opportunity. *Uniroyal v. Marshall*, C.A. No. 79-1702 (D.D.C., July 2, 1979). Based on the Section's efforts, the district court entered an order sustaining the decision of the Secretary and refused to grant an injunction pending appeal. After being ineligible for contracts for over three months, Uniroyal settled by agreeing to pay more than \$5 million in back pay and an almost equal amount in pension benefits to a class of more than 300 women.

E. Non-discrimination in education

*(articles 2 and 26 (1) of the Universal Declaration)*¹²

The General Litigation Section of the Civil Rights Division enforces those laws designed to bring about desegregation of public elementary and secondary schools and to ensure non-discriminatory treatment by all schools, including colleges, that receive federal funds.

During the year 1979, the Section placed a high priority on the desegregation of school districts in non-southern metropolitan areas. Its activities aided in the determination by courts that unlawful segregation existed, and resulted in the courts' reinforcement of the requirements for full desegregation. Such holdings affected school districts in major metropolitan areas within the States of Ohio, Indiana, Washington, Nebraska and Missouri.

¹¹ *Ibid.*

¹² *Ibid.*

New investigations of school segregation in several other major northern and western metropolitan areas were also initiated during the year.

Activities elsewhere did not detract from efforts to enforce court ordered desegregation in southern states. Most of over 500 southern school districts with which the Section has been involved in litigation operate under desegregation plans that the Section monitors. During the year, the Section conducted litigation which resulted in orders for further desegregation in school districts within the States of Alabama, Arkansas, Mississippi, Georgia, Texas and Louisiana.

F. Prisoners' rights

*(article 5 of the Universal Declaration)*¹³

The Special Litigation Section of the Department of Justice continues to engage in litigation against state prison and jail systems that reflect unconstitutional treatment of inmates. Furthering prisoners' rights to be free from cruel and unusual punishment, the Section engaged in a year-long litigation of *Ruiz and the United States v. Estelle, et al.*, C.A. No. 78-987 (S.D. Texas). The case has involved a statewide challenge to conditions of confinement in Texas correctional facilities. Issues presented include overcrowding, nature of the physical plant, availability of medical, psychiatric and specialized services, access to courts, and freedom from physical intimidation.

IV. SUPREME COURT DECISIONS

A. Freedom from discrimination; right to work

*(articles 2 and 23 of the Universal Declaration)*¹⁴

In *United Steel Workers of America v. Weber*, 99 S.Ct. 2721 (1979), the Court addressed the allegation of racial discrimination by a white worker who had been denied entry to a trainee programme in favour of a black worker with lower seniority (both whites and blacks were in the programme). The training programme was a voluntary affirmative action programme, designed by the company to achieve a level of black representation in the craft work force equivalent to the percentage of blacks in the local labour force as a whole. While recognizing that Title VII of the 1964 Civil Rights Act prohibits employment practices which discriminate against any individual, the Court held that these provisions do not apply to "an affirmative plan voluntarily adopted by private parties to eliminate traditional patterns of racial discrimination".

B. All entitled without any discrimination to equal protection before the law

*(article 7 of the Universal Declaration)*¹⁵

Stating that racial discrimination in jury selection "strikes at the fundamental values of our judicial system and our society as a whole", the Supreme Court, in *Rose v. Mitchell* 99 S. Ct. 2993 (1979), reaffirmed the right to reversal of convictions based solely on the fact that the indictment itself had been returned by an improperly selected grand jury. The Court held that a claim of racial discrimination would continue to be cognizable on *habeas corpus*, even though the claimed error did not itself affect the eventual determination of guilt at the trial level. The Court clearly rejected the contention that grand jury discrimination becomes

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

harmless error after an otherwise valid conviction, recognizing that the only effective remedy for such discrimination is the reversal of the conviction.

C. All entitled to a fair hearing

*(article 10 of the Universal Declaration)*¹⁶

In the case of *Argersinger & Hamlin* 407 U.S. 25 (1972) the Supreme Court of the United States held that, absent a knowing and intelligent waiver, an individual can be imprisoned only if represented by an attorney at trial. *Gideon v. Wainwright*, 372 U.S. 335 (1963) had earlier held that an indigent felony defendant in a state court had right to appointed counsel. In 1979, the Supreme Court, in *Scott v. Illinois* 99 S.Ct. 1158 (1979), upheld *Argersinger*, though it refused to extend the requirement that the accused be represented by counsel to cases where imprisonment, though authorized by statute, was not imposed. Thus, it is still the case that any criminal defendant, whether or not he can afford an attorney, still has the right to be represented by one, if imprisonment actually occurs.

D. Right to the protection of the law against interference and attacks on one's honour and reputation

*(article 12 of the Universal Declaration)*¹⁷

The Supreme Court has established that a public figure cannot prevail in a defamation action unless he proves with "convincing clarity" that the defendant published a defamatory falsehood "with the knowledge that it was false or with reckless disregard of whether it was false or not". *New York Times v. Sullivan*, 376 U.S. 254 (1964). In 1979, the Court provided plaintiffs in such cases with a greater ability to carry their burden of proof. In the case of *Herbert v. Lande* 99 S.Ct. 1635 (1979), the Court, recognizing that it had become essential to proving liability that plaintiffs focus on the conduct and state of mind of the defendant, approved discovery going to the clarification of such factors. Thus, it was held that questions in discovery to the producer and director of a television documentary about his "conclusions, opinions, intentions, or conversations concerning people or leads to be pursued, the veracity of persons interviewed, and his reasons for the inclusion or exclusion of certain material" were relevant to the subject matter of the action and not privileged by the Constitution's first amendment guarantees of freedom of speech or of the press.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

URUGUAY

A. Political rights; limitations on the exercise of rights and freedoms (states of emergency)

*(articles 21 and 29 of the Universal Declaration;
articles 4 and 25 of the International Covenant on Civil and Political rights)¹*

The rights mentioned in article 25 of the Covenant had already been provided for in Uruguayan law when the Covenant was adopted. The Uruguayan Government, however, by virtue of the provisions of article 29(2) of the Universal Declaration of Human Rights, and in exercise of the prerogatives conferred on it by article 4 of the International Covenant on Civil and Political Rights, informed the other States parties of the exceptional situation which it is experiencing, as expressly referred to in paragraph 1 of the latter article.

On that occasion, in July 1979, it stated that “the exceptional measures adopted, which are strictly in conformity with the requirements of article 4(2), are in fact aimed at the genuine, effective and lasting defence of human rights, the enjoyment and promotion of which constitute the essence of our existence as an independent, sovereign nation”. With regard to political rights, the measures announced include restrictions of a political nature. It must be emphasized, however, that they are of an emergency character and of limited duration and that the aim of the Government is to regularize the political system on a permanent basis in order to arrive at new democratic institutions which will be both republican and representative.

¹ Report submitted by State (CCPR/C/1/Add.57).

VENEZUELA

A. Non-discrimination; equal rights for men and women

*(article 2 of the Universal Declaration;
article 3 of the International Covenant on Civil and Political Rights)*¹

At the beginning of the current term of office of the Government, the President of the Republic, by Decree No. 7 of 12 March 1979, set up a Ministry of State for the Participation of Women in Development, headed by a Minister of Cabinet rank.

Co-operation with, encouragement of and support for efforts and activities directed towards the attainment of the objectives of equality, participation and integration for women at the sub-regional, regional, inter-regional and international levels and the following functions:

Advising on social development; preparing policies to promote overall social development; co-ordinating related policies and programmes, especially those connected with the incorporation of women in development; promoting and supporting plans to encourage social organization and participation in the various sectors connected with national development particularly by women; review and appraisal of the preparation of policies, and disseminating information on matters related to the social field.

B. Elimination of racial discrimination; development and protection of certain racial groups or individuals belonging to them

*(articles 2 and 26 of the Universal Declaration;
article 2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*²

Under the terms of Decree No. 283 of 20 September 1979, arrangements have been made for the gradual introduction of a system of bilingual inter-cultural education in educational establishments in areas inhabited by indigenous groups. The system is specially adapted to the socio-cultural characteristics of each of the ethnic groups concerned and is not prejudicial to a proper knowledge of the national culture. Its object is to further the development of indigenous communities on the basis of recognition of their culture.

C. Political rights

*(article 21 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*³

In the municipal elections held in June 1979 (there had never previously been separate elections of that kind), aliens who met the residence conditions laid down in the law exercised their right to vote, proving that they satisfied the requirements in different ways: by means of

¹ Report submitted by State (CCPR/C/6/Add.8).

² *Ibid.* (CERD/C/66/Add.3).

³ *Ibid.* (CERD/C/91/Add.27).

certificates of residence issued by the highest civil authority of the municipality or the parish, or by the Department of Identification and Aliens of the Ministry of Internal Affairs.

It may be mentioned that the number of aliens who voted in the elections was much higher than was originally expected.

D. Right to work; right to a just and favourable remuneration

*(article 23 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁴

In December 1979, Congress adopted a law providing for general increases in wages, as well as a new national minimum wage for all occupations.

E. Right to education

*(article 26 of the Universal Declaration;
article 5 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*⁵

Decree No. 283 of 20 September 1979 provides for the gradual introduction of a bilingual educational system, adjusted to the particular features of each locality, in establishments situated in areas inhabited by indigenous peoples.

⁴ *Ibid.* (CERD/C/91/Add.27).

⁵ *Ibid.*

YUGOSLAVIA

A. Protection of the family, motherhood and childhood

(articles 16 (3) and 25 (2) of the Universal Declaration; article 10 of the International Covenant on Economic, Social and Cultural Rights)¹

Among the basic laws regulating the protection of the family, reference can be made to the following.

Socialist Republic of Bosnia and Herzegovina

Law on the Family (Official Gazette of the SR of Bosnia and Herzegovina, No. 21/79);

Law on Child Care (Official Gazette of the SR of Bosnia and Herzegovina, Nos. 7/75, 18/75 and 40/79);

Law on Family Allowances (Official Gazette of the SR of Bosnia and Herzegovina, Nos. 30/74, 21/77 and 40/79);

Law on Pre-school Upbringing and Education (Official Gazette of the SR of Bosnia and Herzegovina, Nos. 16/78 and 1/79).

Socialist Republic of Macedonia

Decision establishing family allowance rate (Official Gazette of the SR of Macedonia, No. 2/79);

Decision on the lowest amount of money for providing babies with layette (Official Gazette of the SR of Macedonia, No. 1/79).

Socialist Republic of Serbia

Law on Child Care and on the Self-managing Communities of Interest for Child Welfare (Official Gazette of the SR of Serbia, Nos. 48/74 and 30/79);

Law on Pre-school Upbringing and Education (Official Gazette of the SR of Serbia, Nos. 29/73, 11/76, 32/78 and 30/79).

Socialist Autonomous Province of Kosovo

Decision regarding the level of assistance to infants of beneficiaries (Official Gazette of the SAP of Kosovo, No. 19/79);

Decision on the rate of family allowances depending on the age and level of education of children (Official Gazette of the SAP of Kosovo, No. 31/79).

Socialist Autonomous Province of Vojvodina

Self-management Agreement on Family Allowances (Official Gazette of the SAP of Vojvodina, No. 13/79).

The protection of children and young persons is also regulated by the following regulations.

¹ Report submitted by State (E/1980/6/Add.30).

Socialist Republic of Bosnia and Herzegovina

Law on Social Welfare (Official Gazette of the SR of Bosnia and Herzegovina, Nos. 31/71, 7/75, 36/75 and 40/79);

Law on Labour Relationship (Official Gazette of the SR of Bosnia and Herzegovina, Nos. 36/77, 11/78 and 12/79);

Law on the Enforcement of Sanctions against Criminal Offences and Infringements (Official Gazette of the SR of Bosnia and Herzegovina, Nos. 34/77 and 35/79);

Law on the Enforcement of Measures of Correction and Supervision (Official Gazette of the SR of Bosnia and Herzegovina, No. 35/79).

Socialist Republic of Montenegro

Law on the Enforcement of Criminal Sanctions (Official Gazette of the SR of Montenegro, Nos. 38/74 and 21/79).

Socialist Republic of Macedonia

Law on the Enforcement of Sanctions against Criminal and Economic Offences (Official Gazette of the SR of Macedonia, No. 19/79).

Socialist Republic of Slovenia

Law on Social Welfare (Official Gazette of the SR of Slovenia, No. 35/79).

Socialist Republic of Serbia

Law on Labour Relationship (Official Gazette of the SR of Serbia, Nos. 40/77, 41/77, 52/77, 53/78 and 30/79);

Criminal Law of the SR of Serbia (Official Gazette of the SR of Serbia, Nos. 26/77, 28/77, 43/77 and 20/79).

Socialist Autonomous Province of Kosovo

Law on Labour Relationship (Official Gazette of the SAP of Kosovo, Nos. 47/77, 27/78 and 12/79).

B. Right to an adequate standard of living (right to health)

*(article 25(1) of the Universal Declaration;
article 12 of the International Covenant on Economic,
Social and Cultural Rights)²*

Among regulations prescribing health protection measures, mention can be made of the following.

Social Republic of Montenegro

The Law on the Conditions and Procedure for the Approval of Induced Abortion (Official Gazette of the SR of Montenegro, No. 29/79).

Socialist Republic of Croatia

The Law on Sanitary Inspection (Official Gazette of the SR of Croatia, No. 55/79).

² *Ibid.* (E/1980/6/Add.30).

Socialist Republic of Macedonia

The Law on Health Registers (Official Gazette of the SR of Macedonia, No. 37/79).

Socialist Republic of Serbia

The Law on Health Protection (Official Gazette of the SR of Serbia, No. 30/79).

Socialist Autonomous Province of Kosovo

The Law on Implementation of Protective Measures for the Control of Ionizing Radiation (Official Gazette of the SAP of Kosovo, No. 37/79).

Socialist Autonomous Province of Vojvodina

The Law on Protection at Work (Official Gazette of the SAP of Vojvodina, No. 10/79).

ZAIRE

A. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the
Elimination of All Forms of Racial Discrimination)*¹

The Constitution, which is the supreme legislative instrument in that it requires that any action by the organs of the State should be consistent with its provisions, sets forth the fundamental rights of a civil, economic and social nature whose full enjoyment by all the inhabitants of Zaire is recognized. The undertaking to amend, rescind or nullify any laws and regulations creating or perpetuating racial discrimination is consequently implicit. Furthermore, the established constitutional principles represent the public order of the State; it follows therefrom that any law or regulation contrary to those principles is inapplicable and must be without effect. In fact, in accordance with the spirit of the provisions of article 100 of the Constitution, the courts implement the Acts of the administrative authorities only to the extent that they are consistent with the law. Lastly, it should be mentioned that if the Supreme Court when ruling on constitutionality, declares a law or regulation contrary to the Constitution, the provision in question is rescinded forthwith (art. 119 of Ordinance-law No. 79/022 of 3 August 1979 amending and supplementing Ordinance-law No. 69/2 of 8 January 1969 concerning the procedure of the Supreme Court).

¹ Report submitted by State (CERD/C/46/Add.4).

Section B. Trust and Non-Self-Governing Territories

Gilbert Islands, Saint Lucia and Saint Vincent attained independence during 1979; in other Trust and Non-Self-Governing Territories, progress was made towards that goal.

A. TERRITORIES THAT ATTAINED INDEPENDENCE

1. Gilbert Islands (Kiribati)

A Constitutional Conference was held in London from 21 November to 7 December 1978 at the conclusion of which it was agreed that the Territory should become independent in July 1979, that, on independence, the name of the Gilbert Islands would be Kiribati and that the country would be a sovereign and democratic republic.

The Gilbert Islands acceded to independence on 12 July 1979 as Kiribati.¹

2. Saint Lucia

Following the approval in December 1978 of the draft St. Lucia Termination of Association Order 1978 by both Houses of Parliament of the United Kingdom of Great Britain and Northern Ireland, St. Lucia became independent on 22 February 1979.²

By its resolution 453 (1979) of 12 September 1979, the Security Council unanimously recommended the admission of St. Lucia to membership of the United Nations. The General Assembly adopted resolution 34/1 admitting St. Lucia by acclamation on 18 September 1979.

3. Saint Vincent (Saint Vincent and the Grenadines)

On 9 February 1979, the House of Assembly approved the draft independence Constitution for St. Vincent. On 28 June, the United Kingdom Government announced that it planned to grant independence to the Territory on 27 October, and that an independent St. Vincent would become a full member of the Commonwealth and of the United Nations.³

St. Vincent acceded to independence on 27 October 1979 as Saint Vincent and the Grenadines.

¹ *Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, Official Records of the General Assembly: Thirty-fourth session, Supplement No. 23, A/34/23/Rev.1, vol. IV.*

² See A/34/23/Rev.1, vol. IV.

³ *Ibid.*

B. TRUST TERRITORIES

Trust Territory of the Pacific Islands

In a referendum held on 12 July 1978, Kosrae, Ponape, Truk and Yap—in the Caroline archipelago—had approved and ratified a draft constitution for a proposed Federated States of Micronesia. The four districts subsequently held elections. The Congress of the Federated States of Micronesia was inaugurated on 10 May 1979.

The Marshall Islands and Palau rejected the draft constitution and continued drafting their own constitutions.

In a referendum held on 1 March 1979, the voters of the Marshall Islands adopted their own constitution. The first general election under the new constitution took place on 10 April 1979.

On 2 April 1979, the Constitutional Convention of Palau adopted a draft constitution, which a majority of the district's voters approved in a referendum on 9 July.

On 25 April 1979, the Secretary of the Interior of the United States issued Secretarial Order No. 3039 entitled: "Recognition of Governmental Entities under Locally Ratified Constitutions in the Trust Territory of the Pacific Islands". The Order provides the maximum permissible degree of self-government for the Federated States of Micronesia, the Marshall Islands and Palau, pursuant to their respective constitutions when ratified, pending termination of the Trusteeship Agreement.⁴

During the forty-sixth session of the Trusteeship Council in 1979, the administering Authority (the United States) reaffirmed its intention to seek agreement with the Micronesian parties to terminate the Trusteeship Agreement by 1981 simultaneously for all areas of the Trust Territory including the Northern Mariana Islands.

The representative of the United States also said that representatives of the Administering Authority, the Federated States of Micronesia, the Marshall Islands and Palau were translating the Hilo principles into draft language of a single compact of free association and subsidiary agreements to be signed by the United States and each of the three Micronesian Governments. While the United States felt bound by the results of the 1978 constitutional referendum of the Federated States of Micronesia, it would continue to encourage the closest possible co-operation among the three Micronesian Governments during their transition and post-Trusteeship periods. It would also facilitate co-operation between the Northern Mariana Islands and the rest of the Trust Territory as much as possible.

In 1979, the Administering Authority reported that the role played by the former Congress of Micronesia concerning the negotiations on the Territory's future political status would be assumed by the Congress of the Federated States of Micronesia representing Kosrae, Ponape, Truk and Yap. The Marshall Islands and Palau would be represented by their future political status commissions.

The question of the situation in the Trust Territory of the Pacific Islands was also discussed in 1979 by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. The Committee reaffirmed the inalienable right of the people to self-determination, including the right to independence. It noted the intention of the Administering Authority to terminate the Trusteeship Agreement in 1981 and, recognizing that it was ultimately for the Territory's people to decide their political destiny, called on the Administering Authority to preserve the unity of the Territory until those people had exercised their right to self-determination in accordance with the Declaration.

⁴ A/AC.109/613.

C. NON-SELF-GOVERNING TERRITORIES

1. American Samoa

As a result of the election of 7 November 1978, the Sixteenth Legislature was elected and held its first regular session, beginning on 3 January 1979.⁵

In August 1979, following a visit to American Samoa by a "White House Task Force", Governor Coleman published a statement on the future of the Territory. The territorial legislature shortly after issued a statement on the same subject, expressing the view that the United States should seek to create an atmosphere that would facilitate further steps towards political self-determination for American Samoa.⁶

On 9 August 1979, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples approved the report of its Sub-Committee on Small Territories concerning American Samoa and endorsed its conclusions and recommendations.

The Committee noted with interest the establishment of a 12-member second temporary commission to study the future political status of the territory.⁷

At its thirty-fourth session the General Assembly adopted resolution 34/35 of 21 November 1979, whereby it called upon the administering power, in consultation with the freely elected representatives of the people, to continue to ensure the full and speedy attainment of the goals set forth in the Declaration.

2. Antigua, St. Kitts-Nevis-Anguilla

At a meeting held at Castries, St. Lucia, on 15 and 16 May 1979, the Council of Ministers for the West Indies Associated States which had been formed in late 1967 as the institution for intergovernmental co-operation among the seven Leeward and Windward Islands, adopted two resolutions. In the first, it decided to convert the Council into the Organization of Eastern Caribbean States. This Organization was established in June 1979. In the second resolution, it was decided to request the United Kingdom Government to give urgent consideration to granting independence to the remaining Associated States as early as possible and preferably not later than the end of 1979.⁸

In its resolution 34/194 adopted on 19 December 1979, the General Assembly took note of the Secretary-General's report on assistance offered to Antigua, St. Kitts-Nevis-Anguilla, Saint Lucia and Saint Vincent and emphasized the urgency of rendering all necessary assistance to the peoples of, *inter alia*, Antigua and St. Kitts-Nevis-Anguilla, in their efforts to strengthen and develop their economies.

3. Belize

The United Kingdom House of Commons continued to consider the question of Belize in 1979 (on 14 February and again on 28 March). According to the then Minister of State at the Foreign and Commonwealth Office, the United Kingdom still intended to seek a negotiated settlement with Guatemala which was acceptable to the Belizeans, in order to enable the Territory to achieve secure independence.

At a meeting in Rio de Janeiro in January 1979, the juridical Commission of the Organization of American States passed a resolution in which it stated that pretensions by the

⁵ A/34/23/Rev.1, vol. III.

⁶ A/AC.109/610.

⁷ A/34/23/Rev.1, vol. III.

⁸ See A/34/23/Rev. 1, vol. IV.

United Kingdom Government "to take unilateral decisions on the future of Belize" were "incompatible with Guatemala's sovereign rights as recognized by OAS". The Commission urged the United Kingdom to speed up the process of dialogue with a view to finding a just solution to Guatemala's claim over Belize.

In April, Jamaica was reported to have been joined by Grenada, Mexico and Trinidad and Tobago in condemning the resolution on Belize recently approved by the Commission.⁹

The Constitution of the Territory was amended by the Belize Letters Patent dated 3 December 1979, in which the post of Deputy Director was established for the first time.

General elections were held on 21 November 1979 for the National Assembly.

In a statement before the Fourth Committee on 30 October 1979, the Permanent Representative of the United Kingdom stated that negotiations between his Government and Guatemala had not been resumed because of the general elections in May 1979 in the United Kingdom and the forthcoming general elections in Belize.¹⁰

On 21 November 1979, the General Assembly, on the recommendation of the Fourth Committee, adopted resolution 34/38, in which it took note of the part concerning Belize of the Political Declaration adopted by the Sixth Conference of Heads of State or Government of Non-Aligned Countries held at Havana in September 1979, in particular a statement by which the Conference reiterated its unconditional support for the Belizean people's right to self-determination, independence and territorial integrity. By this resolution, the Assembly reaffirmed the principles of the Declaration on the Granting of Independence to Colonial Countries and Peoples and recognized the special responsibility of the United Kingdom, the administering Power, in this regard, and urged the United Kingdom, acting in close consultation with the Government of Belize, and the Government of Guatemala to continue efforts to conclude their negotiations without prejudice to the rights of the Belizean people.

4. Bermuda

As a result of a constitutional conference held in Bermuda in February and July 1979 the Constitution, already amended in 1973, was further amended, with effect from 1 December 1979.¹¹

On 1 August 1979, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted the report of its Sub-Committee on Small Territories concerning Bermuda. It reaffirmed the inalienable right of the people of Bermuda to self-determination and independence, while aware of its special circumstances owing to size, location, population and limited resources. It welcomed the co-operation of the administering Power, the United Kingdom, and its statement that it would respect the wishes of the people of Bermuda in determining their future constitutional status.¹²

By its resolution 34/34 of 21 November 1979, the General Assembly approved the chapter of the Special Committee's report relating to Bermuda.

5. British Virgin Islands

The Special Committee adopted in August 1979 the report of its Sub-Committee on Small Territories on the British Virgin Islands. It took note of recent constitutional

⁹ See A/34/23/Rev.1, vol. IV.

¹⁰ See A/AC.109/618.

¹¹ A/AC.109/595.

¹² A/34/23/Rev.1, vol. III.

developments, in particular the lowering of the voting age from 21 to 18 years. It urged the United Kingdom to continue to co-operate with local authorities to diversify the economy.¹³

The first elections under the Constitution for the nine elected seats of the Legislative Council took place on 12 November 1979.¹⁴

By its resolution 34/34 of 21 November 1979, the Assembly approved the chapter of the Special Committee's report concerning the British Virgin Islands.

6. Brunei

Following negotiations between the Sultan of Brunei and Lord Goronwy Roberts, then United Kingdom Minister of State for Foreign and Commonwealth Affairs, the United Kingdom and the Sultanate of Brunei initialled a new Treaty of Friendship and Co-operation at London on 28 September 1978, by which Brunei will assume full responsibility as a sovereign independent State at the end of 1983. The signing of the treaty took place in Brunei on 7 January 1979. The Sultan and Lord Goronwy Roberts also initialled three accompanying notes concerning the maintenance in Brunei of a battalion (800) of Gurkha troops in the service of the State of Brunei until September 1983; United Kingdom aid for the creation of a diplomatic service for the future independent State; and relations between the judiciary and the State.

The agreement reportedly represented a compromise between the Sultan's wish not to assume responsibilities for defence and foreign affairs and the United Kingdom Government's desire to transfer all responsibilities. Impetus to the London discussion was given by the support for the independence of Brunei as well as its admission into the Association of South-East Asian Nations (ASEAN) expressed by the Heads of the Governments of Malaysia and Indonesia.

Early in 1979, the Foreign Minister of Malaysia paid a visit to Brunei. He declared at that time that his country was looking forward to a new era of good relations with Brunei. The visit was considered as a historic gesture of goodwill following the signing of the Treaty between the United Kingdom and Brunei.

The treaty was debated in February 1979 in the House of Lords of the British Parliament. In response to questions put to him by his peers, Lord Goronwy Roberts said that the Brunei Government should consider extending Brunei citizenship to British-protected persons residing in the Territory after 1983. He also stated that the United Kingdom would continue to make available, within the limits of resources, loan service personnel both in the defence and civil fields. Announcing that the independence agreement had been warmly welcomed by the Pacific and ASEAN countries, Lord Goronwy Roberts said that the United Kingdom would also assist Brunei to build up its diplomatic service.¹⁵

On 21 November 1979, by its decision 31/413, the General Assembly decided to defer consideration of the question of Brunei to its thirty-fifth session and requested the Special Committee to continue keeping the situation in the territory under review and to report on it.

7. Cayman Islands

On 17 October 1979, the representative of the United Kingdom made a statement in the Fourth Committee on the future status of the Territories under the administration of his country, including the Cayman Islands. He pointed out that the 1977 Visiting Mission to the Cayman Islands had learned at first hand from the elected Government of the Territory that it

¹³ A/34/23/Rev.1, vol. III.

¹⁴ A/AC.109/593.

¹⁵ A/34/23/Rev.1, vol. II.

did not intend to proceed to independence at that time. He reiterated that the guiding policy of the United Kingdom Government would continue to be respect for the wishes of the inhabitants of the Territory.¹⁶

In August 1979, the Special Committee had adopted the report of its Sub-Committee on Small Territories on the Cayman Islands, and endorsed its conclusions and recommendations. It had reaffirmed that constitutional change relating to independence must be decided by the People of the Cayman Islands themselves; it had also urged an increase in efforts to diversify the economy for greater self-sufficiency.¹⁷

By its resolution 34/34 of 21 November 1979, the General Assembly approved, *inter alia*, the chapter of the Special Committee's report relating to the Cayman Islands.

8. Cocos (Keeling) Islands

In early 1979, the citizenship provisions of the Cocos (Keeling) Islands Act were amended to extend Australian citizenship to any person (not already an Australian citizen) who had been ordinarily resident in the Cocos Islands immediately before his or her transfer to Australia, and who is now ordinarily resident in Australia or an external Territory and wishes to take up Australian citizenship. The amending act and certain related regulations came into operation on 21 March 1979.¹⁸

On 25 July 1979, the interim Advisory Council became the Cocos (Keeling) Islands Council. The Local Government Ordinance, 1979, required that an election be held not later than three months after the first meeting of the first Council. The election was held on 20 October 1979.¹⁹

On 1 August 1979, the Special Committee adopted the report of its Sub-Committee on Small Territories concerning the Cocos (Keeling) Islands, together with a consensus statement contained in the report.²⁰ A similar consensus statement was adopted by the General Assembly as decision 34/409 of 21 November 1979.

By these statements, the continuing co-operation of Australia in reporting on the implementation of the Declaration was noted with appreciation. Particularly welcomed was its invitation to the Special Committee to send a visiting mission to the islands in 1980 to obtain first-hand information on the situation there. The commitment of the administering Power to the advancement of the people of the territory as well as its overriding objective to bring about, as speedily as possible, conditions to enable the people to exercise freely their right to self-determination was also noted with appreciation.

9. East Timor

On 20 May 1979, an International Seminar on East Timor was held at Lisbon. The seminar, which was attended by over 500 people from Portugal and other countries, was sponsored by the Amílcar Cabral Information and Documentation Centre (CIDAC) and the Portugal-East Timor Friendship Association, both Portuguese non-governmental organizations.

On 22 May 1979, following the conclusion of the seminar, the National Assembly of Portugal approved a motion condemning the invasion of East Timor by Indonesia and

¹⁶ A/AC.109/596.

¹⁷ A/34/23/Rev.1, vol. III.

¹⁸ A/34/23/Rev.1, vol. III.

¹⁹ A/AC.109/635.

²⁰ A/34/23/Rev.1, vols. I and III.

expressing the hope that the people of the Territory would be able to exercise freely their right to self-determination and independence.²¹

The Special Committee considered the question of East Timor on 16 August 1979.²²

On 21 November 1979, by its resolution 34/40, the General Assembly reaffirmed the inalienable right of the people of East Timor to self-determination and independence and declared that those people must be enabled freely to determine their own future, under United Nations auspices.

10. Falkland Islands (Malvinas)

A number of meetings were held between the Governments of Argentina and the United Kingdom on the question of the Falkland Islands (Malvinas) during the year 1979.²³

The Special Committee took up the question of the Falkland Islands (Malvinas) on 16 August 1979.²⁴

By letters dated 28 June 1979 from Argentina and the United Kingdom, the Secretary-General was informed that representatives of the two States had held a fourth round of negotiations in New York from 21 to 23 March and would meet again at a time and place to be decided upon.²⁵

By its decision 34/414 of 21 November 1979, the General Assembly decided to defer until its thirty-fifth session consideration of the question and requested the Special Committee to continue keeping the situation under review.

11. Gibraltar

The Special Committee considered the question of Gibraltar on 16 August 1979.²⁶

At a meeting held between the United Kingdom Secretary of State for Foreign and Commonwealth Affairs and Spain's Minister for External Affairs in New York on 24 September 1979, the two sides agreed that it was in the interest of both the United Kingdom and Spain to seek ways of resolving their differences on the Gibraltar question.²⁷

On 6 November, the Chairman of the Fourth Committee introduced a consensus statement on Gibraltar. This text was approved by the Fourth Committee, and further adopted by the General Assembly as decision 34/412. The General Assembly thereby urged Spain and the United Kingdom to make possible without delay, taking due account of current circumstances, the initiation of negotiations in order to reach a lasting solution to the problem, in the light of General Assembly resolutions and in the spirit of the Charter of the United Nations.

12. Guam

The fifteenth Guam legislature opened in January 1979.

On 9 May 1979, the Guam legislature passed a bill setting 4 August 1979 as the date for a referendum on the draft constitution for the Territory.

²¹ A/34/23/Rev.1, vol. II.

²² *Ibid.*

²³ A/34/23/Rev.1, vol. IV.

²⁴ *Ibid.*

²⁵ A/34/65 and A/34/66.

²⁶ A/34/23/Rev.1, vol. II.

²⁷ A/AC.109/603 and Corr.1.

Following an invitation by the administering Power (the United States), a United Nations Visiting Mission from the Special Committee went to Guam from 30 July to 7 August 1979 in order to observe the referendum and to observe conditions in the Territory. At the issue of the referendum held on 4 August, the proposed Constitution, which would have maintained the *status quo*, was overwhelmingly rejected by the voters.

Among its recommendations, the mission suggested that, in view of the landslide rejection of the draft constitution, and its finding that the political options had been insufficiently explained to the people of Guam, they should be given an opportunity by the administering Power to choose their future political status.

By a decision of 5 November 1979, the Committee adopted a set of conclusions and recommendations concerning Guam, prepared on the basis of consultations with members of the mission.²⁸

On 21 November 1979, by its resolution 34/39, the General Assembly approved the Special Committee's report on Guam and reaffirmed the inalienable right of its people to self-determination and independence in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples.

13. Montserrat

In August 1979, the Special Committee adopted the report of its Sub-Committee on Small Territories on Montserrat and endorsed its conclusions and recommendations. It took note of recent elections in the territory and of the newly elected Chief Minister's statement that development rather than independence was his priority.²⁹

By its resolution 34/34 of 21 November 1979, the General Assembly, *inter alia*, approved the chapter of the Special Committee's report relating to Montserrat.

14. Namibia

During 1979, further efforts were made by the five Western members of the Security Council as well as the front-line States and the Secretary-General of the United Nations to persuade South Africa to co-operate in the holding of Territory-wide elections in Namibia under United Nations supervision and control.

High level consultations on the question of Namibia were held in Geneva between 12 and 16 November with the participation of front-line States, the five Western members of the Security Council and South Africa, as well as SWAPO.

However, although South Africa participated, in 1979, in negotiations for an internationally acceptable settlement, it also continued to defy the United Nations and the international community by accelerating the momentum towards an internal settlement.³⁰

In 1979, the question of Namibia was again considered by various United Nations bodies. On 27 April, the Special Committee adopted a Final Document on the Decolonization of Zimbabwe and Namibia by which, among other things, it reaffirmed that Namibia was the direct responsibility of the United Nations until genuine independence and self-determination were achieved, strongly condemned South Africa's illegal occupation of the Territory, and reaffirmed that the only political solution for Namibia must be based on the termination of South Africa's illegal occupation and the holding of free elections under the

²⁸ A/34/23/Rev.1, vols. I and IV.

²⁹ A/34/23/Rev.1, vol. III.

³⁰ A/AC.109/604.

supervision and control of the United Nations in the whole of Namibia as one political entity.³¹

In its 1979 report to the General Assembly, the Council for Namibia said that during the year it had continued to support the Namibian people under the leadership of SWAPO, their sole and authentic representative. The Council's report contained a review of the activities of the United Nations Commissioner for Namibia and included a number of recommendations for action by the General Assembly.³²

In May 1979, the General Assembly resumed its thirty-third session in order to consider fully the question of Namibia and the implications of South Africa's continued defiance of Assembly and Security Council resolutions. On 31 May, the General Assembly adopted resolution 33/206, by which it reaffirmed the direct responsibility of the United Nations for Namibia, renewed its determination to ensure the complete discharge of that responsibility, and called on all Members States and United Nations bodies and organs to support the Council for Namibia as the legal Administering Authority for Namibia until independence.

At its thirty-fourth session, the General Assembly adopted, on 12 December 1979, seven resolutions on the various aspects of the question of Namibia (resolutions 34/92 A to G).

15. New Hebrides

On 1 August 1979, the Special Committee adopted the conclusions and recommendations of its Sub-Committee on Small Territories concerning the New Hebrides. It welcomed the commitment of the administering Powers (France and the United Kingdom) to bring the Territory to independence by 1980.³³

By a joint letter of 24 October 1979, the administering Powers informed the Secretary-General that the territorial Government had agreed on the terms of a constitution on 19 September and set 14 November 1979 for elections to a new representative assembly. They invited a United Nations mission to observe that election process.³⁴

By its resolution 34/10 of 2 November 1979, the General Assembly reaffirmed the territorial integrity and national unity of the New Hebrides; it also expressed the hope that the New Hebrides would move towards independence in a smooth and speedy fashion.

The United Nations mission visited the Territory from 11 to 19 November 1979. In its report to the General Assembly, it considered that the elections had been fairly conducted and was satisfied that the results reflected the will of the people. The mission had been informed that a decision on the timing of independence would be taken by the newly elected Government; the preferred time seemed to be the middle of 1980.³⁵

16. Pitcairn

On 22 June 1979, the Special Committee adopted, with regard to Pitcairn, a consensus statement contained in the report of its Sub-Committee on Small Territories. Noting the gradual decline of the population, it called again on the administering Power (the United Kingdom) to continue to safeguard the interests of the people of the Territory so as not to

³¹ A/34/23/Rev.1, vol. II.

³² *Report of the United Nations Council for Namibia, Official Records of the General Assembly: Thirty-fourth session, Supplement No. 24 (A/34/24, vols. I and II and Corr.1, vols. III and IV; A/34/24/Add.1).*

³³ A/34/23/Rev.1, vol. III.

³⁴ A/34/616.

³⁵ A/34/852.

abandon them to an uncertain future, and with a view to encouraging them to remain on the island.³⁶

By its decision 34/415 of 21 November 1979, the General Assembly decided to defer to its thirty-fifth session consideration of the question of Pitcairn.

17. Saint Helena

On 22 June 1979, the Special Committee approved the report of its Sub-Committee on Small Territories concerning St. Helena together with a consensus statement contained in that report.

On 21 November 1979, the General Assembly adopted decision 34/411 containing a similar consensus statement by which the inalienable right of the people of St. Helena to self-determination and independence in conformity with the Declaration on the Granting of Independence to Colonial Countries and Peoples was reaffirmed.

18. Southern Rhodesia

On 2 January 1979, the illegal régime published Proposals for a New Constitution for Rhodesia. The draft constitution was submitted to an all-white referendum on 30 January and approved by 85 per cent of the voters.

By resolution 445 (1979), of 8 March 1979, the Security Council declared any election held under the auspices of the illegal régime and the results thereof null and void. It also declared that no recognition would be accorded either by the United Nations or by any Member State to any representatives or to any organ established by that process. It urged all States to refrain from sending observers to those elections and to take appropriate action to discourage organizations and institutions within their respective areas of jurisdiction from doing so.

During the vote on the resolution, the United Kingdom, the United States and France abstained, stating that while their governments would not send anyone to Southern Rhodesia to observe the elections they could not accept a resolution which circumscribed the functioning of their legislative bodies or the rights of any of their citizens who might decide to observe the elections.³⁷

On 30 April 1979, the Security Council adopted resolution 448 (1979) by which it condemned all attempts by the régime to prevent Zimbabwe's achieving independence and genuine majority rule and reaffirmed that the so-called elections held from 17 to 21 April 1979 were null and void.

On 27 April, the Special Committee adopted the text of the Final Document on the Decolonization of Zimbabwe and Namibia.³⁸

Other important developments related to this issue were a meeting at Lusaka, Zambia, in August 1979, of heads of Government of Commonwealth countries, where the heads of Government confirmed their total commitment to genuine black majority rule and accepted that it was the United Kingdom's responsibility to grant independence on that basis,³⁹ and a Constitutional Conference at Lancaster House, London, whose objective was to provide for majority rule in the Territory and consider arrangements for a transitional period leading to independence, including the holding of elections supervised by the United Kingdom.

³⁶ A/34/23/Rev.1, vol. III.

³⁷ A/34/23/Rev.1, vol. II.

³⁸ *Ibid.*

³⁹ A/34/439.

On 18 December 1979, the General Assembly adopted resolution 34/192 on the question of Southern Rhodesia. By this resolution, the Assembly reaffirmed the inalienable right of the people of Zimbabwe to self-determination, freedom and independence and the legitimacy of their struggle to secure that right by all means at their disposal. It also reaffirmed that there should be no independence before majority rule in Zimbabwe called for the full implementation of the agreements reached at Lancaster House, and commended the Patriotic Front of Zimbabwe for its contribution to the negotiations.

19. Tokelau

On 22 June 1979, the Special Committee approved the report of its Sub-Committee on Small Territories concerning Tokelau, and endorsed an amended version of its conclusions and recommendations, by which it reaffirmed the inalienable right of the people of Tokelau to self-determination and independence in conformity with the Declaration of the Granting of Independence, to Colonial Countries and Peoples.⁴⁰

In July 1979, the Administrator (who is the Secretary of Foreign Affairs of New Zealand), visited Tokelau. He pledged to initiate the next stage of political development in Tokelau.

On 24 October, the representative of the administering Power informed the Fourth Committee of the General Assembly that there were currently more Tokelauans living in New Zealand than in the Territory. Tokelau would continue to be heavily dependent on New Zealand. The New Zealand Government fully accepted that state of affairs and would continue to give Tokelau the help it needed, while making every effort to help the Territory attain greater self-sufficiency.⁴¹

On 21 November, the Assembly, in its decision 34/410, adopted a consensus statement concerning Tokelau, by which it commended New Zealand for its continued co-operation and efforts to foster an increased awareness of the avenues of constitutional development open to the Tokelauans.

20. Turks and Caicos Islands

In August 1979, the Special Committee adopted the report of its Sub-Committee on Small Territories on the Turks and Caicos Islands, and endorsed its conclusions and recommendations. It urged the United Kingdom to take all possible steps to strengthen and diversify the economy of the Turks and Caicos Islands. It reaffirmed its conviction that the presence of military bases in those islands should not prevent the people from exercising their inalienable right to self-determination and independence. It welcomed an invitation by the United Kingdom to send a mission to the territory in 1980.⁴²

Talks were held in London on November 1979 concerning constitutional advancement for the Territory. In the course of the discussions, the Turks and Caicos Islands delegation presented a draft constitution containing a number of proposals aimed primarily at transferring most of the powers currently held by the Governor to the elected members of the Executive Council.⁴³

In its resolution 34/34 of 21 November 1979, the General Assembly approved the chapter of the Special Committee's report relating to the Turks and Caicos Islands. It

⁴⁰ A/34/23/Rev.1, vol. III.

⁴¹ A/AC.109/602.

⁴² A/34/23/Rev.1, vol. III.

⁴³ A/AC.109/636.

welcomed the positive attitude of the United Kingdom as regards the invitation to dispatch a mission to the Islands in 1980.

At a meeting held in December 1979, the legislative Council passed a resolution by which it accepted the proposed timetable for independence by mid-1982 together with a special aid package.⁴⁴

21. United States Virgin Islands

A proposed territorial constitution was forwarded to the Congress of the United States on 20 September 1978. On 15 December, about a month after the Congress had approved the proposed constitution, the convention delegates agreed to submit it to a referendum to be held on 6 March 1979. The draft territorial constitution was rejected by the people of the Territory.⁴⁵

In an attempt to revise the existing elections laws, the legislature passed a bill on 9 May 1979 to establish the Virgin Islands Election Law Reform Commission.⁴⁶

On 8 August 1979, the Special Committee adopted the report of its Sub-Committee on Small Territories concerning the United States Virgin Islands, and endorsed its conclusions and recommendations. It urged the administering Power, in consultation with the territorial Government, to take all measures necessary to achieve a stable and viable economy in the Territory and to guarantee the people's right to own and dispose of their natural resources and to control their future development.⁴⁷

On 21 November, the General Assembly, by its resolution 34/36, approved the Special Committee's report, reaffirmed the inalienable right of the people of the Territory to self-determination and independence, requested the United States to continue taking all necessary measures to enable the people to exercise fully their right to self-determination, and expressed the view that the presence of a United States naval facility should not impede progress towards self-determination.

22. Western Sahara

On 2 December 1978, in a communiqué issued by the *Ad Hoc* Committee of the Assembly of Heads of State and Government of the Organization of African Unity (OAU) following its two-day meeting at Khartoum, it was announced that a sub-committee comprising the Presidents of Nigeria and Mali had been formed with a mandate to visit the region, accompanied by the Administrative Secretary-General of OAU, and to contact all the parties concerned including "the Saharan people" in order to undertake necessary measures for restoring peace and security. The communiqué appealed to all parties to adhere to an immediate cease-fire to enable the sub-committee to accomplish its duties.

On 30 April 1979, the sub-committee visited Algeria, Mauritania and Morocco and met with representatives of the Frente Popular para la Liberación de Seguia et Hamray de Rio de Oro (POLISARIO) at Algiers. A full meeting of the *Ad Hoc* Committee was held on 23 June 1979. On 26 June, the Committee issued a communiqué stating that it had adopted certain recommendations of the sub-committee concerning the exercise of the right of self-determination by the people of Western Sahara and the modalities of its exercise. The recommendations would be submitted to the Assembly of Heads of State and Government at its Sixteenth ordinary session, to be held at Monrovia from 17 to 20 July. The *Ad Hoc*

⁴⁴ *Ibid.*

⁴⁵ A/34/23/Rev.1, vol. III.

⁴⁶ A/AC.109/608.

⁴⁷ A/34/23/Rev.1, vol. III.

Committee reiterated its appeal to all parties concerned immediately to observe a cease-fire until OAU had had an opportunity to consider the recommendations of the Committee.

Early in April 1979, the Government of Mr. Ould Salek of Mauritania was replaced by a Military Committee of National Salvation and Colonel Ahmed Ould Bouceif became Prime Minister. In an official military communiqué issued following this change, it was announced that the Government's main aims were a peaceful solution to the Saharan conflict and the promotion of economic recovery through "controlled liberalization".

In a letter dated 23 May 1979, addressed to the Secretary-General (A/34/276), the Chargé d'Affaires a.i. of the Permanent Mission of Mauritania to the United Nations stated the position of his Government with respect to the question of Western Sahara, indicating, *inter alia*, that Mauritania was prepared to implement the provisions of General Assembly resolutions 3458 A and B (XXX); that it was prepared to study ways and means of achieving self-determination in the Sahara; that it remained in favour of the dialogue with POLISARIO with a view to achieving the practical implementation of the principle of self-determination; and that Mauritania was prepared to normalize its relations with Algeria.

Since July 1978, the Moroccan Government has repeatedly stated on various occasions that it would not give up any of "its recovered Saharan provinces", nor would it agree to a mini-State under POLISARIO in Mauritania's sector of Western Sahara. In a speech in August 1978, King Hassan II stated that "any peace solution must not involve a threat to our territorial integrity; it must not lead to the insertion of a foreign State between Morocco and Mauritania".

As regards Spain's position on Western Sahara, during his visit to Algeria in May 1979, Prime Minister Adolfo Suárez González was reported to have said that a just solution of the question of Western Sahara inevitably involved the self-determination of the Saharan people. A joint communiqué issued by Algeria and Spain at the end of the visit called for a "quick decolonization of Western Sahara". Previously, Spain's governing party, the Unión Centro Democrático (UCD) had decided to recognize POLISARIO as the only legitimate representative of the Saharan people. The decision was announced on 15 October 1978 in a joint communiqué following the participation of a delegation of UCD in the Fourth POLISARIO Congress.

At its sixteenth ordinary session, held at Monrovia from 17 to 20 July 1979, the Assembly of Heads of State and Government of OAU adopted a decision on Western Sahara (AHG/Dec.114 (XVI)) by which it decided the following:

"1. The preparation of a proper atmosphere for peace in the area through a general and immediate cease-fire;

"2. The exercise of the right of self-determination by the people of Western Sahara in a general and free referendum which will enable them to choose one of the following options:

(a) Total independence, or

(b) Maintenance of the *status quo*;

"3. The convening of a meeting of all the parties concerned, including the representative of Western Sahara, to request their co-operation for the implementation of the present decision;

"4. The establishment of a special committee of six member States of the Organization of African Unity composed of Guinea, Liberia, Mali, Nigeria, the Sudan and the United Republic of Tanzania, to work out the modalities and to supervise the organization of a referendum with the co-operation of the United Nations on the basis of one person one vote. The special committee shall be chaired by Liberia, the current Chairman of the Organization of African Unity."⁴⁸

⁴⁸ A/34/23/Rev.1, vol. II.

On 10 August 1979, the Government of Mauritania signed a peace agreement at Algiers with representatives of POLISARIO, by which Mauritania renounced all territorial and other claims on Western Sahara and stated that it had decided to "withdraw definitively from the unjust Western Sahara war".

On 12 August, Moroccan troops took over the administration of the Mauritanian sector of Western Sahara.

The Algerian Government on 16 August 1979 urged the international community to condemn Morocco's policy.⁴⁹

The Special Committee considered the question of Western Sahara on 16 August 1979. It decided to transmit the relevant documentation to the General Assembly for its consideration and to consider the question of Western Sahara again in 1980.⁵⁰

During the second half of 1979, there were several attempts to bring together various parties to the conflict in order to negotiate a settlement to the question of Western Sahara.

At the Sixth Conference of Heads of State or Government of Non-Aligned Countries held at Havana from 3 to 9 September 1979, the Conference expressed its deep concern about the situation prevailing in Western Sahara and recalled the decisions of the non-aligned countries and the United Nations and OAU resolutions reaffirming the inalienable right of the people of Western Sahara to self-determination and independence.⁵¹

At its thirty-fourth session in 1979, the General Assembly had before it, for its consideration of the question, the report of the Special Committee as well as a report by the Secretary General.⁵² By its resolution 34/37 of 21 November, the General Assembly reaffirmed the inalienable right of the people of Western Sahara to self-determination and independence; it welcomed the peace agreement concluded between Mauritania and POLISARIO; it urged Morocco to join the peace process and terminate the occupation of Western Sahara; it also recommended that POLISARIO participate fully in any search for a just and definitive political solution of the question.

⁴⁹ A/AC.109/621.

⁵⁰ A/34/23/Rev.1, vol. II.

⁵¹ A/AC.109/621.

⁵² A/34/483.

PART II

ACTIVITIES OF THE SUPERVISORY
BODIES

Section A. Practice of the supervisory bodies

A. Committee on the Elimination of Racial Discrimination

INTRODUCTION

The Committee on the Elimination of Racial Discrimination held two regular sessions in 1979. The nineteenth session (407th to 433rd meetings) was held from 26 March to 13 April 1979 at the headquarters of the United Nations Educational, Scientific and Cultural Organization (UNESCO), Paris, and the twentieth session (434th to 455th meetings) was held from 30 July to 17 August 1979 at United Nations Headquarters, New York.¹

In accordance with decision 2 (VI) of 21 August 1972 of the Committee concerning co-operation with the International Labour Organisation (ILO) and UNESCO, representatives of both organizations attended the nineteenth and twentieth sessions of the Committee.²

At its nineteenth session, the Committee undertook, in the context of its consideration of the item concerning the "Implementation of article 7 of the Convention", a thorough discussion of the UNESCO Declaration on Race and Racial Prejudice and the resolution on its implementation adopted by the General Conference at its twentieth session, and adopted a decision on its further co-operation with UNESCO in the implementation of article 7 of the Convention.³

At the twentieth session, the report of the ILO Committee of Experts on the Application of Conventions and Recommendations, submitted to the sixty-fifth session of the International Labour Conference, was made available to the members of the Committee on the Elimination of Racial Discrimination in accordance with arrangements for co-operation between the two Committees. The Committee took note with appreciation of the report of the Committee of Experts, in particular of those sections which dealt with the Discrimination (Employment and Occupation), Convention, 1958 (No. 111), as well as of other information in the report relevant to its activities.⁴

1. IMPLEMENTATION OF ARTICLE 7 OF THE CONVENTION

This item was considered during the nineteenth session at the 428th to 431st meetings held from 10 to 12 April 1979.⁵

At the nineteenth session, the representative of UNESCO introduced the Declaration on Race and Racial Prejudice and the resolution for the implementation of the Declaration. The Declaration was the first comprehensive instrument establishing a single standard of reference reflecting the multidisciplinary approach of UNESCO. It aimed to identify the origins and root causes of discrimination, and thus to help to clarify the basic concepts of racism and racial prejudice contained in relevant legal instruments. The Declaration

¹ "Report of the Committee on the Elimination of Racial Discrimination", *Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 18 (A/34/18)*, para. 3.

² *Ibid.*, para. 15.

³ *Ibid.*, para. 18.

⁴ *Ibid.*, para. 19.

⁵ *Ibid.*, para. 29.

proclaimed some rights or concepts for the first time, and added new emphasis to some already covered by the International Convention on the Elimination of All Forms of Racial Discrimination. The Declaration went beyond the purely legal aspect of equality before the law and proclaimed for the first time in an international instrument the "right to be different", namely the right not to be assimilated and to maintain different cultural identities. It laid special emphasis on legislation to be adopted in the spheres of education, culture and communication, and on the importance of scientific research in helping to prevent racist attitudes. On the subject of the international implication of racism, the Declaration affirmed a new concept in the field of human rights—the right to full development. The Declaration stated that any form of racial discrimination practised by a State constituted a violation of international law giving rise to international responsibility.

Resolution 3/1.1/3, adopted by the General Conference at its twentieth session, for the implementation of the Declaration urged member States of UNESCO to ratify, if they had not yet done so, the international instruments designed to combat racial discrimination, and also to take measures to prevent and punish acts of racial discrimination and to compensate its victims. The representative of UNESCO stated that, under the resolution, the Director-General might perhaps address two separate communications to member States of UNESCO: first, to those which had ratified the Convention on the Elimination of All Forms of Racial Discrimination, requesting them to provide information to supplement that contained in their periodic report, and second, to those which had not ratified the Convention, requesting comprehensive information on the measures taken by them to give effect to the principles of the Declaration.

Some members of the Committee welcomed the adoption of the UNESCO Declaration on Race and Racial Prejudice. On the other hand, a number of critical comments were made by some members in respect of the general aspects of the Declaration.⁶

At its 431st meeting, on 12 April 1979, the Committee adopted by consensus decision 2 (XIX) on arrangements for co-operation between UNESCO and the Committee in implementation of article 7 of the Convention, and decided to resume consideration of the item at its twenty-first session.⁷ The text of the decision, as adopted, appears below in section B.

2. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

(a) *Consideration of reports*

At its nineteenth and twentieth sessions, the Committee examined the reports and additional information submitted by the following 43 States parties under article 9 of the Convention.⁸

(b) *Consideration of proposals relating to the revision of the general guidelines of the Committee and to other aspects of the reporting procedure under article 9 of the Convention*

At its nineteenth session, the Committee agreed, at the suggestion of the Chairman, to set up a working group, composed of six of its members, with the following terms of reference:

⁶ *Ibid.*, paras. 32-35.

⁷ *Ibid.*, paras. 38-40.

⁸ *Ibid.*, para. 53.

<i>State party</i>	<i>Type of report</i>	<i>Document symbol</i>	<i>Meetings at which considered</i>	<i>Date of consideration</i>	<i>Summary of consideration contained in the report (A/34/18), paragraphs:</i>
Philippines	Fifth	CERD/C/20/Add.9	409	27/3/79	57-65
Ethiopia	Initial	CERD/C/31	410	27/3/79	66-71
Mongolia	Fourth	CERD/C/34	411	28/3/79	72-78
Mexico	Second	CERD/C/16/Add.1	411-412	28/3/79	79-84
USSR	Fifth	CERD/C/20/Add.18	412	28/3/79	85-92
Bulgaria	Fifth	CERD/C/20/Add.19	413-414	29/3/79	93-105
Spain	Fifth	CERD/C/20/Add.20 and Add.33	414	29/3/79	106-114
New Zealand	Third	CERD/C/37	414-415	29-30/3/79	115-123
German Democratic Republic	Third	CERD/C/17/Add.1	415-416	30/3/79	124-133
Syrian Arab Republic	Fifth	CERD/C/20/Add.21	416	30/3/79	134-141
Byelorussian SSR	Fifth	CERD/C/20/Add.22	417	2/4/79	142-149
Somalia	Initial	CERD/C/39	417	2/4/79	150-154
Ukrainian SSR	Fifth	CERD/C/20/Add.23	418	2/4/79	155-162
Panama	Fifth	CERD/C/20/Add.25	418-419	2-3/4/79	163-170
Senegal	Third	CERD/C/40	419-420	3/4/79	171-180
Fiji	Third	CERD/C/17/Add.2	420	3/4/79	181-184
Chad	Initial	CERD/C/15/Add.2	420	3/4/79	185-188
Greece	Fourth	CERD/C/41	421-422	4/4/79	189-198
Romania	Fourth	CERD/C/42	422	4/4/79	199-209
Yugoslavia	Fifth	CERD/C/20/Add.27	422-423	4-5/4/79	210-221
Belgium	Second	CERD/C/16/Add.2	423-424	5/4/79	222-233
Upper Volta	Second	CERD/C/51	424	5/4/79	234-242
Chile	Fourth	CERD/C/18/Add.2 and 5	424-425	5-6/4/79	243-258
Canada	Fourth	CERD/C/52	425-426	6/4/79	259-268
Niger	Fifth	CERD/C/20/Add.28	426	6/4/79	269-277
Libyan Arab Jamahiriya	Fifth	CERD/C/20/Add.29	426-427	6/4/79	278-280
Mauritius	Third	CERD/C/38	435-436	31/7/79	281-290
Nigeria	Fifth	CERD/C/20/Add.31	436	31/7/79	291-301
Sweden	Fourth	CERD/C/48/Add.1	436-437	31/7-1/8/79	302-317
Bahamas	Second	CERD/C/16/Add.3	438	1/8/79	318-329
France	Fourth	CERD/C/18/Add.3	438-439	1-2/8/79	330-344
Germany, Federal Republic of	Fifth	CERD/C/20/Add.32	439-440	2/8/79	345-356
Ecuador	Fifth	CERD/C/20/Add.35 and 36	440	2/8/79	357-362
India	Fifth	CERD/C/20/Add.34	441-442	3/8/79	363-377
United Republic of Cameroon	Fourth	CERD/C/18/Add.4	442	3/8/79	378-381
Denmark	Fourth	CERD/C/48/Add.2	442-443	3 and 6/8/79	382-396
Australia	Second	CERD/C/16/Add.4	443-444	6/8/79	397-412
Algeria	Fourth	CERD/C/48/Add.3	444-445	6-7/8/79	413-423
Cuba	Fourth	CERD/C/48/Add.4	445-446	7/8/79	424-436
Netherlands	Fourth	CERD/C/48/Add.5	446-447	7-8/8/79	437-447
Seychelles	Initial	CERD/C/45/Add.1	447	8/8/79	448-455
Lesotho	Fourth	CERD/C/18/Add.6	447-448	8/8/79	456-459
Rwanda	Second	CERD/C/16/Add.5	448	8/8/79	460-464

“(a) To take into consideration the summary record of the 427th meeting (CERD/C/SR.427), the guidelines set out in document CERD/C/R.12, as contained in CERD/C/36, and the working paper prepared by Mr. Bahnev (Conference Room Paper 93), to submit draft guidelines on the arrangement of information in the reports of States parties submitted under article 9, paragraph 1, of the Convention;

“(b) To make proposals as to how States parties whose reports had hitherto proved satisfactory from the constitutional and legislative point of view should submit further reports;

“(c) To consider whether the Committee, after consideration of the report, should draw up conclusions and make specific proposals;

“(d) To consider what suggestions the Committee might make to States parties regarding their representation at meetings of the Committee;

“(e) To consider how the Committee’s work could take into account the *de facto* situation in a reporting State;”⁹

The Working Group established by the Committee at its nineteenth session held two informal meetings during the twentieth session.¹⁰

The Committee decided to extend the mandate of the Working Group to meet again during the next session so that it could continue to work on the guidelines.¹¹

At its nineteenth session, the Committee considered a proposal by one of its members, Mr. Nettel, who pointed out that at the previous session an awkward situation had arisen when the representative of a certain State party had remained in his seat at the Committee table during the discussion of a draft decision concerning information supplied in the report of his Government, and had attempted to influence the Committee’s decision. In order to avoid the recurrence of such a situation, Mr. Nettel proposed that decisions by the Committee on reports by States parties should not be part of the process of consideration of those reports, but should be taken, separately, and only after the withdrawal of the representative of the State concerned. The proposal was supported by members of the Committee.

At the suggestion of the Chairman, the Committee adopted decision 1 (XIX) on the procedure to be followed by the Committee in adopting decisions concerning information supplied by a State party relating to conditions in its territory.

The text of the decision,¹² as adopted, appears below in part II, section B, of the present *Yearbook*.

3. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

Article 15, paragraph 2, of the Convention states:

“(a) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing

⁹ *Ibid.*, para. 476.

¹⁰ *Ibid.*, para. 478.

¹¹ *Ibid.*, para. 481.

¹² *Ibid.*, paras. 482-484.

Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies.

“(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the Territories mentioned in sub-paragraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.”

Article 15, paragraph 3, states:

“The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports.”

The Committee considered this item at its 433rd meeting (nineteenth session), on 13 April 1979, and at its 451st and 452nd meetings (twentieth session), on 14 August 1979.¹³

The opinions and recommendations of the Committee based on its consideration of copies of reports and other information submitted to it in 1979 under article 15 of the Convention, as adopted by the Committee at its 452nd meeting on 14 August 1979, appear below in section B of the present *Yearbook*.

4. DECADE FOR ACTION TO COMBAT RACISM AND RACIAL DISCRIMINATION

At its ninth session the Committee decided to keep the item concerning the Decade for Action to Combat Racism and Racial Discrimination on its agenda throughout the Decade, and requested the Secretary-General to keep it informed of the relevant activities undertaken under the Programme for the Decade (A/9618, para. 38). During the year under review the Committee considered this item at its 432nd meeting (nineteenth session), held on 12 April 1979, and at its 449th meeting (twentieth session), held on 9 August 1979.¹⁴

5. MEETINGS OF THE COMMITTEE SCHEDULED FOR 1980 AND 1981

The Committee considered this item of the agenda at its 433rd meeting (nineteenth session), held on 13 April 1979, and at its 450th meeting (twentieth session), held on 13 August 1979.¹⁵

At the twentieth session, members of the Committee noted that in the Programme of Action adopted by the World Conference to Combat Racism and Racial Discrimination, held at Geneva from 14 to 25 August 1978, the Conference recommended that States in different regions should extend invitations to the Committee on the Elimination of Racial Discrimination to hold sessions in those regions, in order to increase awareness of and interest in its activities. The attention of the Committee was drawn to General Assembly resolutions 33/99 and 33/100 of 16 December 1978, which approved and endorsed the Declaration and the Programme of Action adopted by the World Conference.

A draft decision concerning the holding of meetings of the Committee in various regions was prepared by one of its members, and submitted to the Committee at its 450th meeting. The Committee adopted by consensus the draft decision with some amendments; two members expressed some reservations about the decision. The text, as adopted, appears in section B, as decision 1 (XX).¹⁶

¹³ *Ibid.*, para. 485.

¹⁴ *Ibid.*, paras. 495 to 509.

¹⁵ *Ibid.*, para. 510.

¹⁶ *Ibid.*, paras. 515 to 518.

B. Human Rights Committee

INTRODUCTION

The Human Rights Committee held three sessions in 1979: the sixth session was held at United Nations Headquarters, New York, from 9 to 27 April 1979; the seventh session was held at the United Nations Office at Geneva from 30 July to 17 August 1979; and the eighth session was also held at the United Nations Office at Geneva from 15 to 26 October 1979.¹⁷

In accordance with rule 89 of its provisional rules of procedure, the Committee established working groups to meet before its sixth, seventh and eighth sessions in order to make recommendations to the Committee regarding communications under the Optional Protocol.¹⁸

1. QUESTION OF CO-OPERATION BETWEEN THE COMMITTEE AND THE SPECIALIZED AGENCIES CONCERNED

At its sixth session, the Committee had before it a note prepared by the Secretary-General indicating those parts of the new reports which, in his view, fell within the fields of competence of ILO and UNESCO and which might be transmitted, in consultation with the Committee to the specialized agencies concerned, in accordance with article 40, paragraph 3, of the Covenant and previous Committee decisions. The Committee agreed to the transmission of the relevant parts of the reports to ILO and UNESCO.

The Committee was also informed of the contents of a letter received from ILO concerning the question of its representation at the Committee's sixth session in view of the decision, reflected in the Committee's report to the General Assembly at its thirty-third session, that the specialized agencies would not be invited to submit comments on the parts of the reports of States parties falling within their fields of competence and reiterating the readiness of ILO to provide any information on matters within its competence which the Committee might wish to receive.

At its seventh session, the Committee, for lack of time, did not discuss this question and decided to postpone consideration of this item to a future session.¹⁹

2. ADOPTION OF FURTHER RULES OF PROCEDURE

At its seventh session, the Committee had before it the latest draft of the provisional rules of procedure covering article 41 of the Covenant revised to take account of points made during the sixth session. After further revision in the light of views of members of the Committee, the draft was unanimously adopted as amended (for the text of these rules see the annex to the present *Yearbook*).²⁰

3. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Initial reports submitted by Bulgaria, Chile, Romania and Spain were considered by the Committee at its sixth session. At the same session, the Committee also considered the third part of the initial report submitted by the United Kingdom of Great Britain and Northern

¹⁷ Reports of the Human Rights Committee, *Official Records of the General Assembly: Thirty-fourth Session, Supplement No. 40 (A/34/40)*, para. 3; *Ibid.*: *Thirty-fifth Session, Supplement No. 40 (A/35/40)*, para. 3.

¹⁸ *Ibid.*, *Thirty-fourth Session, Supplement No. 40 (A/34/40)*, para. 8; *Ibid.*, *Thirty-fifth Session, Supplement No. 40 (A/35/40)*, para. 6.

¹⁹ *Ibid.*, *Thirty-fourth Session, Supplement No. 40 (A/34/40)*, paras. 455-457.

²⁰ *Ibid.*, A/34/40, para. 53.

Ireland together with supplementary information received from the Government of the United Kingdom.²¹

The initial report submitted by the Ukrainian Soviet Socialist Republic and the second part of the initial report submitted by the United Kingdom of Great Britain and Northern Ireland (dependent territories) were considered by the Committee at its seventh session. At that session, the Committee also considered the supplementary reports received from the Governments of the Syrian Arab Republic, Cyprus and Finland.²²

<i>State party</i>	<i>Type of report</i>	<i>Document symbol</i>	<i>Meetings at which considered</i>	<i>Date of consideration</i>	<i>Summary of consideration contained in the report (A/34/40), paragraphs:</i>
Chile	Initial	CCPR/C/1/Add.25	127-130	11 and 12/4/79	70-109
Bulgaria	Initial	CCPR/C/1/Add.30	131-133	13 and 16/4/79	110-146
Romania	Initial	CCPR/C/1/Add.33	135-137 and 140-141	17 to 20/4/79	147-179
Spain	Initial	CCPR/C/4/Add.1 and Add.3	141-143	20-21/4/79	180-227
United Kingdom	Initial and Supple- mentary	CCPR/C/1/Add.17 and Add. 35 and Add. 39	147-149	25-26/4/79	228-247
Ukrainian SSR	Initial	CCPR/C/1/Add.34	153-156 and 159-160	31/7, 1 and 3/8/79	248-285
Syrian Arab Republic	Supple- mentary	CCPR/C/1/Add.31	158 and 160	2 and 3/8/79	286-299
United Kingdom	Initial	CCPR/C/1/Add.37	161, 162, 164	6 and 7/8/79	300-371
Cyprus	Initial and Supple- mentary	CCPR/C/1/Add.6 and Add. 28	165-166	8/8/79	372-389
Finland	Additional	CCPR/C/1/Add.32	170-172	13-14/8/79	390-437
Poland	Initial	CCPR/C/4/Add.2	186, 187, 190	22 and 24/10/79	44-75
Sweden	Supple- mentary	CCPR/C/1/Add.42	188-189	23/10/79	76-87

The initial report submitted by Poland was considered by the Committee at its eighth session. At the same session the Committee also considered the supplementary report submitted by Sweden.

4. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

Under the Optional Protocol to the International Covenant on Civil and Political Rights individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit written communications to the Committee for consideration. At the time of the adoption of the report on the Committee's sixth and seventh sessions, 21 of the 59 States which had acceded to or ratified

²¹ *Ibid.*, para. 61.

²² *Ibid.*, para. 67.

the Covenant had accepted the competence of the Committee for dealing with individual complaints by ratifying the Optional Protocol. Those States were Barbados, Canada, Colombia, Costa Rica, Denmark, the Dominican Republic, Ecuador, Finland, Italy, Jamaica, Madagascar, Mauritius, the Netherlands, Norway, Panama, Senegal, Suriname, Sweden, Uruguay, Venezuela and Zaire. No communication can be received by the Committee if it concerns a State party to the Covenant which is not also a party to the Optional Protocol.²³

At its sixth session (9 to 27 April 1979) the Committee had before it 25 communications for resumed consideration as well as 8 communications which were brought before it for the first time. At its seventh session (30 July to 17 August 1979) the Committee had before it 23 communications for resumed consideration as well as 5 communications which were before it for the first time.²⁴ At its eighth session (15 to 26 October 1979) the Committee had before it 11 communications for resumed consideration as well as 5 communications which were brought before it for the first time.²⁵

The Committee's work under the Optional Protocol is divided into two main stages: (a) consideration of communications with a view to determining whether they are admissible under the Optional Protocol or not (the Committee may also, at this stage, decide to discontinue consideration of a communication, without taking a decision as to its admissibility); (b) consideration of communications with a view to formulating the Committee's views on the merits of the case.²⁶

Issues relating to the admissibility of communications

The Committee's consideration of questions of relevance to the admissibility of communications focused mainly on the following issues: first, the standing of the author of the communication and particularly the circumstances in which one individual may submit a communication on behalf of another individual; second, the considerations that arise from the fact that the Covenant and the Optional Protocol became binding on the States parties concerned as from a certain date; third, the provision in article 5, paragraph (2) (a), of the Protocol which requires the Committee to ascertain that the same matter is not being examined under another procedure of international investigation or settlement; and fourth, the provision in article 5, paragraph (2) (b), of the Protocol which requires the Committee to ascertain that the individual has exhausted all available domestic remedies. The decisions taken at the sixth, seventh and eighth sessions were consistent with the practice established by the Committee at its earlier sessions.²⁷

Consideration of communications on the merits

Once a communication has been declared admissible, the State party concerned shall, under article 4, paragraph 2, of the Optional Protocol, submit to the Committee within six months written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by it. The six month time-limit had expired prior to the Committee's sixth session in respect of seven communications relating to one State party (five declared admissible at the Committee's third session in January/February 1978 and two declared admissible at its fourth session in July 1978). By the time of the Committee's sixth session, submissions had been received from the State party concerned in respect of four of these seven communications. However, the Committee decided that the submissions concerned issues of admissibility and not merits, and so requested the State party to furnish, in advance of its seventh session, supplementary submissions under article 4, paragraph 3, of the

²³ *Ibid.*, *Thirty-fourth Session, Supplement No. 40 (A/34/40)*, para. 438.

²⁴ *Ibid.*, para. 440.

²⁵ *Ibid.*, *Thirty-fifth Session, Supplement No. 40 (A/35/40)*, para. 386.

²⁶ *Ibid.*, *Thirty-fourth Session, Supplement No. 40 (A/34/40)*, para. 443.

²⁷ *Ibid.*, paras. 445-446; *ibid.*, *Thirty-fifth Session, Supplement No. 40 (A/35/40)*, paras. 391-392.

Optional Protocol in respect of the four communications and reminded the State party that its submissions with regard to the other three were overdue. By the conclusion of the Committee's seventh session, no further submissions had been received from the State party concerned under article 4 (2) of the Optional Protocol. At its seventh session the Committee considered the above-mentioned seven communications on the merits.²⁸

At its eighth session, the Committee concluded its consideration of one communication (No. R.2/9), concerning Uruguay, by adopting its final views. It was the Committee's view that the communication in question revealed a violation by the State party of the provisions of the Covenant. An individual opinion submitted by a Committee member under rule 94, paragraph 3 of the Committee's provisional rules of procedure, and endorsed by several other Committee members, concluded that there had been further violations of the Covenant. The text of the Committee's views and of the individual opinion is reproduced in part two, section B, of the *Yearbook*.²⁹

Status of communications before the Human Rights Committee

Since the Human Rights Committee began consideration of communications at its second session in 1977, 53 communications have been registered for its consideration. These communications relate to Canada (14), Colombia (2), Denmark (1), Finland (2), Madagascar (1), Mauritius (1), Norway (2), Uruguay (29) and Zaire (1).

The status of these communications, by the end of the Committee's seventh session, was as follows:

Canada

Eight communications discontinued or declared inadmissible without referral to the State party;

Three communications discontinued or declared inadmissible after referral to the State party;

Two communications transmitted to the State party for information or observations under rule 91 of the Committee's provisional rules of procedure (decision as to admissibility pending);

One communication declared admissible (the six months time-limit established by article 4, paragraph 2, of the Optional Protocol had not expired).

Colombia

Two communications transmitted to the State party for information or observations under rule 91 of the Committee's provisional rules of procedure (decision as to admissibility pending).

Denmark

One communication discontinued, without referral to the State party (after repeated unsuccessful attempts to solicit information from the author).

Finland

One communication declared inadmissible without referral to the State party;

One communication declared admissible (State party concerned, in its observations under rule 91 of the Committee's provisional rules of procedure, did not raise objections on admissibility grounds—six months time-limit established by article 4, paragraph 2, of the Optional Protocol had not expired).

²⁸ *Ibid.*, *Thirty-fourth Session, Supplement No. 40 (A/34/40)*, paras. 450-451.

²⁹ *Ibid.*, *Thirty-fifth Session, Supplement No. 40 (A/35/40)*, para. 401.

Madagascar

One communication transmitted to the State party for information or observations under rule 91 of the Committee's provisional rules of procedure (decision as to admissibility pending).

Mauritius

One communication declared admissible (State party concerned, in its observations under rule 91 of the Committee's provisional rules of procedure, did not raise objections on admissibility grounds—six months time-limit established by article 4, paragraph 2, of the Optional Protocol had not expired).

Norway

Two communications declared inadmissible, without referral to the State party.

Uruguay

Three communications discontinued or declared inadmissible without referral to the State party;

One communication discontinued after referral to the State party;

One communication suspended, as contact with author (failing to provide return address) had not been established;

Seven communications transmitted to the State party for information or observations under rule 91 of the Committee's provisional rules of procedure (decision as to admissibility pending);

Sixteen communications were declared admissible. The status of these communications is as follows:

- (i) Nine communications: six month time-limit established by article 4, paragraph 2, of the Optional Protocol had not expired;
- (ii) Six communications: six month time-limit had expired, but Human Rights Committee had not yet adopted its final views; an additional registered communication has been merged with one of these six communications.
- (iii) One communication: Human Rights Committee—concluded its consideration by adopting its final views.

Zaire

One communication declared admissible (the six month time-limit established by article 4, paragraph 2, of the Optional Protocol had not expired).³⁰

5. PROCEDURAL AND SUBSTANTIVE ISSUES RELATING TO THE ADMISSIBILITY OF COMMUNICATIONS, WHICH HAVE BEEN THE SUBJECT OF DECISIONS BY THE HUMAN RIGHTS COMMITTEE

The standing of the author

Article 1 of the Optional Protocol provides that the Committee can receive communications from individuals who claim to be victims of violations of rights set forth in the Covenant. In the Committee's view this does not mean that the individual must sign the communication himself in every case. He may also act through a duly appointed representative and there may be other cases in which the author of the communication may be accepted as having the authority to act on behalf of the alleged victim. For these reasons, rule 90, paragraph (1) (b), of the Committee's provisional rules of procedure provides that normally the communication should be submitted by the alleged victim himself or by his representative (for example, the alleged victim's lawyer), but the Committee may accept to consider a communication submitted on behalf of an alleged victim when it appears that he is

³⁰ *Ibid.*, *Thirty-fourth Session, Supplement No. 40 (A/34/40)*, paras. 453-454.

unable to submit the communication himself. The Committee regards a close family connection as a sufficient link to justify an author acting on behalf of an alleged victim. On the other hand, it has declined to consider communications where the authors have failed to establish any link between themselves and the alleged victims.

Considerations arising from the fact that the Covenant and the Optional Protocol became binding on the States parties as from a certain date

The Committee has declared communications inadmissible if the events complained about took place prior to the entry into force of the Covenant and the Optional Protocol for the States parties concerned. However, a reference to such events may be taken into consideration if the author claims that the alleged violations have continued after the date of entry into force of the Covenant and the Optional Protocol for the State party concerned, or that they have had effects which themselves constitute a violation after that date. Events which took place prior to the critical date may indeed be an essential element of the complaint resulting from alleged violations which occurred after that date.

The application of article 5, paragraph (2) (a), of the Optional Protocol

Article 5, paragraph (2) (a), of the Optional Protocol provides that the Committee shall not consider any communication from an individual unless it has ascertained that "the same matter is not being examined under another procedure of international investigation or settlement". In connection with the consideration of some of the communications which have been submitted under the Optional Protocol, the Committee has recognized that cases considered by the Inter-American Commission on Human Rights under the instruments governing its functions were under examination in accordance with another procedure of international investigation or settlement within the meaning of article 5, paragraph (2) (a). On the other hand, the Committee has determined that the procedure set up under Economic and Social Council resolution 1503 (XLVIII) does not constitute a procedure of international investigation or settlement within the meaning of article 5, paragraph (2) (a), of the Optional Protocol, since it is concerned with the examination of situations which appear to reveal a consistent pattern of gross violations of human rights and a situation is not "the same matter" as an individual complaint. The Committee has also determined that article 5, paragraph (2) (a), of the Protocol can only relate to procedures implemented by inter-State or intergovernmental organizations on the basis of inter-State or intergovernmental agreements or arrangements. Procedures established by non-governmental organizations, as for example the procedure of the Inter-Parliamentary Council of the Inter-Parliamentary Union, cannot, therefore, bar the Committee from considering communications submitted to it under the Optional Protocol.

With regard to the application of article 5, paragraph (2) (a), of the Optional Protocol the Committee has further determined that it is not precluded from considering a communication, although the same matter has been submitted under another procedure of international investigation or settlement, if it has been withdrawn from or is no longer being examined under the latter procedure at the time that the Committee reaches a decision on the admissibility of the communication submitted to it.

In the course of its consideration of communications, the Committee became aware of a language discrepancy in the text of article 5, paragraph (2) (a), of the Optional Protocol. The Chinese, English, French and Russian texts of the article provided that the Committee shall not consider any communication from an individual unless it has ascertained that the same matter is *not being examined* under another procedure of international investigation or settlement, whereas the Spanish text of the article employs language meaning "*has not been examined*". The Committee has ascertained that this discrepancy stems from an editorial oversight in the preparation of the final version of the Spanish text of the Optional Protocol. Accordingly, the Committee has decided to base its work in respect of article 5, paragraph (2) (a), of the Optional Protocol on the Chinese, English, French and Russian language versions.

*The application of article 5, paragraph (2) (b),
of the Optional Protocol*

Article 5, paragraph (2) (b), of the Optional Protocol provides that the Committee shall not consider any communication from an individual unless it has ascertained that all available domestic remedies have been exhausted. The Committee considers that this provision should be interpreted and applied in accordance with the generally accepted principles of international law with regard to the exhaustion of domestic remedies as applied in the field of human rights. If the State party concerned disputes the contention of the author of a communication that all available domestic remedies have been exhausted, the State party is required to give details of the effective remedies available to the alleged victim in the particular circumstances of his case. In this connection, the Committee has deemed insufficient a general description of the rights available to accused persons under the law and a general description of the domestic remedies designed to protect and safeguard these rights.³¹

**C. Sessional Working Group on the Implementation of the International Covenant
on Economic, Social and Cultural Rights**

1. ORGANIZATIONAL MATTERS

The first session of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights was held at United Nations Headquarters from 17 April to 3 May 1979. The Working Group, provided for in Council resolution 1988 (LX) of 11 May 1976 entitled "Procedures for the Implementation of the International Covenant on Economic, Social and Cultural Rights", was established in accordance with decision 1978/10 of the Council.³²

In accordance with the provisions of decision 1978/10 of the Economic and Social Council, membership of the Working Group was made up of 15 members of the Council which were also States parties to the Covenant: three members from African States, three members from Asian States, three members from Eastern European States, three members from Latin American States, and three members from Western European and other States. In the same decision the Council decided to invite the following to participate in the proceedings of the Working Group as observers: other members of the Council; States parties to the Covenant which were not members of the Council; Member States which expressed interest in the deliberations of the Working Group; and the representatives of the specialized agencies concerned, when matters falling within their respective fields of competence were considered.³³

2. CONSIDERATION OF THE METHODS OF WORK

At its first meeting, the Working Group decided to devote its first session to organizational matters, especially the formulation of its methods of work as requested in decision 1978/10 of the Economic and Social Council.³⁴

In elaborating its methods of work, the Working Group took into account the relevant provisions of the International Covenant on Economic, Social and Cultural Rights, Council resolution 1988 (LX), Council decisions 1978/9 and 1978/10 and also the practice of the Committee on the Elimination of Racial Discrimination and the Human Rights Committee.

³¹ *Ibid.*, paras. 580-586.

³² Report of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights (E/1979/64), para. 1.

³³ *Ibid.*, para. 6.

³⁴ *Ibid.*, para. 11.

The methods of work adopted by consensus by the Working Group at its 7th meeting of 25 April 1979 are set out in part two, section B below.

As regards the duration of the session of the Working Group, and because of its status as a sessional body of the Economic and Social Council, many members suggested that the Working Group should be given more time to enable it to complete its consideration of the national reports presented by the States parties in conformity with article 16 of the Covenant. The possibility of beginning the session before the opening of the first regular session of the Council itself was considered. In this connection some members emphasized the sessional status of the Working Group while other members felt that a proposal for a pre-sessional meeting of the Working Group should be put before the Council.

During the discussion it was particularly emphasized by the members that each State party to the Covenant had the right to be represented during the session of the Working Group in which its report would be considered.

Some members expressed reservations on the usefulness of considering reports prepared by the specialized agencies under article 18 of the Covenant since the specific task of the Working Group was, in their view, to examine the reports of States parties to the Covenant.

It was also emphasized that taking into account their respective scope of activities, the specialized agencies concerned should act, in their reporting under article 18 of the Covenant, in strict conformity with the requirements of that article.

Some other members were of the opinion that reports from specialized agencies as provided for in article 18 of the Covenant and in resolution 1988 (LX) of the Council would be useful for the Working Group.

Reservations were also expressed by some members on the necessity for and usefulness of the analytical summaries requested by Council decision 1978/9, because the Covenant provided for consideration of reports submitted by each State party which are published *in extenso* as official documents of the United Nations, and thus no other material may be substituted for them. It was also pointed out that the analytical summaries may not reflect adequately the exact contents of the reports of States parties. In order to avoid such situations, these members suggested the reconsideration of Council decision 1978/9.

Other members were in favour of the analytical summaries since they would assist the Working Group in its task of considering the national reports.

It was proposed that the views expressed in this regard should be brought to the attention of the Economic and Social Council.³⁵

D. Group of Three Established under the Convention on the Suppression and Punishment of the Crime of Apartheid

1. ORGANIZATION OF THE SESSION

The Group held its second (1979) session at the United Nations Office at Geneva from 29 January to 2 February 1979.³⁶

2. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE VII OF THE CONVENTION

At its second session, the Group considered the reports submitted by the following States parties: Madagascar (E/CN.4/1277/Add.13), Byelorussian Soviet Socialist Republic

³⁵ *Ibid.*, paras. 13-21.

³⁶ Report of the Group of Three Established under the Convention (E/CN.4/1328), para. 4.

(E/CN.4/1277/Add.14), Poland (E/CN.4/1277/Add.15), Hungary (E/CN.4/1277/Add.16), and the Ukrainian Soviet Socialist Republic (E/CN.4/1277/Add.17). It expressed its appreciation to these States parties for the early submission of their reports.³⁷ A summary of the consideration of the above mentioned reports by the Group can be found in paragraph 8 of document E/CN.4/1328.

The Group stressed the importance of continuing co-operation and dialogue between itself and the States parties to the Convention, and to that end, requested the Secretary-General to invite, on its behalf, the representatives of States parties whose reports were being considered to participate at its meeting on 1 February 1979 for the purpose of exchanging views on their reports and on the implementation of the Convention.

The meeting of the Group, held on 1 February 1979, was attended by the representatives of the Byelorussian Soviet Socialist Republic, Hungary, Poland and the Ukrainian Soviet Socialist Republic. The Group welcomed their presence and expressed its appreciation for their prompt acceptance of its invitation which testified to the importance attached by their Governments to the struggle against racial discrimination and *apartheid* and to the implementation of the Convention. The invitation was motivated by the deep desire of the members of the Group, who themselves represent States parties to the Convention, to conduct a fruitful dialogue with the representatives of the other States parties on the implementation of the provisions of the Convention.

The representatives of the States parties concerned welcomed the invitation of the Group and expressed their Governments' willingness to co-operate fully with it to achieve a better implementation of the Convention. Each of them gave further information on the activities and measures undertaken or adopted by their Governments at both the national and international levels with a view to achieving the ultimate purpose of the Convention, namely the suppression and eradication of the crime of *apartheid* and similar policies and practices of racial segregation and discrimination as defined under the Convention. Each in turn cited provisions of their constitutions and laws enacted to that effect as well as the international conferences attended and resolutions initiated, sponsored or supported by their Governments, which related to the fight against racism and racial discrimination. They emphasized however that, to achieve that end, wider adherence to the Convention was required as well as stronger co-operation at the international level to isolate the racist régimes and prevent any assistance to them. Stronger pressure should also be exerted on States maintaining relations with such régimes with a view to bringing them to an end.

Members of the Group expressed their gratitude for the supplementary information submitted by the representatives of the States parties present and agreed with them on the importance of a wider adherence to the Convention as well as on the need for more international co-operation to isolate the racist régimes which applied *apartheid* and similar policies and practices of racial segregation and discrimination. They also agreed that in the meantime, States parties to the Convention should be expected to give further details in their future reports concerning the implementation of article VI of the Convention relating to the relevant resolutions adopted by the Security Council and other organs of the United Nations. The Group also agreed that since the Convention was specifically concluded for the suppression and punishment of the crime of *apartheid*, States parties should, in the light of article V, include in their reports information on any competent courts and legal measures that they might have established with a view to trying persons charged with the acts enumerated in the Convention, as well as their own ideas concerning the establishment of the international penal tribunal anticipated in that article.³⁸

³⁷ *Ibid.*, paras. 7-8.

³⁸ *Ibid.*, paras. 9-12.

3. CONSIDERATION OF INFORMATION SUBMITTED TO THE GROUP IN ACCORDANCE WITH RESOLUTIONS ADOPTED BY THE COMMISSION ON HUMAN RIGHTS

The Group had before it a note by the Secretary-General (E/CN.4/AC.33/L.3) drawing its attention to resolution 5 (XXXIV) of the Commission on Human Rights, by which the Commission took note of the list of persons suspected of having been guilty in Namibia of the crime of *apartheid* or of a serious violation of human rights contained in the progress report of the *Ad Hoc* Working Group of Experts on southern Africa, and requested the Secretary-General to bring the list to the attention of States and the competent United Nations bodies, including the Group of three. Chapter V (paragraphs 559 to 567) of the progress report of the *Ad Hoc* Working Group of Experts which contained the list of persons in question was annexed to the note of the Secretary-General.

The Group agreed that the list of persons who had been guilty in Namibia of the crime of *apartheid* should be amplified and disseminated as widely as possible. The list should contain all the information necessary for identification of criminals, including if possible their photographs, and should be communicated to all States parties to the Convention, as well as to all members of the United Nations. The Group emphasized that States parties should take appropriate measures to adopt legislation in line with the requirements of the Convention in order to be able to try and punish the criminals in accordance with articles IV and V of the Convention. Where States parties had not yet taken the measures envisaged under article IV, they had an obligation to arrange for the extradition of the criminals in accordance with article XI of the Convention, to States parties which might have competent tribunals to try and punish such criminals, or to be tried by an international penal tribunal which might be established in accordance with article V of the Convention.

Concerning the international penal tribunal envisaged in article V of the Convention, the Group reiterated its earlier recommendation stressing that States parties should make suggestions regarding the establishment of such a tribunal. The Group noted that none of the States parties had referred to this matter in their reports submitted to it under article VII of the Convention. One of the possibilities for the establishment of such a tribunal, it was suggested, was the convening of a diplomatic conference of States parties to the Convention, after appropriate consultations among themselves, with a view to elaborating its statute. Regarding the proposal reflected in the previous report of the Group for the preparation of model penal legislation to serve as a guide to States parties in implementing the provisions of the Convention, the Group was of the opinion that the idea should be kept in mind for further consideration.³⁹

4. CONSIDERATION OF OTHER MATTERS RELATING TO THE GROUP'S MANDATE

At its second session in 1979, the Group discussed the manner in which it might be able to assist States parties in the implementation of the provisions of the Convention and promote its effectiveness. It carefully examined the state of ratifications and accessions to the Convention and considered it extremely urgent, in view of the priority given by international public opinion and the United Nations to the suppression and punishment of the crime of *apartheid* and its complete eradication, that more decisive action should be taken by the competent organs of the United Nations to encourage further ratifications of the Convention. The Group also noted the fact that only 17 of the 49 States parties had submitted their reports under article VII and recommended that the Commission on Human Rights call upon those States parties that had not yet submitted their reports to do so as soon as possible.

The Group considered practical ways of performing its functions and discussed in some detail the modalities of defining its terms of reference under the Convention. The following four areas of activity, some of which had already been dealt with in the first report of the

³⁹ *Ibid.*, paras. 13-15.

Group to the Commission, were examined: (i) the modalities of its consideration of reports submitted by States parties under article VII of the Convention; (ii) the question of inviting representatives of States parties, which had submitted reports, to be present at the meetings of the Group and to participate in the consideration of their reports in an atmosphere of co-operation and dialogue; (iii) the manner in which the Group might submit proposals to the Commission on Human Rights concerning the ways in which the Convention was applied; and (iv) the question of drawing the attention of the Commission to difficulties relating to the implementation of the Convention. This last area was of special importance and called for the elaboration of the terms of reference of the Group and the extent of its responsibilities under the Convention. The Group considered it necessary to study the reports of States parties in depth and to make recommendations which would cover broader aspects of the implementation of the Convention than those reflected in the reports. In this connection, the Group considered it necessary to request States parties, through the Commission on Human Rights, to give careful consideration to the manner in which the provisions of the Convention might be applied and to express their views concerning their understanding of the Group's terms of reference under the Convention.⁴⁰

E. *Ad Hoc* Committee on Periodic Reports

1. ORGANIZATION OF THE SESSION

In accordance with Economic and Social Council resolutions 1074 C (XXXIX) and 1596 (L), the *Ad Hoc* Committee at its 1979 session, took up reports on civil and political rights for the period from 1 July 1971 to 30 June 1977 received from Governments and specialized agencies, and contributions on this subject-matter from non-governmental organizations in consultative status.

The Committee held its 1979 session at the United Nations Office at Geneva, from 29 January to 2 February 1979.⁴¹

2. STUDY AND EVALUATION OF THE PERIODIC REPORTS AND OTHER MATERIAL RELATING TO CIVIL AND POLITICAL RIGHTS RECEIVED UNDER THE TERMS OF ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1074 C (XXXIX) AND REVIEW OF THE CURRENT SYSTEM OF PERIODIC REPORTS

In a preliminary consideration of this item, members of the *Ad Hoc* Committee noted that a very limited number of periodic reports on civil and political rights had been received from Governments. They were aware that the Economic and Social Council in its resolutions 1988 (LX) of 11 May 1976 and 1978/20 of 5 May 1978 had decided to exempt States parties to the International Covenants on Human Rights from submitting reports on similar questions under the periodic reporting procedure established under Council resolution 1074 C (XXXIX). The fact remained nevertheless that, taking into account the number of States which reported under the procedure established by the Covenants and the procedure established under Council resolution 1074 C (XXXIX), approximately one half of the membership of the United Nations had submitted no information under either reporting system. This situation was considered regrettable.

There was general agreement in the Committee to reaffirm its view that the reporting system established under Council resolution 1074 C (XXXIX) was still a very useful procedure for Member States which were not parties to the Covenants to supply information regularly on human rights and fundamental freedoms in the territories subject to their

⁴⁰ *Ibid.*, paras. 16-17.

⁴¹ Report of the *Ad Hoc* Committee on Periodic Reports (E/CN.4/1304), paras. 4-5.

jurisdiction. It was also the common opinion in the Committee that Member States concerned should be asked in future to submit periodic reports once every two years in a continuing cycle covering alternately economic, social and cultural rights on the one hand, and civil and political rights and freedom of information on the other.

In this perspective, the *Ad Hoc* Committee reconsidered its recommendations to the Commission on Human Rights contained in draft resolution I included in the report on the work of its 1977 session (E/CN.4/1226) and, believing that some of them needed modifications, decided to prepare a new draft resolution on the system of periodic reports on human rights to be recommended for adoption to the Commission on Human Rights.

Members of the Committee were of the view that it was difficult for them to evaluate which important general trends at the international level were emerging from periodic reports on civil and political rights on the basis of the limited number of national reports which had been received.

A member of the Committee, nevertheless, pointed out that from the analytical summary of reports and other material on civil and political rights prepared by the Secretary-General (E/CN.4/1302) it appeared that in a number of reporting States the execution of death penalties tended to be increasingly exceptional and that in some reporting States, the death penalty was considered practically obsolete or had been abolished by legislative act. It also appeared that there was a trend in several reporting States to lower the minimum voting age to 18 years.

In connection with the contents of the Government reports before the Committee, one member expressed the opinion that the information on civil and political rights submitted by Israel in its report did not correspond to the real situation because of the continuing gross and mass violations of human rights in the occupied Arab territories by the above-mentioned country. Some other members expressed the view that, if the reports of Member States had been considered in substance, they would have proposed that the report of Israel not be considered because some of the aspects of human rights in occupied Arab territories were subject to special attention by relevant United Nations bodies.

Another member stated that, in view of the general approach adopted by the Committee for the consideration of reports submitted by Governments, it would not be appropriate to discuss and assess the content of any individual report.

The view was also expressed that the *Ad Hoc* Committee could renew its invitation to Governments, to include in their reports detailed information on legislative and other measures taken with the aim of overcoming specific difficulties encountered in ensuring the promotion and protection of human rights in their countries.

It was the general view of the *Ad Hoc* Committee that Member States should be encouraged to submit or to continue to submit periodic reports on human rights. For this purpose, the suggestion was made that the Secretary-General, in his request for a timely submission of periodic reports, could bring to the attention of Member States concerned that the information they give on human rights developments in their respective countries would serve not only to achieve the objectives of Economic and Social Council resolution 1074 C (XXXIX), but would also contribute substantively to the contents of the *Yearbook on Human Rights* which would be structured in a new presentation.⁴²

3. SUGGESTIONS FOR IMPROVING THE YEARBOOK ON HUMAN RIGHTS

The *Ad Hoc* Committee took note of General Assembly resolution 35/171 of 20 December 1978, by which the Commission on Human Rights was requested to review at its thirty-fifth session the objectives, contents and format of the *Yearbook on Human Rights* and

⁴² *Ibid.*, paras. 11-19.

examined the document prepared by the Secretary-General, in accordance with the request made to him in resolution 33/171, containing suggestions for new contents and format of the *Yearbook* (E/CN.4/1338).

Members of the Committee welcomed the suggestions made by the Secretary-General which they considered generally acceptable. In the course of the discussion a number of modifications were proposed with a view to further improving the contents of the *Yearbook*. It was agreed that with appropriate amendments the Secretary-General's suggestions would provide effective guidelines for the new presentation of the *Yearbook* and that they should be recommended to the Commission on Human Rights.

Members of the Committee felt that, because of the abundance of material which would be available each year and the desirability of disseminating information of current interest, the *Yearbook* should be published annually, instead of biennially as at present, and at a specific regular date.

As regards the contents of the section of the *Yearbook* dealing with national developments in the field of human rights, members of the Committee agreed that material selected from the periodic reports submitted under Council resolution 1074 C (XXXIX) should be included in addition to the material selected from reports submitted by States participating in the reporting procedures established under the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

As regards the contents of the section of the *Yearbook* devoted to international developments in the field of human rights, it was suggested that the relevant activities of organizations within the United Nations system should be reflected as appropriate. A member of the Committee expressed the opinion that resolutions and decisions adopted in international conferences organized by the United Nations, like the World Conference to Combat Racism and Racial Discrimination, should also be included in the *Yearbook*.⁴³

⁴³ *Ibid.*, paras. 20-24.

Section B. Relevant decisions, general recommendations, comments and observations of the supervisory bodies

A. Committee on the Elimination of Racial Discrimination

1. CONSIDERATION OF PETITIONS, REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION¹

The opinions and recommendations of the Committee based on its consideration of copies of reports and other information submitted to it in 1979 under article 15 of the Convention, as adopted by the Committee at its 451st and 452nd meetings on 14 August 1979, are as follows:

The Committee on the Elimination of Racial Discrimination, .

Having examined the information contained in the documents relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the Trusteeship Council and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in accordance with the provisions of paragraph 2 of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Wishes to draw the attention of the General Assembly, the Trusteeship Council and the Special Committee to the following opinions and recommendations in conformity with its obligations under article 15 of the Convention:

General

The Committee regrets that, despite its frequent requests to the relevant United Nations bodies, which have been fully endorsed by the General Assembly in its resolution 33/102 of 16 December 1978, sufficient information relating to its responsibilities under article 15 of the Convention is still not forthcoming. It would once again request the co-operation of the United Nations bodies concerned in the matter, in order to enable it to discharge adequately its responsibilities under article 15 of the Convention.

African Territories²

Southern Rhodesia

The Committee notes that the situation of the black majority has not changed. On the contrary, the privileges of the white minority persist, in particular through the establishment of economic obstacles to exclude the majority of the black population

¹ Official Records of the General Assembly: Thirty-fourth Session, Supplement No. 18 (A/34/18).

² See CERD/C/SR.451.

from the benefits of housing, education and medical care, through the neglect of the rural areas where the black majority lives, the maintenance of low wages and the concentration of productive agriculture entirely in the hands of the whites.

The Committee notes that in violation of the relevant resolutions of the Security Council so-called elections were held by the illegal régime of Southern Rhodesia. The situation was aggravated by the adoption of measures to maintain white domination, the recruitment of mercenaries to suppress the black population and the establishment of a curfew to control the freedom of movement of African civilians.

The Committee notes that the formation of a new illegal "government" has further exacerbated the situation as armed conflict has intensified engulfing the entire Territory. The illegal régime is discredited in the eyes of the vast majority of the population who have lost hope in the possibility of a peaceful settlement leading to genuine majority rule. The Committee expresses its deep concern at the explosive situation which is causing great distress to the people of the Territory and the international community.

Namibia

The Committee, having considered the working papers prepared by the secretariat of the Special Committee, expresses its grave concern over continuing serious tension and the persistence of racial discrimination in the Territory, including the intensification of the policy of *apartheid*. The illegal military occupation of the Territory by the racist régime of South Africa, terror, violence and measures of persecution against the blacks, the exclusion of blacks from the trade sectors, the maintenance of low wages and the holding of "elections" under military duress and without any external control in spite of the relevant resolutions of the Security Council, have contributed to the general deterioration of the situation.

The Committee notes that repressive measures against the black population have been intensified, that South Africa has substantially increased its armed forces in the Territory and has strengthened its hold over Walvis Bay. The Committee strongly deplores the continued defiance by the Government of South Africa of world public opinion and the decisions of the Security Council by refusing to agree to the establishment of conditions ensuring the expression of the free will of all sections of the people of Namibia in the exercise of their right to self-determination.

*Pacific and Indian Ocean Territories*³

East Timor

The Committee considered document A/33/23/Add.3 and reiterates its request that more information about the economic and social situation in the Territory, including the enjoyment of human rights on an equal basis without racial discrimination, should be provided to it.

New Hebrides

The Committee notes with regret that the complementary information requested has not been supplied. The Committee also calls attention to the necessity for the adoption of a land reform policy and requests further information on the subject, with a view to ascertaining that equal opportunities are provided to all without racial discrimination.

The Committee requests information on the situation and the result of programmes to help young people find job opportunities in urban areas.

³ See CERD/C/SR.452.

Tokelau

The Committee considered document A/AC.109/L.1285 and, in connection with the statement contained in the annual report of the administering Power on the applicability of the New Zealand Government's policy relating to human rights in Tokelau, expresses its interest in the manner in which its policies are implemented and requests further information on the subject.

American Samoa

The Committee notes with regret that no reference has been made to human rights in document A/AC.109/L.1299. The Committee expresses its interest in the creation and composition of a second Temporary Future Political Status Commission and wishes to know whether the indigenous population would participate in the work of the Commission. As regards labour conditions in the Territory, the Committee would welcome further information on the question of the enjoyment of equal rights without racial discrimination.

Cocos (Keeling) Islands

The Committee reiterates its request for information as to whether the Australian Government considers providing further information on the application of the Convention in the Territory. The Committee would appreciate information on the status of the examination of the Labour Conventions with a view to their application to the Cocos Islands.

Trust Territory of the Pacific Islands

The Committee notes the information supplied in document A/AC.109/L.1315. The Committee would again draw attention to the importance of the maintenance of the unity of the Territory. The Committee expresses its interest, in view of the diverse character of the population, in the extent to which the principle of non-discrimination is applied in the Territory. In particular, the Committee would wish to be informed about the measures taken to combat unemployment in some parts of the Territory.

Guam

The Committee regrets that no document or information has been submitted to the Committee concerning Guam and would appreciate any information in view of the constitutional developments in that Territory.

*Atlantic Ocean and Caribbean Territories, including Gibraltar⁴**St. Helena*

The Committee has taken note of the information contained in the working paper (A/AC.109/L.1286) and expresses its concern about the distribution of international trade of the island which consists of a significant volume of trade with South Africa. It expresses the hope that the administering Power would take appropriate measures to comply with the pertinent resolutions of the competent United Nations organs concerning trade relations with South Africa.

Bermuda

The Committee has taken note of the information contained in the working paper (A/AC.109/L.1294) concerning the causes for the 1977 racial disturbances. It notes, however, that the racial situation in the Territory is still far from satisfactory. It expresses the hope that the implementation of the measures referred to in paragraphs 85 and 86 of the working paper would bring about an improvement of the conditions and foster racial equality and harmony on the island.

⁴ See CERD/C/SR.452.

United States Virgin Islands

Since the projected constitution referred to in the Committee's report of last year was rejected by the population of the Territory, the Committee expresses the wish to be informed about the provisions regarding guarantees for civil, political, social and cultural rights of a future draft constitution, which should be drafted in the spirit of the International Convention on the Elimination of All Forms of Racial Discrimination and should exclude any limitations based on racial discrimination in the enjoyment of those rights.⁵

2. DECISIONS ADOPTED BY THE COMMITTEE AT ITS NINETEENTH
AND TWENTIETH SESSIONS

Nineteenth session

- 1 (XIX). *Procedure to be followed by the Committee in adopting decisions concerning information supplied by a State party relating to conditions in its territory*⁶

The Committee on the Elimination of Racial Discrimination

Decides that, when adopting a decision concerning information supplied by a State party to the International Convention on the Elimination of All Forms of Racial Discrimination relating to conditions in its territory, it will follow the procedure of asking the representative of the State party concerned to withdraw from the Committee table as soon as consideration of the report has been completed; the representative may, if he wishes, be present when the Committee's decision is announced.

427th meeting
9 April 1979

- 2 (XIX). *Arrangements for co-operation between the United Nations Educational, Scientific and Cultural Organization and the Committee on the Elimination of Racial Discrimination in the implementation of article 7 of the Convention*⁷

The Committee on the Elimination of Racial Discrimination,

Having considered the question of its co-operation with the United Nations Educational, Scientific and Cultural Organization,

Having studied the Declaration on Race and Racial Prejudice, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its twentieth session on 27 November 1978, and the resolution on the implementation of the Declaration,

Recalling its decision adopted at the 381st meeting, on 3 April 1978, to seek the assistance of the United Nations Educational, Scientific and Cultural Organization in implementing the provisions of article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination,

1. *Expresses* its deep appreciation to the United Nations Educational, Scientific and Cultural Organization and to its Director-General for the kind invitation extended to the Committee to hold its nineteenth session at the headquarters of the United Nations Educational, Scientific and Cultural Organization and for their continued co-operation with the Committee in its work;

⁵ *Official Records of the General Assembly: Thirty-fourth Session, Supplement No 18 (A/34/18)*, para. 494.

⁶ *Ibid.*, chap. VIII, A.

⁷ *Ibid.*

2. *Suggests* to the Director-General of the United Nations Educational, Scientific and Cultural Organization that, when requesting information from States members of that organization on the implementation of the aforementioned Declaration, he take fully into account the requirements of the reporting obligations undertaken by States parties to the International Convention on the Elimination of All Forms of Racial Discrimination in accordance with article 9 thereof, with a view to avoiding duplication;

3. *Invites* the United Nations Educational, Scientific and Cultural Organization to transmit to the Committee periodically information on the experience gained by it in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups, as specified in article 7 of the Convention;

4. *Further invites* the United Nations Educational, Scientific and Cultural Organization to transmit to the Committee suggestions for the preparation of general guidelines that might assist the States parties in implementing article 7 of the Convention.

431st meeting
12 April 1979

Twentieth session

1 (XX). *Future meetings of the Committee*⁸

The Committee on the Elimination of Racial Discrimination,

Taking note with appreciation of the Programme of Action adopted by the World Conference to Combat Racism and Racial Discrimination, held at Geneva from 14 to 25 August 1978, in which the Conference recommended that States in different regions extend invitations to the Committee on the Elimination of Racial Discrimination to hold sessions in those different regions, in order to increase awareness of and interest in its activities,

Taking note that the General Assembly in its resolutions 33/99 and 33/100 of 16 December 1978 approved and endorsed the Declaration and the Programme of Action adopted by the World Conference,

Being convinced that holding of Committee sessions in various regions would increase awareness and interest of the people of the regions concerned in the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and in the activities of the Committee,

Being aware of the fact that many of the developing countries which have expressed the wish to invite the Committee to hold sessions on their territories are unable to extend such invitations because of the heavy cost to be borne by them in accordance with General Assembly resolution 31/140 of 17 December 1976,

1. *Recommends* to the General Assembly to consider the adoption of appropriate measures in order to facilitate the holding of Committee sessions in various regions by taking into account the difficulties of the developing countries with respect to the payment of costs for the holding of such meetings;

2. *Requests* the Secretary-General of the United Nations to inform the Committee of the action taken by the General Assembly in connection with the above recommendations of the Committee.

450th meeting
13 August 1979

⁸*Ibid.*, chap. VIII, B.

B. Human Rights Committee

VIEWS OF THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 5, PARAGRAPH 4, OF THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

During its sessions held in 1979, the Human Rights Committee, having concluded its consideration of a number of communications submitted to it under the Optional Protocol, and having taken into account all written information made available to it by the authors of the communications and by the States parties concerned adopted views under article 5, paragraph 4, of the Optional Protocol.

A detailed report of the views adopted can be found in the Committee's reports to the General Assembly at its thirty-fourth⁹ and thirty-fifth¹⁰ sessions.

C. Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights

RECOMMENDATIONS OF THE SESSIONAL WORKING GROUP
TO THE ECONOMIC AND SOCIAL COUNCIL¹¹

The Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights,

Having considered the question of its methods of work in accordance with Council decision 1978/10,

Recommends to the Council the adoption of the following resolution:

"The Economic and Social Council,

"Having considered the recommendations of its Sessional Working Group contained in document E/1979/64,

"Approves the following methods of work of the Sessional Working Group of the Economic and Social Council on the Implementation of the International Covenant on Economic, Social and Cultural Rights:

"Methods of work of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights

"1. The Working Group is composed of 15 members appointed in accordance with Economic and Social Council decision 1978/10.

"2. The Working Group shall meet annually during the first regular session of the Economic and Social Council.

"3. At the beginning of each session the Working Group shall elect, from among the representatives of its members, a Chairman, three Vice-Chairmen and a Rapporteur, with due regard to equitable geographical representation.

"4. The Working Group will conduct its meetings in accordance with the rules of procedure of the Economic and Social Council in so far as they are applicable. However, the Working Group will endeavour to work on the basis of the principle of consensus.

⁹ *Official Records of the General Assembly, Thirty-fourth Session, Supplement No 40 (A/34/40), annex VII, pp. 124-129.*

¹⁰ *Ibid.*, *Thirty-fifth Session, Supplement No 40 (A/35/40), annex V, pp. 107-110.*

¹¹ E/1979/64, para. 22.

"5. The Working Group shall assist the Economic and Social Council in the consideration of the reports submitted by States Parties to the International Covenant on Economic, Social and Cultural Rights in conformity with article 16 of the Covenant.

"6. The Working Group shall consider the reports submitted by States Parties to the Covenant in accordance with the programme established by the Economic and Social Council in its resolution 1988 (LX), under which the States Parties will furnish the reports referred to in article 16 of the Covenant in biennial stages.

"7. The Working Group will normally consider the reports submitted by States Parties under article 16 of the Covenant in the order in which they have been received by the Secretary-General. Representatives of the reporting States are entitled to be present at the meetings of the Working Group when their reports are examined, make statements on the reports submitted by their States and answer questions which may be put to them by the members of the Working Group.

"8. The President of the Economic and Social Council shall notify, through the Secretary-General, the States Parties as early as possible of the opening date and duration of the session of the Working Group at which their respective reports will be examined. For the meetings referred to in paragraph 7, representatives of the States Parties concerned will be specially invited to attend.

"9. The analytical summary of reports prepared by the Secretary-General in accordance with decision 1978/9 of the Economic and Social Council shall be made available to the Working Group in order to facilitate its work. The Working Group may express its views on the usefulness, form and contents of the analytical summary.

"10. The Working Group is also entrusted with the task of considering the reports of the specialized agencies submitted to the Economic and Social Council in accordance with article 18 of the Covenant and the programme established by Council resolution 1988 (LX) on the progress made in achieving the observance of the provisions of the Covenant falling within the scope of their activities.

"11. At the beginning of each session, the Working Group will consider the appropriate organizational matters, including the schedule of its meetings and the possibility of holding a general discussion on the measures adopted and the progress made in achieving the observance of the rights recognized in the Covenant.

"12. The Working Group may submit to the Economic and Social Council proposals concerning the recommendations of a general nature referred to in article 21 of the Covenant. It may also make suggestions for the consideration of the Council with reference to articles 19, 22 and 23 of the Covenant.

"13. The general guidelines for reports on the respective articles of the Covenant, drawn up by the Secretary-General in accordance with resolution 1988 (LX) of the Economic and Social Council may when necessary be considered by the Working Group with a view to making suggestions for their improvement.

"14. The Working Group shall at each session consider the status of submission of reports under article 16 of the Covenant and may make appropriate recommendations in its report to the Economic and Social Council, including recommendations to the effect that the Secretary-General shall send reminders to States Parties from which reports have not been received.

"15. Summary records of the meetings of the Working Group shall be drawn up and distributed in the working languages. The records of each session shall be transmitted by the Secretary-General to all States Parties to the Covenant.

"16. At the conclusion of each session the Working Group shall submit to the Economic and Social Council a report on its work."

D. Group of Three Established under the Convention on the Suppression and Punishment of the Crime of *Apartheid*

CONCLUSIONS AND RECOMMENDATIONS¹²

The Group recommends that the Commission on Human Rights should appeal to all States which have not yet done so to ratify or accede to the Convention.

The Group also recommends to all States parties that have not submitted their reports under article VII of the Convention to do so as soon as possible. In this connection, the Group reiterates its recommendation that the general guidelines regarding the form and contents of reports to be submitted by States parties (E/CN.4/1286, annex) should be brought once more to the attention of all States parties, requesting them to take those guidelines fully into account in submitting their reports under article VII of the Convention.

The Group considers that a constructive dialogue with the representatives of States parties whose reports are to be discussed is useful for the discharge of its mandate under the Convention. It therefore wishes to invite the States parties concerned, through the Commission on Human Rights, to consider the possibility of sending representatives to be present at future sessions of the Group when reports submitted by them are considered, and requests the Secretary-General to inform the States parties concerned accordingly in advance of its future sessions.

The Group, as the only body which consists exclusively of representatives of States parties to the Convention, considers itself duty-bound to express opinions on the situation in connection with the implementation of the Convention and, therefore, draws the attention of States parties, through the Commission on Human Rights, to the desirability of expressing their views and ideas concerning the terms of reference of the Group under the Convention.

The Group wishes once again to draw the attention of States parties, through the Commission on Human Rights, to the desirability of suggesting ideas in relation to the modalities for the establishment of the international penal tribunal referred to in article V of the Convention.

E. *Ad Hoc* Committee on Periodic Reports

1. CONSIDERATION OF DRAFT RESOLUTIONS¹³

At its 90th meeting, on 31 January 1979, the Chairman/Rapporteur presented a draft resolution on periodic reports, prepared on the basis of various proposals and suggestions submitted by members of the Committee.

Following an exchange of views at the 90th and 91st meetings, the draft resolution, as orally revised, was adopted without a vote on 2 February 1979. (*For the text, see below, paragraph 31, draft resolution I.*)

At the 90th meeting, the Chairman/Rapporteur also presented a draft resolution on the *Yearbook on Human Rights*, which included as an annex guidelines for the contents and format of the *Yearbook on Human Rights*, based on suggestions made by the Secretary-General (E/CN.4/1338, para. 14).

Following an exchange of views at the 90th and 91st meetings, the draft resolution, as orally revised, was adopted without a vote on 2 February 1979. (*For the text, see below, paragraph 31, draft resolution II.*)

In view of the economies and efficiencies that would be introduced as a result of the

¹² Report of the Group of Three established under the Convention (E/CN.4/1328), paras. 18-22.

¹³ Report of the *Ad Hoc* Committee on Periodic Reports (E/CN.4/1304), paras. 26-30.

recommendation contained in the above draft resolutions, the Committee urges that the Commission consider them for adoption at its thirty-fifth session.

2. DRAFT RESOLUTIONS RECOMMENDED TO THE COMMISSION
ON HUMAN RIGHTS FOR ADOPTION¹⁴

The *Ad Hoc* Committee on Periodic Reports recommends to the Commission on Human Rights the adoption of the following draft resolutions:

I. *Periodic reports on human rights*

The Commission on Human Rights,

Recommends that the Economic and Social Council adopt the following draft resolution:

“The Economic and Social Council,

“Recalling its resolution 1074 C (XXXIX) of 28 July 1965,

“Noting that only 20 States, including some States parties to the International Covenants on Human Rights, submitted periodic reports on civil and political rights for the period 1 July 1971-30 June 1977, under resolution 1074 C (XXXIX),

“Conscious that States parties to the International Covenants on Human Rights are exempted from submitting reports under the reporting procedure established under Council resolution 1074 C (XXXIX),

“Noting however that approximately one half of the membership of the United Nations has submitted no information under either reporting system,

“Convinced that it is only through the timely submission of reports by Member States and specialized agencies that the international community can appreciate both the progress achieved and the problems still to be overcome in the field of the further promotion and development of human rights,

“Believing also that the value of these reports for informative and comparative purposes at the international level rests on their being submitted on a timely basis by as many States as possible,

“Desiring to increase the efficiency of the system by introducing a simplified reporting cycle,

“1. Decides that Member States concerned shall be asked in future to submit periodic reports once every two years in a continuing cycle; the first report, on economic, social and cultural rights, to be submitted in 1980, and the second on civil and political rights and freedom of information, to be submitted in 1982;

“2. Regrets that the very limited number of reports on civil and political rights precludes a meaningful determination of trends and developments of those rights at the international level;

“3. Reaffirms the necessity for Member States not reporting under the International Covenants on Human Rights to submit their reports on a timely basis when requested to do so under the newly established reporting cycle.

“4. Decides that the chart on human rights international instruments which is now issued as a United Nations publication (ST/HR/4/Rev.1) adequately fulfils the request made to the Secretary-General in resolution 1074 (XXXIX), paragraph 10, to submit to the Commission on Human Rights a document indicating the status of multilateral international instruments in the field of human rights concluded under the auspices of the United Nations and that therefore this document is no longer required.”

¹⁴ *Ibid.*, para. 31.

II. *Yearbook on Human Rights*

The Commission on Human Rights,

Having considered the note by the Secretary-General (E/CN.4/1338) and the report of the *Ad Hoc* Committee on Periodic Reports (E/CN.4/1304),

Recommends that the Economic and Social Council adopt the following draft resolution:

“The Economic and Social Council,

“Recalling its resolution 1793 (LIV) of 18 May 1973,

“Having noted General Assembly resolution 33/171 of 20 December 1978,

“Considering that the *Yearbook on Human Rights* is an important means of disseminating information on developments at the national and international level concerning the promotion and protection of human rights,

“Bearing in mind that States which have become parties to such international instruments as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, submit reports on an established basis in accordance with the requirements of those instruments,

“Mindful that the system of periodic reports established under Council resolution 1074 C (XXXIX) of 28 July 1965 continues to provide a useful source of information on human rights developments in States which are not participating in reporting procedures established under the relevant international instruments,

“Considering that the *Yearbook on Human Rights* should be conceived to reflect human rights developments in a maximum number of States,

“1. Decides that henceforth the part of the *Yearbook on Human Rights* devoted to national developments shall consist of extracts from reports made by States under such instruments as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, or the International Convention on the Elimination of All Forms of Racial Discrimination, and from the periodic reports submitted by States under the reporting procedure established under Council resolution 1074 C (XXXIX);

“2. Decides that States will no longer be invited to submit separate contributions either directly or through correspondents for inclusion in the *Yearbook*; however, individual States wishing to provide a contribution intended specifically for the *Yearbook* shall be free to do so;

“3. Further decides that, beginning as soon as possible the *Yearbook* be issued annually in accordance with the guidelines annexed to the present resolution;

“4. Recommends that an appropriate date be adopted for the issuance of the *Yearbook* and that the same date be adhered to thereafter.”

ANNEX

**Guidelines for the contents and format of
the *Yearbook on Human Rights***

INTRODUCTION

The introduction would refer to the legislative authority for the publication and would give a brief description of the organization and contents of the *Yearbook*. It would also give the sources of

information, including a list of States from which reports had been received, during the period covered.

PART ONE. NATIONAL DEVELOPMENTS

Part one would consist of material reflecting legislative, administrative, judicial and other national measures and court decisions. The material would be selected from government reports submitted under the international human rights instruments, periodic reports submitted by States under the reporting procedure established under Economic and Social Council resolution 1074 C (XXXIX), or contributions submitted by States intended specifically for the *Yearbook*. The material would be arranged under country heading with subheadings by subject and would include information on Trust and Non-Self-Governing Territories. Appropriate documentary references would be given in footnotes.

PART TWO. ACTIVITIES OF THE SUPERVISORY BODIES

Part two would consist of two separate sections:

Section A to reflect the practice of the supervisory bodies concerning the examination of government reports, and, as appropriate, reports from specialized agencies, and other tasks entrusted to those bodies under the relevant international instruments. This section would consist of extracts of the reports of supervisory bodies to the respective parent organs, with appropriate documentary references given in footnotes.

Section B to include relevant decisions, general recommendations, general comments and observations adopted by the supervisory bodies in connection with their examination of reports submitted by governments and the specialized agencies concerned, and other tasks entrusted to those bodies under the international instruments. The relevant decisions and resolutions of the parent bodies (i.e. General Assembly, Economic and Social Council, Commission on Human Rights) could also be included.

PART THREE. INTERNATIONAL DEVELOPMENTS

Part three would consist of other international developments and activities in the field of human rights in the United Nations system drawn up along the lines of part III of the *Yearbook on Human Rights for 1973-1974*, but excluding activities that would be covered in part two. Part three would also include extracts from important documents adopted by the relevant organs of the United Nations system or submitted in accordance with decisions of such organs selected with a view to enhancing their wider dissemination, and statements of policy or principle by the Secretary-General on questions of human rights.

ANNEXES

Selected material could be included as annexes such as: (a) texts of general guidelines adopted in connection with various reporting procedures; (b) status of the ratifications and accessions and reservations to international human rights instruments; (c) list of documents of the United Nations system of interest within the field of human rights.

INDEX

A subject index to be included.

F. Relevant decisions and resolutions of parent bodies

1. COMMISSION ON HUMAN RIGHTS

At its thirty-fifth session in 1979, the Commission on Human Rights adopted the following resolutions regarding the International Covenants on Human Rights and the International Convention on the Suppression and Punishment of the Crime of *Apartheid*.

*Resolution 6 (XXXV) of 2 March 1979, entitled "Status of the International Covenants on Human Rights".*¹⁵

¹⁵ *Official Records of the Economic and Social Council, 1979, Supplement No. 6. (E/1979/36), chap. XXIV, sect. A.*

The Commission on Human Rights,

Mindful that the International Covenants on Human Rights constitute the first all-embracing and legally binding international treaties in the field of human rights and, together with the Universal Declaration of Human Rights, form the heart of the International Bill of Human Rights,

Noting the forthcoming entry into force of article 41 of the Covenant on Civil and Political Rights,

Recalling its resolution 9 (XXXIV) of 24 February 1978 and General Assembly resolution 33/51 of 14 December 1978,

Mindful of Economic and Social Council resolutions 1988 (LX) of 11 May 1976 and 1978/20 of 5 May 1978,

Having considered the report of the Secretary-General on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant on Civil and Political Rights,

Noting with appreciation that, following the appeals of the General Assembly and the Commission, more Member States have acceded to the International Covenants on Human Rights,

Bearing in mind the important responsibilities of the Economic and Social Council in relation to the International Covenants on Human Rights,

Recognizing the important role of the Human Rights Committee in the implementation of the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as reflected in its report,

1. *Reaffirms* the importance of the International Covenants on Human Rights as major parts of international efforts to promote universal respect for and observance of human rights and fundamental freedoms;

2. *Expresses satisfaction* at the serious manner in which the Human Rights Committee is continuing to undertake its functions;

3. *Expresses the hope* that the consideration of reports submitted under the International Covenant on Economic, Social and Cultural Rights will be undertaken by the Economic and Social Council;

4. *Again invites* all States which have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights as well as to consider acceding to the Optional Protocol thereto;

5. *Invites* the States parties to the International Covenant on Civil and Political Rights to consider making the declaration provided for in article 41 of that Covenant;

6. *Appreciates* that the Human Rights Committee continues to strive for uniform standards in the implementation of the provisions of the International Covenant on Civil and Political Rights and of the Optional Protocol thereto and emphasizes the importance of the strictest compliance by States parties with their obligations under the Covenant,

7. *Draws the attention* of States not yet parties to the Covenants to the reporting possibilities provided under Economic and Social Council resolution 1074 C (XXXIX) of 28 July 1965 as amended by resolutions 1988 (LX) of 11 May 1976 and 1978/20 of 5 May 1978;

8. *Takes note* of paragraph 12 of resolution 33/51 of 14 December 1978 in which the General Assembly requested the Secretary-General, bearing in mind the request of the Human Rights Committee for adequate secretarial assistance, having regard to the over-all needs for servicing the International Covenants on Human Rights and the

Optional Protocol, and being informed of the shortage of staff and resources of the Division of Human Rights of the Secretariat, to make appropriate suggestions in the proposed programme budget for the biennium 1980-1981 with regard to adequate staff and resources needed for servicing the above-mentioned instruments, taking into account General Assembly resolutions 3534 (XXX) of 17 December 1975 and 31/93 of 14 December 1976;

9. *Requests* the Secretary-General to submit to the Commission on Human Rights at its thirty-sixth session a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, and to include in this report information on the work of the Economic and Social Council and its Working Group on the implementation of the International Covenant on Economic, Social and Cultural Rights.

*Resolution 10 (XXXV) of 5 March 1979, entitled "Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid":*¹⁶

The Commission on Human Rights,

Recalling its resolution 7 (XXXIV) in which it called on States parties to the International Convention on the Suppression and Punishment of the Crime of *Apartheid* to submit, in accordance with article VII of the Convention, their first report not later than two years after becoming parties to the Convention and their periodic reports at two-yearly intervals,

Recalling also article I of the Convention which declares that *apartheid* is a crime against humanity,

Having considered the report of the group of three members of the Commission appointed under article IX of the Convention,

Convinced that the ratification of the Convention will contribute significantly to the eradication of the crime of *apartheid*,

1. *Takes note with appreciation* of the report of the Group of Three, in particular its recommendations of general guidelines concerning the desirability for the States parties to implement fully article IV of the Convention;

2. *Appeals* once again to those countries that have not yet done so, to accede to the Convention on the Suppression and Punishment of the Crime of *Apartheid* without delay;

3. *Commends* those States parties that have submitted their reports, and urges the States parties which have not yet done so to submit their report as soon as possible, bearing in mind the general guidelines proposed by the Group in its 1978 report;

4. *Calls on* States parties to implement fully article IV of the Convention by adopting necessary legislative, judicial and administrative measures to prosecute, bring to trial and punish, in accordance with their jurisdiction, persons responsible for, or accused of, the acts defined in article II of the Convention;

5. *Requests* the Secretary-General to invite States parties to the Convention to suggest ways and means for the establishment of the international penal tribunal referred to in article V of the Convention;

6. *Calls upon* competent United Nations organs to provide to the Commission through the Secretary-General information relevant to the periodic compilation of the list of individuals, organizations, institutions and representatives of States alleged to be responsible for crimes enumerated in article II of the Convention as well as those against whom legal proceedings have been undertaken by States parties to the Convention;

¹⁶ *Ibid.*

7. *Calls once again upon* competent United Nations organs to provide to the Commission, through the Secretary-General, information concerning measures taken by the authorities responsible for the administration of Trust and Non-Self Governing Territories, and all other territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies, with regard to individuals alleged to be responsible for crimes under article II of the Convention who are believed to be under their territorial and administrative jurisdiction;

8. *Decides* that the group of three members of the Commission appointed in accordance with article IX of the Convention should meet for a period of no more than five days before the thirty-sixth session of the Commission to consider the reports submitted by States Parties in accordance with article VII of the Convention;

9. *Decides also* to maintain on its agenda as a standing item, the question entitled "Implementation of the International Convention on the Suppression and Punishment of the Crime of *Apartheid*".

By its resolution 26 (XXXV) of 14 March 1979,¹⁷ the Commission on Human Rights, having considered the report of the *Ad Hoc* Committee on Periodic Reports, recommended that the Economic and Social Council adopt the following draft resolution regarding the *Yearbook on Human Rights*:

The Economic and Social Council,

Recalling its resolution 1793 (LIV) of 18 May 1973,

Having noted General Assembly resolution 33/171 of 20 December 1978,

Considering that the *Yearbook on Human Rights* is an important means of disseminating information on developments at the national and international level concerning the promotion and protection of human rights,

Bearing in mind that States which have become parties to such international instruments as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, submit reports on an established basis in accordance with the requirements of those instruments,

Mindful that the system of periodic reports established under Economic and Social Council resolution 1074 C (XXXIX) of 28 July 1965 continues to provide a useful source of information on human rights developments in States which are not participating in reporting procedures established under the relevant international instruments,

Considering that the *Yearbook on Human Rights* should be conceived to reflect human rights developments in a maximum number of States,

1. *Decides* that henceforth the part of the *Yearbook on Human Rights* devoted to national developments shall consist of extracts from reports made by States under such instruments as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, or the International Convention on the Elimination of All Forms of Racial Discrimination, and from the periodic reports submitted by States under the reporting procedure established under Economic and Social Council resolution 1074 C (XXXIX) of 28 July 1965;

2. *Decides* that States will no longer be invited to submit separate contributions either directly or through correspondents for inclusion in the *Yearbook*; however, individual States wishing to provide a contribution intended specifically for the *Yearbook* shall be free to do so;

3. *Further decides* that, beginning as soon as possible the *Yearbook* be issued annually in accordance with the guidelines annexed to the present resolution;

¹⁷ *Ibid.*

4. *Recommends* that an appropriate date be adopted for the issuance of the *Yearbook* and that the same date be adhered to thereafter.

ANNEX

Guidelines for the contents and format of the *Yearbook on Human Rights*

INTRODUCTION

The introduction would refer to the legislative authority for the publication and would give a brief description of the organization and contents of the *Yearbook*. It would also give the sources of information, including a list of States from which reports had been received, during the period covered.

PART ONE. NATIONAL DEVELOPMENTS

Part one would consist of material reflecting legislative, administrative, judicial and other national measures and court decisions. The material would be selected from government reports submitted under the international human rights instruments, periodic reports submitted by States under the reporting procedure established under Economic and Social Council resolution 1074 C (XXXIX) of 28 July 1975, or contributions submitted by States intended specifically for the *Yearbook*. The material would be arranged under country headings with subheadings by subject and would include information on Trust and Non-Self-Governing Territories. Appropriate documentary references would be given in footnotes.

PART TWO. ACTIVITIES OF THE SUPERVISORY BODIES

Part two would consist of two separate sections:

Section A to reflect the practice of the supervisory bodies concerning the examination of government reports, and, as appropriate, reports from specialized agencies, and other tasks entrusted to those bodies under the relevant international instruments. This section would consist of extracts of the reports of supervisory bodies to the respective parent organs, with appropriate documentary references given in footnotes.

Section B to include relevant decisions, general recommendations, general comments and observations adopted by the supervisory bodies in connexion with their examination of reports submitted by Governments and the specialized agencies concerned, and other tasks entrusted to those bodies under the international instruments. The relevant decisions and resolutions of the parent bodies (i.e. General Assembly, Economic and Social Council, Commission on Human Rights) could also be included.

PART THREE. INTERNATIONAL DEVELOPMENTS

Part three would consist of other international developments and activities in the field of human rights in the United Nations system drawn up along the lines of part III of the *Yearbook on Human Rights for 1973-1974*, but excluding activities that would be covered in part two. Part three would also include extracts from important documents adopted by the relevant organs of the United Nations system or submitted in accordance with decisions of such organs selected with a view to enhancing their wider dissemination, and statements of policy or principle by the Secretary-General on questions of human rights.

ANNEXES

Selected material could be included as annexes such as: (a) texts of general guidelines adopted in connexion with various reporting procedures; (b) status of the ratifications and accessions and reservations to international human rights instruments; (c) list of documents of the United Nations system of interest within the field of human rights.

INDEX

A subject index to be included.

2. ECONOMIC AND SOCIAL COUNCIL

At its first regular session of 1979, the Economic and Social Council adopted the following resolution on the basis of the recommendation made by the Commission on Human Rights:

1979/37. *Yearbook on Human Rights*

The Economic and Social Council,

Recalling its resolution 1793 (LIV) of 18 May 1973,

Having noted General Assembly resolution 33/171 of 20 December 1978,

Considering that the *Yearbook on Human Rights* is an important means of disseminating information on developments at the national and international levels concerning the promotion and protection of human rights,

Bearing in mind that States which have become parties to such international instruments as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of *Apartheid* submit reports on an established basis in accordance with the requirements of those instruments,

Mindful that the system of periodic reports established under its resolution 1074 C (XXXIV) of 28 July 1965 continues to provide a useful source of information on human rights developments in States which are not participating in reporting procedures established under the relevant international instruments,

Considering that the *Yearbook on Human Rights* should be conceived to reflect human rights developments in a maximum number of States,

1. *Decides* that henceforth the part of the *Yearbook on Human Rights* devoted to national developments shall consist of extracts from reports made by States under such instruments as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination or the International Convention on the Suppression and Punishment of the Crime of *Apartheid* and from the periodic reports submitted by States under the reporting procedure established under Economic and Social Council resolution 1074 C (XXXIX);

2. *Decides* that States will no longer be invited to submit separate contributions either directly or through correspondents for inclusion in the *Yearbook*; however, individual States wishing to provide a contribution intended specifically for the *Yearbook* shall be free to do so;

3. *Further decides* that, beginning as soon as possible, the *Yearbook* shall be issued annually in accordance with the guidelines annexed to the present resolution;

4. *Recommends* that an appropriate date should be adopted for the issuance of the *Yearbook* and that the same date should be adhered to thereafter.

15th plenary meeting
10 May 1979

ANNEX

**Guidelines for the contents and format of
the *Yearbook on Human Rights***

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Section A would reflect the practice of the supervisory bodies concerning the examination of government reports and, as appropriate, reports from specialized agencies, and other tasks entrusted to those bodies under the relevant international instruments. This section would consist of extracts of the reports of supervisory bodies to the respective parent organs, with appropriate documentary references given in footnotes.

Section B would include relevant decisions, general recommendations, general comments and observations made by the supervisory bodies in connection with their examination of reports submitted by Governments and the specialized agencies concerned, and other tasks entrusted to those bodies under the international instruments. The relevant decisions and resolutions of the parent bodies, namely, the General Assembly, the Economic and Social Council and the Commission on Human Rights, could also be included.

PART THREE. INTERNATIONAL DEVELOPMENTS

Part three would consist of an account of other international developments and activities in the field of human rights in the United Nations system drawn up along the lines of part three of the *Yearbook on Human Rights for 1973-1974*, but excluding activities that would be covered in part two. Part three would also include extracts from important documents adopted by the relevant organs of the United Nations system or submitted in accordance with decisions of such organs, selected with a view to their wider dissemination, and statements of policy or principle by the Secretary-General on questions of human rights.

ANNEXES

Selected material could be included as annexes, such as: (a) texts of general guidelines adopted in connection with various reporting procedures; (b) the status of the ratifications and accessions and reservations to international human rights instruments; (c) a list of documents of the United Nations system of interest within the field of human rights.

INDEX

A subject index is to be included.

On 11 May 1979, the Economic and Social Council adopted the following resolution:

1979/43. *Methods of work of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights*

The Economic and Social Council,

Having considered the recommendations concerning methods of work made by the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights,

Approves the methods of work of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights set forth below:

Methods of work of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights

1. The Working Group is composed of fifteen members appointed in accordance with Economic and Social Council decision 1978/10 of 3 May 1978.

PART II. ACTIVITIES OF THE SUPERVISORY BODIES

2. The Working Group shall meet annually during the first regular session of the Economic and Social Council.

3. At the beginning of each session the Working Group shall elect, from among the representatives of its members, a Chairman, three Vice-Chairmen and a Rapporteur, with due regard for equitable geographical representation.

4. The Working Group shall conduct its meetings in accordance with the rules of procedure of the Economic and Social Council in so far as they are applicable. However, the Working Group will endeavour to work on the basis of the principle of consensus.

5. The Working Group shall assist the Economic and Social Council in the consideration of the reports submitted by States parties to the International Covenant on Economic, Social and Cultural Rights in conformity with article 16 of the Covenant.

6. The Working Group shall consider the reports submitted by States parties to the Covenant in accordance with the programme established by the Economic and Social Council in its resolution 1988 (LX) of 11 May 1976, under which the States parties will furnish in biennial stages the reports referred to in article 16 of the Covenant.

7. The Working Group shall normally consider the reports submitted by States parties under article 16 of the Covenant in the order in which they have been received by the Secretary-General. Representatives of the reporting States are entitled to be present at the meetings of the Working Group when their reports are examined, to make statements on the reports submitted by their States and answer questions which may be put to them by the members of the Working Group.

8. The President of the Economic and Social Council shall notify, through the Secretary-General, the States parties as early as possible of the opening date and duration of the session of the Working Group at which their respective reports will be examined. For the meetings referred to in paragraph 7 above, representatives of the States parties concerned will be specially invited to attend.

9. The analytical summary of reports prepared by the Secretary-General in accordance with Economic and Social Council decision 1978/9 of 3 May 1978 shall be made available to the Working Group in order to facilitate its work. The Working Group may express its views on the usefulness, form and content of the analytical summary.

10. The Working Group is also entrusted with the task of considering the reports of the specialized agencies, submitted to the Economic and Social Council in accordance with article 18 of the Covenant and the programme established under Council resolution 1988 (LX), on the progress made in achieving the observance of the provisions of the Covenant falling within the scope of their activities.

11. At the beginning of each session, the Working Group shall consider appropriate organizational matters, including the schedule of its meetings and the possibility of holding a general discussion on the measures adopted and the progress made in achieving the observance of the rights recognized in the Covenant.

12. The Working Group may submit to the Economic and Social Council proposals concerning the recommendations of a general nature referred to in article 21 of the Covenant. It may also make suggestions for the consideration of the Council with reference to articles 19, 22 and 23 of the Covenant.

13. The general guidelines for reports on the respective articles of the Covenant, drawn up by the Secretary-General in accordance with Economic and Social Council resolution 1988 (LX), may when necessary be considered by the Working Group with a view to making suggestions for their improvement.

14. The Working Group shall at each session consider the status of submission of reports under article 16 of the Covenant and may make appropriate recommendations in its report to the Economic and Social Council, including recommendations to the effect that the Secretary-General should send reminders to States parties from which reports have not been received.

15. Summary records of the meetings of the Working Group shall be drawn up and distributed in the working languages. The records of each session shall be transmitted by the Secretary-General to all States parties to the Covenant.

16. At the conclusion of each session the Working Group shall submit to the Economic and Social Council a report on its work.

At the same session, the Council also adopted the decision 1979/14 relating to the appointment of members of the Sessional Working Group:

At its 5th plenary meeting, on 17 April 1979, the Council took note of the appointment by the President, in conformity with its decision 1978/10 of 3 May 1978, of the following fifteen members of the Council, which were also States parties to the Covenant, as members of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights: Barbados, Colombia, Cyprus, Ecuador, Finland, Germany, Federal Republic of, Hungary, Philippines, Romania, Rwanda, Senegal, Spain, Syrian Arab Republic, Union of Soviet Socialist Republics and United Republic of Tanzania.

3. GENERAL ASSEMBLY

At its thirty-fourth session in 1979, the General Assembly adopted the following resolutions with regard to the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Suppression and Punishment of the Crime of *Apartheid*; and the International Covenants on Human Rights.

Resolution 34/26 of 15 November 1979 entitled "Status of the International Convention on the Elimination of All Forms of Racial Discrimination":

The General Assembly,

Recalling its resolutions 3057 (XXVIII) of 2 November 1973, 3135 (XXVIII) of 14 December 1973, 3225 (XXIX) of 6 November 1974, 3381 (XXX) of 10 November 1975, 31/79 of 13 December 1976, 32/11 of 7 November 1977 and 33/101 of 16 December 1978,

1. *Takes note* of the report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination;

2. *Expresses its satisfaction* with the increase in the number of States which have ratified the Convention or acceded thereto;

3. *Reaffirms once again* its conviction that ratification of or accession to the Convention on a universal basis and implementation of its provisions are necessary for the realization of the objectives of the Decade for Action to Combat Racism and Racial Discrimination;

4. *Requests* States which have not yet become parties to the Convention to ratify it or accede thereto;

5. *Appeals* to States parties to the Convention to study the possibility of making the declaration provided for in article 14 of the Convention;

6. *Requests* the Secretary-General to continue to submit to the General Assembly annual reports concerning the status of the Convention, in accordance with Assembly resolution 2016 A (XX) of 21 December 1965.

Resolution 34/27 of 15 November 1979 entitled "Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid":

The General Assembly,

Recalling its resolution 3068 (XXVIII) of 30 November 1973, by which it adopted and opened for signature and ratification the International Convention on the Suppression and Punishment of the Crime of *Apartheid*, and its resolutions 3380 (XXX) of 10 November 1975, 31/80 of 13 December 1976, 32/12 of 7 November 1977 and 33/103 of 16 December 1978,

Recalling also Commission on Human Rights resolutions 13 (XXXIII) of 11 March 1977, 7 (XXXIV) of 22 February 1978 and 10 (XXXV) of 5 March 1979,

Welcoming the part of the Political Declaration and the resolutions concerning the situation in southern Africa adopted by the Sixth Conference of Heads of State or Government of Non-Aligned Countries, held at Havana from 3 to 9 September 1979,

Convinced that the Declaration and the Programme of Action adopted by the World Conference to Combat Racism and Racial Discrimination constitute an important and constructive contribution to the struggle against *apartheid*, racism and all forms of racial discrimination,

Noting that the conduct of the International Anti-*Apartheid* Year contributed to the achievements of the goals of the Convention,

Reaffirming its firm conviction that *apartheid* constitutes a total negation of the purposes and principles of the Charter of the United Nations and is a gross violation of human rights and a crime against humanity seriously disturbing and threatening international peace and security,

Noting that the racist régime of South Africa is stepping up its policy of *apartheid*, repression, "bantustanization" and aggression in flagrant defiance of United Nations resolutions, is continuing to occupy Namibia illegally and is perpetuating on Namibian territory its odious policy of *apartheid* and racial discrimination,

Deeply concerned at the continued collaboration of certain Governments and transnational corporations with the racist régime of South Africa in the political, economic, military and other fields, thus encouraging it to persist in the brutal suppression of the peoples of South Africa,

Emphasizing that ratification of and accession to the Convention on a universal basis and implementation of its provisions without any delay are necessary for its effectiveness and would be a useful contribution towards achieving the goals of the Decade for Action to Combat Racism and Racial Discrimination,

Taking into account Security Council resolution 418 (1977) of 4 November 1977 as a useful step towards achieving the purposes of the Convention,

Firmly convinced that the legitimate struggle of the oppressed peoples of southern Africa against *apartheid*, colonialism and racial discrimination and for the effective implementation of their inalienable and legitimate rights, including their right to self-determination, demands more than ever all necessary support by the international community and, in particular, further action by the Security Council,

1. *Takes note* of the report of the Secretary-General on the status of the International Convention on the Suppression and Punishment of the Crime of *Apartheid*;

2. *Expresses its satisfaction* with the increase in the number of States which have ratified the Convention or acceded thereto;

3. *Commends* the States parties to the Convention that have submitted their reports under article VII of the Convention and urges other States to do so as soon as possible, taking fully into account the guidelines prepared by the Working Group on the

Implementation of the International Convention on the Suppression and Punishment of the Crime of *Apartheid* established in accordance with article IX of the Convention;

4. *Appeals once again* to all States which have not yet become parties to the Convention to ratify it or accede to it without delay;

5. *Requests* the Secretary-General to take measures through appropriate channels on the dissemination of information on the Convention with the aim of promoting further ratification thereof or accession thereto;

6. *Calls upon* States parties to implement fully article IV of the Convention by adopting legislative, judicial and administrative measures to prosecute, bring to trial and punish in accordance with their jurisdiction persons responsible for, or accused of, the acts defined in article II of the Convention;

7. *Calls upon* all States parties to the Convention and the competent United Nations organs to consider the conclusions and recommendations of the Working Group contained in its report and to submit their views and comments to the Secretary-General;

8. *Welcomes* the efforts of the Commission on Human Rights to undertake the functions set out in article X of the Convention and invites the Commission to continue its efforts, especially with a view to preparing periodically a list of individuals, organizations, institutions and representatives of States that are alleged to be responsible for crimes enumerated in article II of the Convention, as well as of those against which legal proceedings have been undertaken;

9. *Calls upon* the competent United Nations organs to continue to provide the Commission on Human Rights, through the Secretary-General, with information relevant to the periodic compilation of the above-mentioned list as well as with information concerning the obstacles which prevent the effective suppression and punishment of the crime of *apartheid*;

10. *Requests* the Commission on Human Rights to take into account, in preparing the above-mentioned list, General Assembly resolution 33/23 of 29 November 1978 as well as all the documents on the subject prepared by the Commission and its subsidiary organs;

11. *Requests* the Secretary-General to distribute the above-mentioned list among all States parties to the Convention and all States Members of the United Nations;

12. *Requests* the Secretary-General to include in his next annual report under General Assembly resolution 3380 (XXX) a special section concerning the implementation of the Convention, taking into account the views and comments of States parties to the Convention called for in paragraph 7 above.

Resolution 34/28 of 15 November 1979 entitled "Report of the Committee on the Elimination of Racial Discrimination":

The General Assembly,

Recalling its resolutions 33/102 of 16 December 1978 on the report of the Committee on the Elimination of Racial Discrimination and 34/26 of 15 November 1979 on the status of the International Convention on the Elimination of All Forms of Racial Discrimination, as well as its resolutions 3057 (XXVIII) of 2 November 1973 and 34/24 of 15 November 1979 on the Decade for Action to Combat Racism and Racial Discrimination,

Having considered the report of the Committee on the Elimination of Racial Discrimination on its nineteenth and twentieth sessions, submitted under article 9, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination, and the decisions contained therein,

Mindful of the obligation of the States parties to comply fully with all the provisions of the Convention,

Emphasizing the need for Member States to intensify, at the national and international levels, their struggle against acts or practices of racial discrimination and the vestiges or manifestations of racist ideologies wherever they exist,

1. *Takes note with appreciation* of the report of the Committee on the Elimination of Racial Discrimination on its nineteenth and twentieth sessions;

2. *Welcomes* the interest shown by the Committee in further participation in the activities for implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination;

3. *Welcomes also* the continued co-operation of the Committee with the competent specialized agencies and other United Nations bodies, especially with the United Nations Educational, Scientific and Cultural Organization, to secure the fullest possible implementation of article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination;

4. *Commends* the Committee for continuing to focus its attention on the just cause of peoples struggling against colonialism, oppression and occupation wherever they exists, particularly in southern Africa, as is within its mandate;

5. *Calls once again upon* relevant United Nations bodies to supply the Committee with sufficient information on Trust and Non-Self-Governing Territories and all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies to enable it to discharge fully its responsibilities under article 15 of the Convention;

6. *Expresses its grave concern* that some States parties to the Convention, for reasons beyond their control, are being prevented from fulfilling their obligations under the Convention in parts of their respective territories, and in this respect supports the opinion expressed by the Committee regarding the persistence of this problem in the Syrian Arab Republic, reiterates its endorsement of Committee decision 1 (XV) of 1 April 1977 and reaffirms its resolution 32/13 of 7 November 1977 as well as its resolutions 2784 (XXVI) of 6 December 1971 and 3266 (XXIX) of 10 December 1974, concerning the situation in the Golan Heights;

7. *Invites* the States parties to supply the Committee with all the requested information on their implementation of the principles and provisions of the Convention, including information on the demographic composition of their population and on their relations with the racist régimes in southern Africa, in order to enable the Committee to discharge fully its responsibilities;

8. *Calls upon* the States parties to observe fully the provisions of the Convention and other international instruments and agreements to which they are parties concerning the elimination of all forms of racial discrimination, and to take effective measures for securing full equality and promotion and protection of the rights of every person, group of persons or national or ethnic minority, as well as full protection of the rights of migrant workers, by preventing all practices of racial discrimination;

9. *Urges* all States which are not parties to the Convention to ratify or to accede to it and, pending such ratification or accession, to be guided by the basic provisions of the Convention in their internal and foreign policies;

10. *Notes with due attention* Committee decision 1 (XX) of 13 August 1979 concerning the future meetings of the Committee and requests the Secretary-General in this connection to explore the possibility of providing necessary assistance for the holding of such meetings in developing countries and to submit a report in this regard to the General Assembly at its thirty-fifth session.

Resolution 34/45 of 23 November 1979, entitled "International Covenants on Human Rights":

The General Assembly,

Recalling its resolutions 31/86 of 13 December 1976, 32/66 of 8 December 1977 and 33/51 of 14 December 1978,

Having noted the report of the Secretary-General on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights,

Noting with appreciation that, following its appeal, more Member States have acceded to the International Covenants on Human Rights,

Bearing in mind the important responsibilities of the Economic and Social Council in relation to the International Covenants on Human Rights,

Recognizing the important role of the Human Rights Committee in the implementation of the International Covenant on Civil and Political Rights and the Optional Protocol thereto,

1. *Takes note with appreciation* of the report of the Human Rights Committee on its sixth and seventh sessions and expresses satisfaction at the serious and constructive manner in which the Committee is continuing to undertake its functions;

2. *Expresses its appreciation* to the States parties to the International Covenant on Civil and Political Rights which have extended their co-operation to the Human Rights Committee when submitting their reports under article 40 of the Covenant and urges States parties which have not yet done so to submit their reports to the Committee as speedily as possible;

3. *Urges* States parties which have been requested by the Human Rights Committee to provide additional information to comply with that request;

4. *Welcomes* the information that the Economic and Social Council has now finalized arrangements for the consideration of reports submitted under the provisions of the International Covenant on Economic, Social and Cultural Rights, and expresses the hope that the Council will take steps to consider those reports as soon as possible;

5. *Again invites* all States which have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and to consider acceding to the Optional Protocol to the International Covenant on Civil and Political Rights;

6. *Welcomes* the entry into force on 28 March 1979 of article 41 of the International Covenant on Civil and Political Rights and invites the States parties to the Covenant to consider making the declaration provided for in article 41;

7. *Appreciates* that the Human Rights Committee continues to strive for uniform standards in the implementation of the provisions of the International Covenant on Civil and Political Rights and of the Optional Protocol thereto and emphasizes the importance of the strictest compliance by States parties with their obligations under the Covenant;

8. *Requests* the Secretary-General to continue to keep the Human Rights Committee informed of the activities of the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Committee on the Elimination of Racial Discrimination and also to transmit the annual reports of the Human Rights Committee to those bodies;

9. *Notes with due attention* the recommendation of the Human Rights Committee regarding the holding of future meetings of the Committee in developing countries and requests the Secretary-General to explore this possibility, taking into account the recommendation of the Committee, and to submit a report in this regard to the General Assembly at its thirty-fifth session;

10. *Requests* the Secretary-General to submit to the General Assembly at its thirty-fifth session a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights;

11. *Further requests* the Secretary-General, in preparing the report requested in Commission on Human Rights resolution 23 (XXXV) of 14 March 1979 concerning the development of public information activities in the field of human rights, to bear in mind the question of improving the publicity for the work of the Human Rights Committee;

12. *Urges* the Secretary-General to take all possible steps to ensure that the Division of Human Rights of the Secretariat is able to assist effectively the Human Rights Committee and the Economic and Social Council in the implementation of their respective functions under the International Covenants on Human Rights, taking into account General Assembly resolutions 3534 (XXX) of 17 December 1975 and 31/93 of 14 December 1976.

PART III

INTERNATIONAL DEVELOPMENTS

Section A. United Nations organs

Introduction

The United Nations organs whose work in the field of human rights is summarized in this part of the *Yearbook* are: the General Assembly, the Economic and Social Council, the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities.

During the period under review, human rights matters were dealt with at various sessions of those organs as follows:

General Assembly, thirty-fourth session (18 September 1979-7 January 1980);

Economic and Social Council, first regular session of 1979 (10 April-11 May 1979);

Commission on Human Rights, thirty-fifth session (12 February-16 March 1979);

Sub-Commission on Prevention of Discrimination and Protection of Minorities, thirty-second session (20 August-7 September 1979).

A. Elimination of racial discrimination: Decade for Action to Combat Racism and Racial Discrimination

At its thirty-fifth session, the Commission on Human Rights, in its resolution 8 (XXV) of 5 March 1979, recommended that the Economic and Social Council, while considering the specific activities which could be undertaken during the second half of the Decade for Action to Combat Racism and Racial Discrimination, should ensure:

(a) Full co-ordination and co-operation within the United Nations system in relation to the implementation of the activities of the Decade for Action to Combat Racism and Racial Discrimination;

(b) The evaluation of the status of support given to victims of racism and racial discrimination;

(c) A proper focus on the social, economic, cultural, political and other roots of racial discrimination;

(d) Wider adherence to the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of *Apartheid*, as well as the International Human Rights Covenants.¹

At the same session, in the course of the discussion on the implementation of the programme for the Decade, reference was made to indignities and hardships suffered by non-white immigrants in the United Kingdom as a result of racially discriminatory treatment by the immigration authorities of that country.

By its resolution 7 (XXXV), adopted on 5 March 1979, the Commission expressed its deep concern regarding the problems reflected in the statements on this issue, took note of the willingness of the Governments of India and the United Kingdom to exchange information so that the situation could be clarified and resolved, and expressed hope that a satisfactory outcome would be reported to the thirty-sixth session.²

¹ *Official Records of the Economic and Social Council, 1979, Supplement No. 6 (E/1979/36), chap. XXIV A.*

² *Ibid.*

The question of the implementation of the Decade for Action to Combat Racism and Racial Discrimination was also considered by the Economic and Social Council during its first regular session of 1979. By its resolution 1979/3 of 9 May 1979 the Council, having taken note with satisfaction of the reports submitted to it by the Secretary-General, decided to establish a working group to meet in 1980 to assist in evaluating the activities of the Decade; the Council also instructed the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint a working group of five of its members to meet just before its 1979 session to formulate specific proposals concerning the work programme for attaining the goals and objectives of the Decade. Authorization to appoint the Group was given on 10 May 1979 by Council decision 1979/31.

By the same resolution 1979/3, the Council recommended to the General Assembly the adoption of a draft resolution according to which the Assembly would adopt a five-year programme of activities designed to accelerate progress in the implementation of the Programme for the Decade.

At its thirty-second session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had before it, during its consideration of the related item, the report of its working group established in accordance with Council decision 1973/31,³ the report of the World Conference to Combat Racism and Racial Discrimination (Geneva, 14-25 August 1978),⁴ as well as a number of other relevant documents.⁵ In its resolution 2 A (XXXII) of 5 September 1979, the Sub-Commission recommended that it be authorized to prepare a study on discriminatory treatment in the administration of criminal justice proceedings. By its resolution 2 B (XXXII), adopted on the same day, the Sub-Commission also recommended that it be authorized to undertake, during the second half of the Decade, studies on the following subjects: political, economic, cultural and other factors underlying situations leading to racism including a survey of the increase or decline of racism and racial discrimination; and recourse procedures available to victims of racial discrimination; the Sub-Commission further requested the Secretary-General to prepare for its next session a report on recourse procedures and a background paper on the dissemination of information on combating racism and racial discrimination to the public.⁶

The General Assembly also examined the question of the implementation of the Programme for the Decade during its thirty-fourth session. On 15 November 1979, the Assembly adopted resolution 34/24, by which it proclaimed that the elimination of racism and racial discrimination were a matter of high priority; strongly condemned the policies of *apartheid*, racism and racial discrimination; reaffirmed its strong support for national liberation struggle against such policies, colonialism and alien domination, and for self-determination; called again on Governments to take legislative, administrative and other measures in order to put an end to enterprises operating in southern Africa; and appealed to all mass media and educational and cultural institutions to co-operate fully in implementing the Programme for the Decade.

The Assembly also adopted, as an annex to resolution 32/24, a four-year programme of activities to be undertaken during the second half of the Decade; this programme called for international, regional and national action, including the holding of seminars, colloquia and round tables; various studies; the holding of a second World Conference to Combat Racism and Racial Discrimination at the end of the Decade, to review and appraise the Decade's activities; urgent consideration by the Security Council of the imposition of complete and mandatory sanctions against the racist régimes in southern Africa.

³ E/CN.4/Sub.2/424.

⁴ A/CONF.92/40.

⁵ E/CN.4/Sub.2/L.679, E/CN.4/Sub.2/L.680, E/1979/15 and Add.1.

⁶ Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session (E/CN.4/1350, E/CN.4/Sub.2/435), pages 44-45.

As part of the activities under the Programme for the Decade, the Secretary-General convened a regional United Nations seminar for Europe on Recourse Procedures Available to Victims of Racial Discrimination and Activities to be Undertaken at the Regional Level, at Geneva, from 9 to 20 July 1979.⁷

The Secretary-General also organized, from 5 to 9 November 1979, in Geneva, a round table on the teaching of problems of racial discrimination.⁸

In 1979, the International Day for the Elimination of Racial Discrimination, 21 March, marked the closing of the International Anti-*Apartheid* Year and the launching of the international mobilization against *apartheid*.

B. Elimination of all forms of religious intolerance

The Commission on Human Rights has examined this question at each of its sessions since 1974. The informal working group set up by the Commission during those sessions to consider the elaboration of a draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief adopted the first three articles, further adopted by the Commission as an annex to its resolution 20 (XXV) of 14 March 1979, in which the Commission decided to continue work on the draft at its next session.⁹

C. Studies relating to prevention of discrimination and protection of minorities

1. RIGHTS OF PERSONS BELONGING TO ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

At its thirty-fifth session in 1979, the Commission on Human Rights set up an open-ended working group to consider this question, in accordance with paragraph 31 of the Programme of Action of the World Conference to Combat Racism and Racial Discrimination, in which the Conference recommended the Commission to continue its attempts to prepare an international instrument for the protection of the rights of persons belonging to minorities.¹⁰ In its resolution 21 (XXXV) of 14 March 1979, the Commission, having taken cognizance of the report of the working group, requested its Sub-Commission to submit its opinion on a draft declaration¹¹ on this matter, proposed by Yugoslavia.¹²

During the Sub-Commission session in 1979, various views were expressed about the draft declaration. On 4 September 1979, the Sub-Commission decided to submit to the Commission the summary record reflecting its discussion on this subject.¹³

2. DISCRIMINATION AGAINST INDIGENOUS POPULATIONS

On 5 September 1979, the Sub-Commission decided to request its Special Rapporteur on the "Study of the problem of discrimination against indigenous populations" to continue and finalize his work.¹⁴

⁷ ST/HR/SER.A/3.

⁸ ST/HR/SER.A/5.

⁹ E/1979/36, chap. XXIV A.

¹⁰ A/33/262.

¹¹ E/CN.4/L.1367/Rev.1.

¹² E/1979/36, chap. XXIV A.

¹³ Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session (E/CN.4/1350, E/CN.4/Sub.2/435), p. 55.

¹⁴ *Ibid.*, p. 55

3. PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

By its decision 9 (XXXV) of 14 March 1979, the Commission on Human Rights decided to endorse a recommendation by its Sub-Commission that the report entitled "Study of the question of the prevention and punishment of the crime of genocide" should be given the widest possible distribution.¹⁵

4. INTERNATIONAL LEGAL PROTECTION OF THE HUMAN RIGHTS OF INDIVIDUALS WHO ARE NOT CITIZENS OF THE COUNTRY IN WHICH THEY LIVE

During the thirty-fifth session of the Commission, the Special Rapporteur of the Sub-Commission introduced the revised text of a draft declaration on the human rights of individuals who are not citizens of the country in which they live.¹⁶ In its resolution 16 (XXXV) of 14 March 1979, the Commission requested the Economic and Social Council to consider the text of the draft declaration with a view to submitting it to the Assembly for consideration.¹⁷ By its decision 1979/36 of 10 May 1979, the Council decided to submit the draft declaration to Member States for their comments, as well as to the Commission. The Commission would consider the draft in 1980 along with the comments of States, with a view to transmitting a report to the Council. As recommended by the Commission, the Council decided that the study should be printed and given the widest possible dissemination.¹⁸

5. THE INDIVIDUAL'S DUTIES TO THE COMMUNITY AND THE LIMITATIONS OF HUMAN RIGHTS AND FREEDOMS UNDER ARTICLE 29 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

At its thirty-second session in 1979, the Sub-Commission considered part of the final report on this subject. On 5 September 1979 the Sub-Commission decided to request the Special Rapporteur on this item to continue and finalize the work.¹⁹

D. Elimination of Discrimination against Women

During the thirty-fourth session of the General Assembly in 1979, the Third Committee established, as during previous years, its Working Group of the Whole on the Drafting of the Convention on the Elimination of Discrimination against Women, to consider the final provisions and to reconsider articles not completed at previous sessions. On 29 November, the Group approved the text of the draft Convention, adopted its report²⁰ and transmitted it to the Third Committee.

By its resolution 14/180 of 18 December 1979, the Assembly adopted and opened for signature, ratification and accession the Convention on the Elimination of All Forms of Discrimination against Women. The text of the Convention was annexed to the resolution.

E. Question of the violation of human rights

1. STUDY OF SITUATIONS WHICH REVEAL A CONSISTENT PATTERN OF GROSS VIOLATIONS OF HUMAN RIGHTS

As regards action taken in 1979 to implement the procedure established by Council resolution 1503 (XLVIII) of 27 May 1970 for dealing with communications relating to

¹⁵ E/1979/36, chap. XXIV A.

¹⁶ E/CN.4/1336.

¹⁷ E/1979/36, chap. XXIV A.

¹⁸ E/1979/79, chap. VIII.

¹⁹ E/CN.4/1350, E/CN.4/Sub.2/435, p. 55.

²⁰ A/34/60 and Corr. 1 and 2.

violations of human rights and fundamental freedoms, a working group of five members of the Commission on Human Rights, established in 1978, met for one week prior to the Commission's thirty-fifth session to examine the documents referred to the Commission by the Sub-Commission and submitted a confidential report to the Commission. All actions taken under this procedure were to remain confidential until such time as the Commission decided to make recommendations to the Council. Also within the framework of this procedure, the Sub-Commission's working group on Communications held its eighth session from 6 to 17 August 1979.

At its 1979 session, the Commission adopted two decisions relating to its procedure for handling communications relating to human rights violations. By its decision 13 (XXXV) of 9 March 1979, it decided to set up a five-member working group to meet one week prior to its 1980 session to examine situations referred to it by its Sub-Commission and those situations which the Commission had decided to keep under review.²¹ In decision 14 (XXXV) of 12 March 1979, the Commission authorized future working groups established under this procedure to communicate their recommendations as soon as possible to the Governments directly concerned in order to facilitate their participation in the examination of situations concerning their countries.²²

The Commission also decided, in its decision 4 (XXXV) of 7 March 1979, that the analysis of existing United Nations procedures for dealing with communications concerning violations of human rights,²³ prepared by the Secretary-General, should be updated and submitted to the Commission in 1980.²⁴

2. VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA

Report of the Ad Hoc Working Group of Experts of the Commission on Human Rights with respect to southern Africa

The *Ad Hoc* Working Group of Experts established by the Commission on Human Rights in 1976 to examine the situation of human rights in southern Africa, submitted to the Commission at its thirty-fifth session a report²⁵ on developments concerning policies and practices violating human rights in South Africa, Namibia and Zimbabwe, as well as information on infringements of trade union rights in South Africa.

After examining the group's report, the Commission, in its resolution 12 (XXXV) adopted on 6 March 1979, reaffirmed the inalienable right of the peoples of Namibia and Zimbabwe to self-determination and independence and their right to enjoy all the rights recognized in the Universal Declaration of Human Rights, and declared that in the case of Namibia that right could be legally exercised only in accordance with directives given by the competent United Nations organs. The Commission strongly condemned the increased South African military presence in Namibia, the consequences of which included harassment of civilians, mass arrests and arbitrary detentions accompanied by torture, massacre of civil populations and violations of the territorial integrity of Angola. The Commission also condemned the activities of countries helping to perpetuate the situation in southern Africa. It adopted in general the Group's conclusions and recommendations. By the same resolution, the Commission renewed the mandate of the *Ad Hoc* Working Group of Experts, and also decided that it should carry out a comprehensive study on action taken to implement the recommendations it had made since its establishment; it was also requested to investigate, in

²¹ E/1979/36, chap. XXIV A.

²² *Ibid.*

²³ E/CN.4/1317.

²⁴ E/1979/36, chap. XXXIV A.

²⁵ E/CN.4/1311.

co-operation with the Special Committee against *Apartheid*, cases of torture and murder of detainees in South Africa and to submit a special report to the Commission in 1980.²⁶

In its decision 1979/33 of 10 May 1979, the Economic and Social Council incorporated a number of recommendations made by the Commission. It recommended the preparation of an international Convention on the rights of migrant workers, the granting of special assistance to South Africa's neighbours, fresh efforts to enable the Group to study prison conditions in South Africa and Namibia, and an investigation into the lot of black children in South Africa, on the occasion of the International Year of the Child. The Council also requested the General Assembly to urge United Nations bodies to consider devoting a special meeting at each session to the struggle against *apartheid*, to ensure that bodies dealing with *apartheid* consider the possibility of a joint meeting each year, to arrange for the organization, at least once a year, of a symposium on *apartheid*, and to arrange for a study of the South African Government's legitimacy in view of its *apartheid* policy.

By its decision 1979/34 adopted on the same day, the Council endorsed the Commission's decision to renew the Group's mandate.

By its resolution 1979/39 of 10 May 1979, the Council noted with appreciation the report of the *Ad Hoc* Working Group relating to infringements of trade union rights in South Africa,²⁷ which constituted a part of the comprehensive report of the Group on violations of human rights in southern Africa and had been separately transmitted to the Council; it requested the Group to continue to study the question and to report to the Commission and Council when it considered it appropriate; the Council demanded the immediate and complete abolition of all restrictions on trade union rights of African workers in southern Africa, including migrant workers, and the immediate and unconditional recognition of all existing African trade unions.

In a related development, the Commission on Human Rights, in its resolution 13 (XXXV) of 6 March 1979, expressed its profound appreciation to Iran which had recently severed all relations with South Africa.²⁸ The General Assembly, in its resolution 34/41 of 21 November 1979, also commended Iran for having severed all links with South Africa, and particularly for enforcing the oil embargo against that régime.

3. QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

On 14 February 1979, the Commission on Human Rights decided to send a telegram to the Government of Israel expressing deep concern about the systematic torture practised by Israel against Palestinian detainees, and the repression and collective punishment practised against the Palestinian people in Palestine and the occupied territories, and called on Israel to cease those practices forthwith and to inform the Commission urgently on the matter.

In its resolution 1 A (XXV) of 21 February 1979, the Commission called on Israel to take immediate steps for the return to their homes of the Palestinians and other displaced inhabitants of the territories; it declared that Israel's grave breaches of the fourth Geneva Convention of 12 August 1949 were war crimes and an affront to humanity; it condemned a number of Israeli policies, practices and administrative and legislative measures which further demonstrated Israel's determination to annex territories; and reaffirmed that all such measures were null and void and that Israel's settlement policy in the occupied territories constituted a flagrant violation of the fourth Geneva Convention and United Nations resolutions. The Commission renewed its request to the Secretary-General to collect

²⁶ E/1979/36, chap. XXIV A.

²⁷ E/1979/19.

²⁸ E/1979/36, chap. XXIV A.

information on detainees and make it available to the Commission's next session. The Commission further called on Israel to report to it through the Secretary-General in 1980 on its implementation of the Commission's resolution and also asked for a report by the Secretary-General.²⁹

In its resolution 1 B (XXXV), the Commission expressed concern at the consequences of Israel's refusal to apply the fourth Geneva Convention to the occupied territories, and urged all States parties to the Convention to exert all efforts to ensure respect for and compliance with its provisions in the occupied territories.³⁰

In its resolution 2 (XXXV), also adopted on 21 February 1979, the Commission reaffirmed the inalienable right of the Palestinian people to self-determination, and recognized the right of the Palestinian people to regain their rights in accordance with the Charter, and urged all States and international organizations to support them through the Palestine Liberation Organization (PLO).³¹

In its resolution 1979/40 of 10 May 1979, the Economic and Social Council requested the Commission on Human Rights to pursue its efforts and continue to take appropriate measures with respect to the protection of human rights in the occupied territories, including Palestine.

The Sub-Commission on Prevention of Discrimination and Protection of Minorities also considered this question at its thirty-second session. By its resolution 1 A (XXXII) of 5 September 1979, the Sub-Commission urged all States and international organizations to enable negotiations to begin between Israel and the Palestinian people, through PLO, to restore all rights in accordance with the United Nations Charter and resolutions.³² By its resolution 4 A (XXXII) of the same date, the Sub-Commission called on Israel to desist from bombing civilians and from other military and paramilitary activities in southern Lebanon, demanded that Israel end human rights violations in the occupied territories and requested the Secretary-General to submit in 1980 a detailed report on those violations.³³

At its thirty-fourth session in 1979, the General Assembly continued its consideration of the question on the basis of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population in the Occupied territories.³⁴ The Assembly also had before it a report it had requested from the Secretary-General.³⁵

The Assembly adopted a number of resolutions on the issue. By resolution 34/90 A of 12 December 1979, it requested the Committee to continue to investigate Israeli policies and practices in the occupied territories; by resolution 34/90 B adopted on the same day, the Assembly reaffirmed that the fourth Geneva Convention was applicable to Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem.

The Assembly determined, in its resolution 34/90 C, that measures taken by Israel to change the legal status, geographical nature and demographic composition of those territories had no legal validity and constituted a serious obstruction to Middle East peace efforts, and called on Israel to desist forthwith from taking such actions in the territories, including Jerusalem.

²⁹ E/1979/36, chap. XXIV A.

³⁰ *Ibid.*

³¹ *Ibid.*

³² E/CN.4/1350, E/CN.4/Sub.2/435, p. 42.

³³ *Ibid.*, pp. 46-47.

³⁴ A/34/631.

³⁵ A/34/694.

4. STUDY OF REPORTED VIOLATIONS OF HUMAN RIGHTS IN CHILE

The Commission on Human Rights at its thirty-fifth session adopted on 6 March 1979 resolution 11 (XXXV) entitled "Study of reported violations of human rights in Chile, with particular reference to torture and other cruel, inhuman or degrading treatment or punishment".³⁶ The Commission in that resolution acknowledged the conclusions of the report of the *Ad Hoc* Working Group on the situation of human rights in Chile;³⁷ it authorized the appointment of a Special Rapporteur on the situation of human rights in Chile, who was to report to the General Assembly in 1979 and to the Commission in 1980; it also authorized the appointment of two experts to study the question of the fate of missing and disappeared persons in Chile, and report to the Commission in 1980 and, through the Special Rapporteur, to the Assembly in 1979. The Chilean authorities were urged to co-operate with the Special Rapporteur and the experts.

By its decision 1979/32 of 10 May, the Economic and Social Council approved the Commission's decision on these appointments and requested the General Assembly to provide adequate funds and staff to implement it.

By a letter of 29 August 1979 to the Director of the Division on Human Rights, one of the appointed experts resigned from the assignment.

The first reports prepared by the Special Rapporteur and the Expert on the question of the Fate of Missing and Disappeared Persons in Chile³⁸ were transmitted to the General Assembly in November 1979.

On 17 December 1979, the General Assembly adopted resolution 34/179, by which it commended the Special Rapporteur and the Expert on missing and disappeared persons for their work; the Assembly urged the Chilean authorities to respect and promote human rights; it also urged these authorities to investigate and clarify the fate of persons reported to have disappeared for political reasons. The General Assembly invited the Commission on Human Rights to extend the Special Rapporteur's mandate and to consider further the most effective ways of clarifying the fate of missing and disappeared persons in Chile, and urged the Chilean authorities to co-operate with the Special Rapporteur and the Expert.

In resolution 34/176 of 17 December 1979, the General Assembly appealed to Member States to respond favourably to the Secretary-General's request for contributions to the United Nations Trust Fund for Chile, established under General Assembly resolution 33/174 of 20 December 1978.

5. OTHER MATTERS RELATING TO VIOLATIONS OF HUMAN RIGHTS

Cyprus

A report on the question of human rights in Cyprus³⁹ was submitted by the Secretary-General to the Commission on Human Rights at its thirty-fifth session. The Commission decided on 12 March 1979 (decision 5 (XXXV))⁴⁰ to postpone the debate on the question to 1980.

In a decision of 5 September 1979, the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested a report from the Secretary-General on

³⁶ E/1979/36, chap. XXIV A.

³⁷ A/33/331, E/CN.4/1310.

³⁸ A/34/583 and A/34/583/Add.1.

³⁹ E/CN.4/1323.

⁴⁰ E/1979/36, chap. XXIV B.

implementation of its resolution 8 (XXXI) of 1978 on Cyprus, and decided to defer consideration of the question until its next session.⁴¹

Democratic Kampuchea

In its decision 6 (XXXV) of 13 March 1979,⁴² the Commission decided to postpone to 1980 its consideration of a report analysing materials received by the Secretary-General on the human rights situation in Democratic Kampuchea.⁴³

In its resolution 4 B (XXXII) of 5 September 1979, the Sub-Commission urged the Government of Democratic Kampuchea to take urgent measures to restore full respect for human rights in that country, and invited the Government to present to it and to the Commission in 1980 information on recent violations, their root causes, and measures taken to prevent their recurrence.⁴⁴

Equatorial Guinea

By resolution 15 (XXXV) of 13 March 1979, the Commission on Human Rights decided that its Chairman should appoint a Special Rapporteur to make a thorough study of the human rights situation in Equatorial Guinea and report to it at its next session.⁴⁵

Further to recommendations by the Commission, the Economic and Social Council, by decision 1979/35 of 10 May, appealed to the Government of Equatorial Guinea to co-operate in implementing the Commission's resolution, and approved the Commission's recommendation to derestrict material on this question which was before the Commission.

Guatemala

By its decision 12 (XXXV) of 14 March 1979, the Commission decided to send a telegram to the Government of Guatemala expressing its profound regret at the assassination on 25 January of Alberto Fuentes Mohr, Deputy of the Guatemalan Congress. It took note of a communication from Guatemala on that event.⁴⁶

Islamic Republic of Iran

On 7 September 1979, the Sub-Commission decided to send a telegram to the Government of Iran expressing its deep sense of shock at reported summary executions of Kurds in Iran and requesting the immediate cessation of those inhuman practices.⁴⁷

Nicaragua

By resolution 14 (XXXV) of 13 March 1979, the Commission on Human Rights demanded that the Nicaraguan authorities end the grave situation in that country and ensure respect for human rights. It requested the Secretary-General to keep the situation under review and report to it through the Sub-Commission.⁴⁸

⁴¹ E/CN.4/1350, E/CN.4/Sub2/435, chap. XVI B.

⁴² E/1979/36, chap. XXIV B.

⁴³ E/CN.4/1335.

⁴⁴ E/CN.4/1350, E/CN.4/Sub.2/435, chap. XVI A.

⁴⁵ E/1979/36, chap. XXIV A.

⁴⁶ E/1979/36, chap. XXIV B.

⁴⁷ E/CN.4/1350, E/CN.4/Sub.2/435, chap. XVI A.

⁴⁸ E/1979/36, chap. XXIV A.

At its thirty-second session, the Sub-Commission, in resolution 4 C (XXXII) of 5 September 1979, after considering the Secretary-General's report⁴⁹ following a change in that country's régime, requested him to supplement it for the Commission's 1980 session, and invited Nicaragua to present information to the Commission and Sub-Commission.⁵⁰

F. Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa

At its thirty-fifth session in 1979, the Commission on Human Rights, by resolution 9 (XXXV) of 5 March, invited the Special Rapporteur of the Sub-Commission on this question to bear in mind, in preparing material for the list of providers of assistance to racist régimes in southern Africa, those Governments, transnational corporations and individuals whose assistance to such régimes constituted a denial of the enjoyment of human rights in Namibia, Zimbabwe and South Africa.⁵¹

By resolution 3 (XXXII) of 5 September 1979, the Sub-Commission, having considered the revised report by the Special Rapporteur,⁵² decided to send it to the Commission together with replies from Governments regarding its contents. It also requested the Economic and Social Council, through the Commission, to append the report to the original report by the Special Rapporteur;⁵³ it asked that the report be printed, widely disseminated, and given wide publicity; it requested the Commission to decide how the list should be kept up to date.⁵⁴

G. The right of peoples to self-determination

By resolution 3 (XXXV) of 21 February 1979, the Commission on Human Rights reaffirmed the inalienable right of the peoples of Namibia, Zimbabwe, South Africa, Palestine, and of all peoples under alien and colonial domination to self-determination, independence, territorial integrity, national unity and sovereignty. It demanded the immediate release of all persons detained as a result of their struggle for self-determination, and expressed appreciation for assistance received by peoples under alien domination or occupation.⁵⁵

In connection with this item, the Commission also adopted on the same day resolution 2 (XXXV) on the right of Palestinians to self-determination and a sovereign State.⁵⁶

By its decision 1979/39 of 10 May 1979, the Economic and Social Council decided that two studies on the right to self-determination, prepared by Special Rapporteurs of the Sub-Commission, should be printed and given the widest possible distribution.

The General Assembly, in its resolution 34/44 of 23 November 1979, reaffirmed the legitimacy of the liberation struggle and the inalienable right of the peoples of Namibia and Zimbabwe, the Palestinian people and all peoples under alien and colonial domination to self-determination, national independence, territorial integrity, national unity and sovereignty.

⁴⁹ E/CN.4/Sub.2/486.

⁵⁰ E/CN.4/1350, E/CN.4/Sub.2/435, chap. XVI A.

⁵¹ E/1979/36, chap. XXIV A.

⁵² E/CN.4/Sub.2/425 and Add.1-3.

⁵³ E/CN.4/Sub.2/383/Rev.1.

⁵⁴ E/CN.4/1350, E/CN.4/Sub.2/435, chap. XVI A.

⁵⁵ E/1979/36, chap. XXIV A.

⁵⁶ *Ibid.*

H. Question of the human rights of persons subjected to any form of detention or imprisonment

Upon a recommendation contained in Commission on Human Rights resolution 17 (XXXV) of 14 March 1979,⁵⁷ the Economic and Social Council, by its resolution 1979/34 of 10 May 1979, decided to request the Secretary-General to transmit to Governments, for their comments, a draft body of principles for the protection of all persons under any form of detention or imprisonment which had been adopted by the Sub-Commission at its thirty-first session, and to report to the General Assembly in 1980 so that the Assembly might consider adopting this draft body. By the same resolution, the Council authorized the Sub-Commission to request its Special Rapporteur to continue her study on the implication for human rights of states of siege and emergency.

The text of the draft principles was transmitted to the Assembly by a note dated 11 September 1979.⁵⁸ However, no vote was taken on this subject during the thirty-fourth session of the General Assembly.

In other actions related to the rights of imprisoned persons, the Assembly, by resolution 34/44 of 23 November 1979, demanded the immediate and unconditional release of all persons detained because of their struggle for self-determination and independence; by resolution 34/93H, of 12 December 1979, it again demanded the release of persons detained, imprisoned, restricted or charged under arbitrary repressive laws for their opposition to *apartheid*, by resolution 34/178 of 17 December 1979, it called on all Governments to guarantee to persons within their jurisdiction the full enjoyment of the right of *amparo*, *habeas corpus*, or analogous legal remedies. It decided that an international seminar on the matter would be timely and useful.

By its resolution 5 A (XXXII) of 5 September 1979, the Sub-Commission recommended that it be authorized to designate one of its members to prepare in 1980 a report on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, with a view to avoiding discrimination in the administration of justice.⁵⁹ By its resolution 2 A (XXXII) adopted on the same date, the Sub-Commission requested similar authorization for the preparation in 1981 of a study on discriminatory treatment against members of racial, ethnic, religious or linguistic groups at the various levels in the administration of criminal justice proceedings.⁶⁰

I. Torture and other cruel, inhuman or degrading treatment or punishment

As authorized by the Economic and Social Council, a pre-sessional working group of the Commission on Human Rights met from 5 to 7 February 1979 to continue work on a draft convention on torture and other cruel, inhuman or degrading treatment or punishment, based on a text submitted by Sweden. The group continued its work in a sessional working group set up by the Commission, which met between 23 February and 12 March 1979. By its resolution 18 (XXXV) of 14 March 1979, the Commission recommended that the Economic and Social Council authorize a meeting of a working group for one week prior to the Commission's 1980 session to complete work on the draft convention.⁶¹ This recommendation was approved by Council resolution 1979/35 of 10 May 1979.

⁵⁷ E/1979/36, chap. XXIV A and chap. I A.

⁵⁸ A/34/146.

⁵⁹ E/CN.4/1350, E/CN.4/Sub.2/435, chap. XVI A.

⁶⁰ *Ibid.*, p. 44.

⁶¹ E/1979/36, chap. XXIV A.

By its resolution 34/167 of 17 December 1979, the General Assembly, having taken note of two follow-up reports by the Secretary-General⁶² on action taken by Governments to implement the General Assembly's Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁶³ requested the Commission on Human Rights to continue to give high priority to complete the draft; called for additional replies to the questionnaire on implementation of the Declaration against torture; and invited Member States which had not done so to submit unilateral declarations against torture and other cruel, inhuman or degrading treatment or punishment.

In a related action, the General Assembly adopted, in its resolution 34/169 of 17 December 1979, a Code of Conduct for Law Enforcement Officials.

J. Draft Code of Medical Ethics

By its resolution 34/168 of 17 December 1979, the General Assembly requested the Secretary-General to seek comments and suggestions from Member States and organizations on the text of a draft Code of Medical Ethics relevant to the protection of persons under any form of detention or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment. This draft Code had been submitted to the General Assembly by the World Health Organization.

K. Disappeared persons

By its resolution 1979/38 of 10 May 1979, the Economic and Social Council requested the Commission and its Sub-Commission to consider the question of disappeared persons at their next sessions as a matter of priority, with a view to making recommendations.

In resolution 5 B (XXXII) of 5 September 1979, the Sub-Commission proposed that the emergency action called for in connection with this problem might be entrusted to a group of experts, and requested the Commission to authorize members of the Sub-Commission designated by its Chairman to undertake the task. It transmitted to the Secretary-General, for whatever action deemed possible, the lists of missing persons communicated to him by Sub-Commission members.⁶⁴

On 7 September 1979, the Sub-Commission designated five of its members to serve on the proposed working group.

L. Slavery and the slave trade

The Sub-Commission's working group on slavery held its fifth session at Geneva on 16, 17 and 24 August 1979. In its report, to be submitted to the Sub-Commission at its thirty-third session, the Group made recommendations for action by Governments, United Nations agencies, the Sub-Commission and the Secretariat on debt bondage, slavery and the slave trade, exploitation of child labour, sale of children, the slavery-like practices of *apartheid* and colonialism, traffic in persons and exploitation of the prostitution of others.

⁶² A/34/144 and A/34/145 and Add.1-3.

⁶³ Resolution 3452(XXX) of 9 December 1975.

⁶⁴ E/CN.4/1350, E/CN.4/Sub.2/435, chap. XVI A.

M. Exploitation of child labour

In its resolution 7 (XXXII) B of 5 September 1979, the Sub-Commission decided to review this issue annually and requested its working group on slavery to report on it each year; it requested the Secretary-General to transmit to Governments concerned reports submitted to it in 1979 on the exploitation of child labour in some countries. It urgently appealed to all Governments to ensure the enactment of adequate legislation to protect children; it recommended that the Commission on Human Rights take into account the documents and debates of the Sub-Commission in drafting a convention on the rights of the child; it further requested all bodies of the United Nations system to co-operate in eliminating the exploitation of child labour.⁶⁵

By its resolution 7 (XXXII) A of the same date, the Sub-Commission requested authorization from the Economic and Social Council to appoint one of the Sub-Commission's members as Special Rapporteur to prepare a report on the exploitation of child labour.⁶⁶

N. Question of a convention on the rights of the child

A working group of the Commission on Human Rights started working in 1979 on a draft convention on the rights of the child, on the basis of a text submitted by Poland in 1978.

By its resolution 19 A (XXXV) of 14 March 1979, the Commission decided to continue this task in 1980. By resolution 19 B (XXXV) of the same date, it invited the Secretary-General to consider organizing a two-week seminar on the rights of the child.⁶⁷

O. International Year of the Child

By its resolution 34/4 of 18 October 1979, the General Assembly, having considered the report of the Executive Director of UNICEF on the International Year of the Child, urged Governments to make every effort to consolidate and build further on the results of the Year in order to achieve lastingly increased benefits for children; requested Governments and organizations to develop special programmes of assistance to children oppressed by *apartheid*; stressed the importance of following up the experiences and activities of the Year. It also requested Governments and organs and organizations of the United Nations system to evaluate and follow up the impact of the Year on their activities and to inform the Secretary-General.

P. International Year of Disabled Persons

In its resolution 34/154 of 17 December 1979, the General Assembly, recalling its resolution 31/123 of 16 December 1976 by which it proclaimed the year 1981 International Year of Disabled Persons, requested the Secretary-General to convene a meeting of the Advisory Committee in 1980 to examine the implementation of the Plan of Action and to begin the consideration of a long-term programme of action; it also invited Member States to submit national reports to the Secretary-General on their implementation of the Plan of Action.

⁶⁵ E/CN.4/1350, E/CN.4/Sub.2/435, chap. XVI A.

⁶⁶ *Ibid.*

⁶⁷ E/1979/36, chap. XXIV A.

Q. Policies and programmes relating to youth

In its resolution 34/151 of 17 December 1979 entitled "International Youth Year: Participation, Development, Peace", the General Assembly, having taken note of the report of the Secretary-General on the International Youth Year,⁶⁸ decided to designate 1985 as International Youth Year: Participation, Development, Peace; and to establish an Advisory Committee for the year, to be composed of 23 Member States appointed by the Chairman of the Third Committee on the basis of equitable geographical distribution.

R. Human rights of migrant workers

By its resolution 25 (XXXV) of 14 March 1979, recommended by a working group which met in Geneva in December 1978, the Commission on Human Rights invited all States to work to create conditions that would avoid discrimination against migrant workers, take measures to safeguard their rights under domestic legislation, and apply international instruments or conclude new ones to improve the conditions of such workers and eliminate the illicit traffic in foreign labour; the Commission recommended that organizations in the United Nations system intensify action in this field; it finally decided to supervise the application of the principles of the Universal Declaration on Human Rights to all migrant workers.⁶⁹

Economic and Social Council resolution 1979/12 of 9 May 1979 contained a request for a report by the Secretary-General on the welfare of migrant workers. By its resolution 1979/13 of the same date, the Council requested interested United Nations agencies and bodies to continue co-operating towards the preparation by the General Assembly of an international convention on protection of the rights of all migrant workers.

Upon the Council request, the Secretary-General presented a report to the General Assembly at its thirty-fifth session on the results of his sounding of States and United Nations organizations concerning the possibility of drawing up an international convention on the rights of migrant workers.⁷⁰ In its resolution 34/172 of 17 December 1979, the Assembly decided to create at its thirty-fifth session a working group open to all Member States to elaborate an international convention on the protection of the rights of all migrant workers and their families.

S. Right to education

In its resolution 34/170 of 17 December 1979, the General Assembly invited all States to consider adopting measures to ensure full implementation of the right to universal education. The Director-General of UNESCO was requested to present reports containing information on UNESCO's education and training activities for developing countries, and conclusions on action to be taken.

T. Human rights and scientific and technological developments

In its resolution 6 (XXXII) of 5 September 1979, the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested the Secretary-General to prepare a

⁶⁸ A/34/468 and Corr. 1.

⁶⁹ E/1979/36, chap. XXIV A.

⁷⁰ A/34/535 and Add.1.

report with a view to formulating guidelines regarding the medical measures that might properly be employed in the treatment of persons detained on grounds of mental ill-health, and procedures for determining whether adequate grounds existed for detaining such persons and applying such medical measures.⁷¹

U. The New International Economic Order and the protection of human rights

In its resolution 4 C (XXXV) of 2 March 1979, the Commission on Human Rights recommended that the Economic and Social Council should invite the Secretary-General to prepare a study of the regional and national dimensions of the right to development as a human right, for consideration by the Commission at its 1981 session.⁷² This resolution was further endorsed by Council decision 1979/29 of 10 May 1979.

In its resolution 5 (XXXV) of 2 March 1979, the Commission reiterated that the right to development was a human right and called on all States to take steps to remove all obstacles to the full realization of economic, social and cultural rights, and to promote all actions to secure their enjoyment.⁷³

On a recommendation of the Commission contained in this resolution, the Economic and Social Council, by decision 1979/30 of 10 May 1979, requested the Secretary-General to organize in 1980 a seminar on the effects of the existing unjust international economic order on the economies of the developing countries, and the obstacles that this represents for the implementation of human rights and fundamental freedoms.

By resolution 8 (XXXII) of 5 September 1979, the Sub-Commission requested authorization to appoint one of its members as Special Rapporteur for a study on the new international economic order and the promotion of human rights.⁷⁴

By its resolution 34/46 of 23 November 1979, the General Assembly requested the Secretary-General to give priority to the holding of this seminar in 1980.

V. Further promotion and encouragement of human rights and fundamental freedoms

1. ROLE AND FUNCTIONING OF THE COMMISSION ON HUMAN RIGHTS

By resolution 1979/36 of 10 May 1979, the Economic and Social Council expanded the membership of the Commission on Human Rights from 32 to 43 States; added inter-agency co-ordination of human rights activities to the Commission's terms of reference, and authorized it and its Sub-Commission to hold longer sessions each year (six-week and four-week annual session respectively); it asked the Commission to continue work on the further promotion and encouragement of human rights, including the question of the Commission's programme and methods of work.

In its resolution 34/46 of 23 November 1979 entitled "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms", the General Assembly requested the Commission to continue work on an analysis of the United Nations approach to human rights, including the question of the Commission's programme and working methods.

⁷¹ E/CN.4/1350, E/CN.4/Sub.2/435, chap. XVI A.

⁷² E/1979/36, chap. XXIV A.

⁷³ *Ibid.*

⁷⁴ E/CN.4/1350, E/CN.4/Sub.2/435, chap. XVI A.

In Council resolution 1979/36 mentioned above, the Secretary-General was requested to examine the staffing and resources of the Division on Human Rights, bearing in mind that it should always be at a level which would allow it to discharge its duties effectively. By resolution 34/46 of 23 November also mentioned above, the General Assembly requested the Commission to consider the existing resources of the Division and to make recommendations to it through the Council, with a view to improving the Division's work.

By resolution 34/47 adopted on the same date, the General Assembly requested the Secretary-General to consider redesignating the Division as a Centre for Human Rights.

2. PROPOSAL FOR A HIGH COMMISSIONER FOR HUMAN RIGHTS

In discussions during 1979 in the Commission on Human Rights and the General Assembly, opinions continued to be divided about the desirability of creating a post of United Nations High Commissioner for Human Rights. In its resolution 1979/36 of 10 May, the Council noted that the Commission had been unable to reach agreement on this issue. In resolution 34/48 adopted on 23 November 1979, the General Assembly decided to consider this question again at its thirty-fifth session.

3. PUBLIC INFORMATION ACTIVITIES IN THE FIELD OF HUMAN RIGHTS

In its resolution 23 (XXXV) of 14 March 1979, the Commission on Human Rights urged all Governments to consider action to give publicity to United Nations activities in the field of human rights; it also requested the Secretary-General to develop public information activities in this field, and to present to the Commission in 1980 a summary of such activities and proposals for their further development.⁷⁵

4. NATIONAL HUMAN RIGHTS INSTITUTIONS

In its resolution 24 (XXXV) of 14 March 1979, the Commission on Human Rights endorsed guidelines contained in the report of the Seminar on National and Local Institutions for the Promotion and Protection of Human Rights,⁷⁶ held at Geneva in September 1978, requested the Secretary-General to transmit them to States and organizations, and invited Governments to inform, through him, the Commission of the extent of national human rights institutions.⁷⁷

General Assembly resolution 34/49 of 23 November 1979 requested the Secretary-General, in reporting to the General Assembly in 1981, to describe existing types of national institutions as reflected in government reports and other sources; it also decided, upon recommendation by the Economic and Social Council, to include as a sub-item in its 1981 provisional agenda the topic of national institutions for the promotion and protection of human rights.

5. REGIONAL HUMAN RIGHTS ARRANGEMENTS

A United Nations Seminar on the Establishment of Regional Commissions on the Establishment of Regional Commissions on Human Rights with special Reference to Africa,⁷⁸ held at Monrovia, Liberia, in September 1979, concluded that it would be desirable

⁷⁵ E/1979/36, chap. XXIV A.

⁷⁶ ST/HR/SER.A/2.

⁷⁷ E/1979/36, chap. XXIV A.

⁷⁸ ST/HR/SER.A/4.

to establish an African Commission on Human Rights as soon as possible. It accordingly requested the Secretary-General to transmit its proposal to the Organization of African Unity (OAU).

By its resolution 34/171 of 17 December 1979, the General Assembly expressed the hope that the recommendations of the Seminar would be given due consideration by Governments and organizations concerned; it reiterated its appeal to States in areas in which regional human rights arrangements did not exist to consider agreements to establish them.

W. Advisory services in the field of human rights

The Seminar referred to above on the Establishment of Regional Commissions on Human Rights with Special Reference to Africa was held under the United Nations programme of advisory services in human rights. As mentioned above, the General Assembly, in resolution 34/171, expressed the hope that the recommendations of the Seminar would be given due consideration.

Under the programme of advisory services, 25 fellowships in various aspects of human rights were granted in 1979 to recipients from 25 countries.

By its resolution 19 B (XXXV) of 14 March 1979, the Commission on Human Rights invited the Secretary-General to consider the possibility of organizing a seminar on the rights of the child.⁷⁹ By its decision 1979/30 of 10 May, the Economic and Social Council endorsed a Commission recommendation that a seminar be held in 1980 on the effects of the existing unjust international economic order on the economies of the developing countries. The General Assembly, by its resolution 34/46 of 23 November 1979, requested the Secretary-General to give priority to the holding of this seminar in 1980.

The value of the advisory services programme was emphasized by the Economic and Social Council in resolution 1979/36 of 10 May 1979, which contained a number of recommendations designed to promote and encourage human rights, and in which the Council reaffirmed that the programme should be maintained and developed.

In its resolutions 4 B and 4 C (XXXII) of 5 September 1979,⁸⁰ the Sub-Commission on Prevention of Discrimination and Protection of Minorities drew the attention of the Governments of Democratic Kampuchea and Nicaragua respectively to services available under the advisory services programme.

⁷⁹ E/1979/36, chap. XXIV A.

⁸⁰ E/CN.4/1350, E/CN.4/Sub.2/435, chap. XVI A.

Section B. Specialized agencies

A. Food and Agriculture Organization of the United Nations (FAO)

Among documents adopted by the relevant organs of the United Nations system, the following can be mentioned as regards FAO:

Declaration of Principles adopted by the World Conference on Agrarian Reform and Rural Development (Rome, 12-20 July 1979);

Programme of Action adopted by the World Conference on Agrarian Reform and Rural Development.

B. International Civil Aviation Organization (ICAO)

The following resolutions, adopted in 1979 by the Assembly of the ICAO, can be mentioned in connection with human rights issues:

Resolution A 15-7 on the "Condemnation of the Policies of *Apartheid* and Racial Discrimination of South Africa";

Resolution A 18-4 on "Measures to be taken in pursuance of resolutions 2555 and 2704 of the United Nations General Assembly in relation to South Africa".

C. International Labour Organisation (ILO)

The following developments in the field of human rights can be mentioned as regards activities of the International Labour Organisation during the year under consideration.

1. NEW STANDARDS ADOPTED IN 1979

At its 65th session (June 1979), the International Labour Conference adopted the following instruments:

Convention No. 152 and Recommendation No. 160 on safety and health in dock work, 1979;

Convention No. 153 and Recommendation No. 161 on hours of work and rest periods in road transport, 1979.

2. FREEDOM OF ASSOCIATION

(a) The Eleventh Conference of American States Members of the International Labour Organisation, in a resolution concerning freedom of association and trade union rights,¹ urged the Governments of all the American States to ratify and fully implement Conventions Nos. 87, 98, 135, 141 and 151. In addition, it invited the Governments and the employers' and workers' organizations of the region to make effective use of and to fully co-operate with the established ILO supervisory machinery. The Director-General was requested to give priority

¹ *Official Bulletin*, vol. LXIII, 1980, series A, No. 1, pp. 29-30.

to direct-contact missions, to deal in an expeditious way with complaints concerning freedom of association, to give full publicity to the findings and conclusions resulting therefrom, and to take all other appropriate measures to further the observance of freedom of association and trade union rights in the American region. This Conference also adopted a resolution concerning workers' education for the development and strengthening of workers' organizations.

(b) The Third European Regional Conference (Geneva, October 1979) adopted a resolution concerning freedom of association, trade union rights and industrial relations² in which, noting with grave concern that in certain European countries important principles of freedom of association are not effectively implemented, it strongly urges European Governments to ratify and fully apply ILO conventions on the matter. It also requests ILO to deal in an expeditious way with complaints concerning violation of freedom of association and trade union rights, to establish direct contacts with member States which infringe important principles in that area, and to undertake studies analysing the trade union situations and industrial relations systems existing in Europe, with a view to organizing exchanges of ideas and experience.

3. DISCRIMINATION

The Eleventh Conference of American States adopted a resolution concerning conditions of work, vocational training and employment of women³ which advocates a series of measures designed to overcome the various forms of discrimination to which women workers are subjected in the region and to enable those workers to participate more actively in economic and social development and to enjoy the fruits of such development.

4. EMPLOYMENT

At its 65th session, the International Labour Conference examined the progress achieved in the implementation of the Declaration of Principles and Programme of Action adopted by the World Employment Conference in 1976. It adopted a resolution reaffirming the urgency of the implementation of those instruments and stressing the relationship between economic growth, the promotion of employment and the satisfaction of basic needs. The resolution also stresses the importance of industrialization and contains many recommendations regarding direct and urgent measures to be taken by ILO and by its member States. The resolution stresses the need to pursue efforts to promote employment and to direct them basically towards the needs of rural areas and the problems of poverty and low productivity in urban areas. The Conference also requested that the essence of this resolution should be brought to the attention of the Preparatory Committee of the United Nations General Assembly responsible for devising a new international development strategy.

The Eleventh Conference of American States adopted a resolution⁴ inviting Governments and ILO to take various measures to ensure the implementation in the American region of the World Employment Conference Declaration of Principles and Programme of Action and of the resolution concerning follow-up to the World Employment Conference, adopted by the International Labour Conference in 1979.

² *Official Bulletin*, vol. LXIII, 1980, series A, No. 3.

³ *Official Bulletin*, vol. LXIII, 1980, series A, No. 1, pp. 25-29.

⁴ *Official Bulletin*, vol. LXIII, 1980, series A, No. 1, pp. 31-33.

5. PROTECTION OF VARIOUS CATEGORIES OF PERSONS

Children

At its 65th session, the International Labour Conference adopted a resolution concerning the International Year of the Child and the progressive elimination of child labour and pertinent transitional measures.⁵ This resolution calls upon member States to take various measures for the elimination of child labour and for the protection of children. It calls upon Government and employers' and workers' organizations to assess the situation of child work and to assist the competent bodies and ILO to strengthen their action programme for children. Finally, it urges continuing and reinforcing ILO's action through such means as factual surveys of national situations and practices for the elimination of child labour and for the protection of children at work, and to make the necessary preparations for a global revision of the relevant ILO instruments.

Migrant workers

(a) At its 65th session, the International Labour Conference adopted a resolution concerning migrant workers in which it requests that a comparative study be carried out on the laws and regulations and the practices brought into effect in countries employing immigrant labour.⁶ This resolution calls upon Governments to ensure the implementation of international labour standards concerning migrant workers, in particular Conventions Nos. 97 and 143 and Part II of the Declaration of Principles and Programme of Action adopted by the World Employment Conference in 1976.

(b) The Eleventh Conference of American States adopted a resolution concerning migrant workers in the Americas which invites the Governments of the countries of origin and the host countries to take various measures to improve the protection of migrant workers and their families and to enable immigrant workers to enjoy the same trade union rights as nationals.

(c) The Third European Regional Conference adopted a resolution concerning the problems of intra-European migration.⁷ This resolution, *inter alia*, urges member States to apply the constitutional objective of ILO relating to non-discrimination and to equality of opportunity and treatment for national and migrant workers.

Disabled persons

At its 65th session, the International Labour Conference adopted a resolution concerning disabled persons.⁸ This resolution urges that the International Year for Disabled Persons should be marked by laying stress on three types of activity: by publicizing relevant ILO standards and assisting member States to implement them; by gathering documentation on legislation, experience and research in the area of vocational rehabilitation; and by making an appropriate contribution to the related activities of other members of the United Nations family.

The resolution also requests that the question of revising the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99) be placed on the agenda of an early session of the International Labour Conference.

⁵ *Official Bulletin*, vol. LXII, 1979, series A, No. 2, pp. 86-88.

⁶ *Ibid.*, p. 110.

⁷ *Ibid.*, No. 3.

⁸ *Ibid.*, vol. LXII, 1979, No. 2, pp. 90-91.

D. United Nations Educational, Scientific and Cultural Organization (UNESCO)

Concerning the activities of UNESCO in the field of human rights during 1979, the following developments can be mentioned.

1. MEETINGS HELD WITH UNESCO'S PARTICIPATION

A World Conference of Youth and Students in Solidarity with Peoples, Youth and Students of Southern Africa was held at UNESCO headquarters from 19 to 22 February 1979.

A meeting was organized at UNESCO headquarters from 7 to 9 May 1979 on means of promoting the teaching of the principles of the Declaration on Race and Racial Prejudice adopted by the UNESCO General Conference at its twentieth session in 1978.

In connection with the International Year of the Child, UNESCO hosted at its headquarters, from 18 to 20 June 1979, a Seminar on Children under *Apartheid*, organized under the auspices of the Special Committee against *Apartheid* of the Secretariat.

Subsequent to the International Congress on the Teaching of Human Rights (Vienna, 12-16 September 1978), the Director-General of UNESCO convened at the Organization's headquarters, from 25 to 28 June 1979, a meeting of experts whose mandate was to draft a plan for the development of human rights teaching.

UNESCO took part in the United Nations round-table on the Teaching of Problems of Racial Discrimination which was held at Geneva from 5 to 9 November 1979.

A meeting of experts to study the place of human rights in cultural and religious traditions was held from 3 to 7 December 1979 at UNESCO's Regional Office for Education in Asia and Oceania at Bangkok.

2. OPERATION OF THE NEW PROCEDURE FOR THE STUDY OF COMPLAINTS CONCERNING THE EXERCISE OF HUMAN RIGHTS IN FIELDS WITHIN THE COMPETENCE OF UNESCO

The Executive Board's Committee on Conventions and Recommendations met in closed session at the Organization's headquarters from 23 to 27 April and from 10 to 18 September 1979 to study communications transmitted to it in accordance with Decisions 77 EX/8.3 and 104 EX/3.3 of the Executive Board.

3. DECISIONS AND RESOLUTIONS

Following the debate which took place at its 107th session, the Executive Board in 107 EX/Decision 4.4.1 requested the Committee on Conventions and Recommendations to study the legal, administrative and practical problems which might arise in connection with UNESCO's contribution to the implementation of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocol, particularly as a result of the fact that the Committee has also to exercise the functions provided for in 104 EX/Decision 3.3. Likewise in decision 107 EX/4.4.1 the Board requested the Committee to submit appropriate proposals to it at its 109th session.

At its 108th session (September/October 1979) the Executive Board, in decision 108 EX/5.3.1, authorized the setting up of a voluntary fund for the development of knowledge of human rights through teaching and information.

E. World Health Organization (WHO)

WHO's activities related to the rights and welfare of migrant workers and their families are carried out in close collaboration with ILO, and a standing ILO/WHO Committee for the

Health of Migrant Workers has been established. These activities cover such areas as organization of health care for migrant workers, occupational diseases and accidents, communicable diseases, health education, and psychosocial factors affecting the health of migrant workers. A number of meetings were organized by WHO in 1979 dealing with these issues.

WHO is also continuing its activities for the dissemination of information on the effects of *apartheid* on health and psychosocial well-being. WHO presented a paper on the health of children under *apartheid* to the International Seminar on Children under *Apartheid* which was organized in Paris in June 1979 by the Special Committee against *Apartheid*, in co-operation with the Non-Governmental Organizations Sub-Committee on Racism, Racial Discrimination, *Apartheid* and Decolonization.

ANNEX

**Text of rules 72 to 77 of the provisional rules
of procedure of the Human Rights Committee,
as adopted by the Committee at its 169th meeting
(seventh session) on 10 August 1979**

**Procedure for the consideration of communications received
under article 41 of the Covenant**

Rule 72

1. A communication under article 41 of the Covenant may be referred to the Committee by either State party concerned by notice given in accordance with paragraph 1 (b) of that article.

2. The notice referred to in paragraph 1 of this rule shall contain or be accompanied by information regarding:

(a) Steps taken to seek adjustment of the matter in accordance with article 41, paragraphs 1 (a) and (b), of the Covenant, including the text of the initial communication and of any subsequent written explanations or statements by the States parties concerned which are pertinent to the matter;

(b) Steps taken to exhaust domestic remedies;

(c) Any other procedure of international investigation or settlement resorted to by the States parties concerned.

Rule 73

The Secretary-General shall maintain a permanent register of all communications received by the Committee under article 41 of the Covenant.

Rule 74

The Secretary-General shall inform the members of the Committee without delay of any notice given under rule 72 of these rules and shall transmit to them as soon as possible copies of the notice and relevant information.

Rule 75

1. The Committee shall examine communications under article 41 of the Covenant at closed meetings.

2. The Committee may, after consultation with the States parties concerned, issue communiqués, through the Secretary-General, for the use of the information media and the general public regarding the activities of the Committee at its closed meetings.

Rule 76

A communication shall not be considered by the Committee unless:

- (a) Both States parties concerned have made declarations under article 41, paragraph 1, of the Covenant which are applicable to the communication;
- (b) The time-limit prescribed in article 41, paragraph 1 (b), of the Covenant has expired;
- (c) The Committee has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law, or that the application of the remedies is unreasonably prolonged.

Rule 77A

Subject to the provisions of rule 76 of these rules, the Committee shall proceed to make its good offices available to the States parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the Covenant.

Rule 77B

The Committee may, through the Secretary-General, request the States parties concerned or either of them to submit additional information or observations orally or in writing. The Committee shall indicate a time-limit for the submission of such written information or observations.

Rule 77C

1. The States parties concerned shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.
2. The Committee shall, through the Secretary-General, notify the States parties concerned as early as possible of the opening date, duration and place of the session at which the matter will be examined.
3. The procedure for making oral and/or written submissions shall be decided by the Committee, after consultation with the States parties concerned.

Rule 77D

1. Within 12 months after the date on which the Committee received the notice referred to in rule 72 of these rules, the Committee shall adopt a report in accordance with article 41, paragraph 1 (h), of the Covenant.
2. The provisions of paragraph 1 of rule 77C of these rules shall not apply to the deliberations of the Committee concerning the adoption of the report.
3. The Committee's report shall be communicated, through the Secretary-General, to the States parties concerned.

Rule 77E

If a matter referred to the Committee in accordance with article 41 of the Covenant is not resolved to the satisfaction of the States parties concerned, the Committee may, with their prior consent, proceed to apply the procedure prescribed in article 42 of the Covenant.