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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING
ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT
OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

National institutions for the promotion
and protection of human rights

Report of the Secretary-General

I. INTRODUCTION

1. This report has been prepared pursuant to paragraph 13 of resolution 48/134 of 20 December 1993, entitled "National institutions for the promotion and protection of human rights", by which the General Assembly requested the Secretary-General to report to it at its fiftieth session on the implementation of the resolution.

2. In the same resolution, the General Assembly reaffirmed the importance of developing, in accordance with national legislation, effective national institutions for the promotion and protection of human rights and of ensuring the pluralism of their membership and their independence, and encouraged Member States to establish or to strengthen national institutions and to incorporate those elements in national development plans.

3. The General Assembly requested the Centre for Human Rights to continue its efforts to enhance cooperation between the United Nations and national institutions, particularly in the field of advisory services and technical assistance and of information and education, including within the framework of the World Public Information Campaign for Human Rights. It also requested the Centre to establish, upon the request of States concerned, United Nations

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centres for human rights documentation and training and to do so on the basis of established procedures for the use of available resources within the United Nations Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights.

4. Pursuant to General Assembly resolution 48/134 of 20 December 1993, this report contains information on the various activities undertaken by the Centre for Human Rights to establish and strengthen national institutions and on the measures taken by Governments in these areas.

II. ACTIVITIES OF THE CENTRE FOR HUMAN RIGHTS WITH A VIEW TO THE ESTABLISHMENT AND STRENGTHENING OF NATIONAL INSTITUTIONS

A. International workshops

1. The Second International Workshop, held in Tunis

5. In accordance with resolution 1992/54 of the Commission on Human Rights, the Centre for Human Rights, in cooperation with the Tunisian Higher Committee on Human Rights and Fundamental Freedoms, organized the second International Workshop on National Institutions for the Promotion and Protection of Human Rights, which was held in Tunis from 13 to 17 December 1993. This workshop followed on the first Workshop, held in Paris in October 1991, the conclusions of which were adopted by the Commission on Human Rights (resolution 1992/54) and endorsed by the Economic and Social Council (decision 1992/233). It also corresponded to the wish expressed at the World Conference on Human Rights, which recommended that "representatives of national institutions should convene periodic meetings under the auspices of the Centre for Human Rights to examine ways and means of improving their mechanisms and sharing experiences" (A/CONF.157/24 (Part I), chap. III, sect. II, para. 86).

6. The topics taken up during the Workshop included:

(a) Cooperation between the State and national institutions. On this topic it was noted that, while each State should choose a context suited to its national needs, the establishment of a national institution must be in keeping with the Paris Principles, which served as a basis. That would avoid the danger of the establishment of "alibi" national institutions. Moreover, whether they were consultative or jurisdictional, national institutions must be based on the highest possible legal standard, which assured their legitimacy, so that they would be able to ensure the synergy between the State and civil society. In addition, national institutions must be forums for constructive dialogue and mediation, limiting controversy and confrontation, without thereby concealing possible substantive disagreements;

(b) Relations between national institutions and similar bodies. The discussions were concerned with the complementarity of the work of national institutions (commissions, committees, councils, etc.) and ombudsmen. It was stressed that national institutions and ombudsmen were complementary and did not compete with each other. It was thus envisaged that, on the basis of the Paris Principles, cooperation should be established between the two types of

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institutions, which both had as their purpose the strengthening of democracy and the protection of human rights;

(c) The strengthening of relations between national institutions and the Centre for Human Rights. On this topic, proposals were submitted concerning new directions in the policy of the United Nations Centre for Human Rights with regard to national institutions in the coming years. Those new directions were designed to help national institutions to contribute more effectively to the ratification and implementation of international human rights instruments; to train officials of national institutions in the preparation of the reports to be submitted by Governments; to teach methods of investigating human rights violations; and to devise methods of settling disputes;

(d) Cooperation between national institutions. This topic was concerned with strengthening relations between national institutions and non-governmental organizations (NGOs), the complementarity of whose roles was reaffirmed. It was felt that NGOs which spoke for those unable to speak for themselves must be helped and encouraged by the national institutions. It was therefore recommended that national institutions should maintain or, when that was not yet the case, establish close cooperation with NGOs, not only nationally but also by continuing to invite them to take an active part in their International Workshops.

7. At the conclusion of their deliberations, the participants adopted recommendations for consideration by the Commission on Human Rights, at its fiftieth session, including a recommendation that it should establish a coordination committee for national institutions (see sect. c). The report of the second Workshop, held in Tunis, including the conclusions and recommendations, was submitted to the Commission on Human Rights at its fiftieth session in 1994 (E/CN.14/1994/45 and Add.1).

2. The third International Workshop, held in Manila

8. Following the recommendations of the Tunis Workshop, the Commission on Human Rights, in its resolution 1993/55, authorized the convening of the third International Workshop on National Institutions for the Promotion and Protection of Human Rights, which was held at Manila, at the invitation of the Government of the Philippines, from 18 to 21 April 1995. As in the case of the Tunis Workshop, several topics were taken up during the Workshop, including:

(a) Evaluation of the implementation of the Principles relating to the status of national institutions. This involved reviewing the extent to which national legislation regulating the structure and functioning of national institutions accorded with the Paris Principles. It was reaffirmed that the mandate of a national institution must be as broad as possible and must be established by the Constitution or by a legislative instrument. It was recognized that a national institution must have the power to carry out investigations, on its own initiative or at the request of the authorities, into all human rights violations committed in the country concerned and to receive and hear individual complaints lodged in this respect. The national institution must have the responsibility for promoting human rights and must be free to meet

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on a regular basis and as often as necessary and to circulate and publish its conclusions and recommendations;

(b) The establishment and strengthening of national institutions. The discussions were concerned with the implementation of the programme of action for technical cooperation with national institutions. (Section III of this report mentions all the aspects considered under this item);

(c) National institutions and efforts to combat racism and racial discrimination. The discussion of this topic gave the participants an opportunity to learn about the results of the European Workshop on national institutions on the topic of efforts to combat racism and racial discrimination, held at Strasbourg from 7 to 9 November 1994. This topic will be dealt with in section III;

(d) The contribution of national institutions to the Fourth World Conference on Women. In the context of the Fourth World Conference on Women, the participants drew up a number of recommendations for consideration by the Conference, including a recommendation that States should consider the establishment of national institutions in accordance with the Paris Principles with the main task of ensuring the protection of women and girls against discrimination, and a recommendation that States should appoint an equal number of women and men to decision-making posts in national institutions. In that connection, all national institutions should draw up plans and programmes to recruit as many women as men at all levels within the institution.

9. Furthermore, national institutions should adopt measures in principle and implement a programme for the advancement of indigenous women both within such institutions and at the national level; they should take into account the particular needs of women and girls belonging to ethnic minorities, migrant workers and the disabled. Lastly, national institutions should pay particular attention to violence against women, adopt a specific plan of action in accordance with the Declaration on the Elimination of Violence against Women, and report to the fourth Workshop on the measures taken to eliminate such violence.

10. The detailed report of the third International Workshop on National Institutions for the Promotion and Protection of Human Rights, held at Manila, will be submitted to the Commission on Human Rights at its fifty-second session (E/CN.4/1996/8). In addition to an analysis of the debates which took place at that Workshop, the report contains conclusions, recommendations and a Final Declaration.

B. The programme of advisory services and technical assistance for national institutions

11. It should be noted that, in accordance with the mandate set forth by the Economic and Social Council, the main aim of the programme of advisory services and technical assistance is to strengthen the role of national institutions in the protection and promotion of human rights. Assistance to national institutions under the programme assumes a number of forms:

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(a) Services to Governments of Member States which are planning to establish a national institution for the promotion and protection of human rights. Assistance in such cases may be financial or may involve the provision of the services of an expert to advise public authorities on suitable models and to transmit technical information and advise on the drafting of legislation governing the status of national institutions;

(b) Technical assistance to enhance staff skills and strengthen capacity for action when the national institution has already been established.

12. The Centre for Human Rights has prepared a programme of action to serve as a reference for the preparation and execution of all projects aimed at assisting national institutions. It has four main objectives: to promote the concept of a national institution, to contribute to the emergence of effective institutions, to assist in strengthening existing institutions, and to promote cooperation among institutions. Resources have been made available for the achievement of each objective. For example, the objective of establishing effective national institutions will be achieved through the provision of experts to assist States which express a need to set up such institutions.

13. The concept of national institutions is promoted through activities which are not necessarily designed for a particular country or institution but which focus on the usefulness of a national institution as a body working for the defence of human rights. With that end in view, the Centre for Human Rights has produced documentary information and prepared a practical manual for those involved in the establishment and management of national institutions. The manual is in the process of being published.

14. This objective is also served through the organization of workshops. The Centre has therefore organized a number of seminars and workshops (for example, in Seoul in 1994) to familiarize officials with the structures and functioning of national institutions. These workshops have served as a forum for the exchange of information and experience on the establishment and functioning of national institutions.

15. Lastly, it should be noted that the Centre offers advice on the application of international instruments in domestic law; provides training in techniques of investigation into human rights violations and information thereon; provides training in methods of conflict resolution and in the management of resources which help to forge cooperative links with competent partners; and assists in the preparation of studies and evaluations and in the award of grants for further training in human rights.

C. Meetings of the Coordination Committee for national institutions

16. Pursuant to a recommendation by the International Workshops held in Tunis, the Commission on Human Rights, in resolution 1993/55, endorsed the decision to set up a Coordination Committee for national institutions. By virtue of its geopolitical composition, this Committee constitutes a major international network of bodies responsible for promoting and protecting human rights

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throughout the world. The Committee is composed of representatives of the national institutions of Australia, Canada, New Zealand, France, Sweden, India, Cameroon, Tunisia, Mexico and the Philippines. Its establishment was the culmination of a lengthy process that had begun in Paris in 1991 with a workshop on national institutions.

17. The Committee has set as its main objective the promotion of the establishment and strengthening of national human rights mechanisms. A key component of its work is to see to it that national institutions play an effective role in the promotion and protection of human rights at the national level and forge close links with international bodies pursuing the same goal.

18. The Committee held its first session from 21 to 23 February 1994, during which it considered the current situation of national institutions and expressed its views on the conformity of the status of new national institutions with the "Paris Principles", with a view to their acceptance as national institutions. It was agreed that the Committee should be flexible and simply take note of the existence of national institutions, irrespective of the political or ideological regime under which they had been established, bearing in mind that they could be improved and that technical assistance could be provided to that end. The Centre for Human Rights takes note of the existence of a national institution as such when it has been duly informed by the Government concerned of the establishment of such an institution and when the statutory, legislative or constitutional instrument concerning the status of the institution has been officially transmitted to the Centre.

19. Another matter discussed during the session was the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights. The Committee expressed the hope that more resources would be allocated to the activities of national institutions so that the Centre for Human Rights could carry out the mandates entrusted to it in that area.

20. The members of the Committee expressed broad agreement on the draft programme of technical assistance for national institutions submitted during the session and suggested that the Centre for Human Rights should ascertain the difficulties facing national institutions and assess their specific needs, with a view to adjusting the technical assistance programme, if necessary.

21. The second session of the Coordination Committee for national institutions was held in Geneva from 22 to 23 February 1995. In his opening address at that session, Mr. José Ayala Lasso, United Nations High Commissioner for Human Rights, stressed the importance of national institutions, their activities, their expansion and their strengthening. The establishment of new national institutions and the strengthening of existing institutions are among the High Commissioner's priorities under his programme of action for the second year of his mandate.

22. According to the High Commissioner, a policy of promoting the establishment and strengthening of national institutions is being formulated through constructive interaction between the Coordination Committee and the Centre for Human Rights. The three major components of the policy are:

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(a) To promote the concept of the national institution as a means of reducing existing regional disparities in the distribution of such institutions;

(b) To contribute to the emergence of independent and effective institutions conforming to the Principles concerning the status of national institutions adopted by the General Assembly in December 1993;

(c) To promote cooperation and coordination among national institutions at the regional and subregional levels.

23. During the session, the Coordinator of national institutions, Mr. Maxwell Yalden, and other members of the Coordination Committee submitted their reports on activities carried out during the previous year (1994).

24. According to the Coordinator's report, these activities consisted essentially in encouraging national institutions to implement the Principles concerning the status of national institutions and the recommendations of the World Conference on Human Rights and the Tunis Workshop, especially with regard to women and the disabled. Emphasis was placed on strengthening the Coordination Committee's links with the United Nations High Commissioner for Human Rights and the Centre for Human Rights.

III. ACTION AT THE NATIONAL AND REGIONAL LEVELS BY NATIONAL INSTITUTIONS

25. Concurrently with the activities of the Centre for Human Rights aimed at establishing and strengthening national institutions, some national institutions have taken action at the regional level. From 7 to 9 November 1994, for instance, the first European Workshop on National Institutions for the Promotion and Protection of Human Rights was held to discuss the topic, "The international dimension of the struggle against racism and xenophobia: priorities and ways of achieving European harmonization". This Workshop was organized by the Commission nationale consultative des droits de l'homme in France, in cooperation with the Subcommission of Human Rights of the Parliamentary Assembly of the Council of Europe. Some 20 national institutions from all over Europe participated.

26. The Workshop provided an opportunity for the official inauguration of a new kind of inter-institutional cooperation at the "Pan-European" level, and for the discussion of a subject of high priority for the Council of Europe as it was preparing to launch, on 10 December 1994, the European Youth Campaign against manifestations of racism, xenophobia, anti-semitism and intolerance.

27. In short, the European Workshop pointed the way to a triple approach to the question of racism and xenophobia:

(a) As precise as possible an analysis of the manifestations of racism in the 17 European countries attending the meetings, by drawing up an inventory of the specific forms racism takes, by identifying the victims and racist circles and studying the reactions of the public;

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(b) A study of national measures to combat racism, xenophobia and intolerance, by evaluating the preventive action (for instance, education) and making a survey of the anti-racist legislation in force in each country and of the measures taken by the various Governments;

(c) The proposed strengthening of cooperation within Europe, that is to say, between the leaders of the struggle against racism and between Governments, both as to the harmonization of anti-racist legislation and the coordination of measures to combat racism. 7/

28. Moving on from mere talk to action, the European bodies decided to establish, within the Council of Europe, an advisory committee against racism and xenophobia (at the Corfu summit, June 1994) and to launch a Council of Europe Plan of Action to combat racism, xenophobia, anti-semitism and intolerance, to be implemented in conjunction with the efforts of the United Nations Educational, Scientific and Cultural Organization in connection with the United Nations Year for Tolerance, 1995, proclaimed by the General Assembly.

29. It should also be noted that the topic discussed at the first European Workshop was placed in the context of the very foundation of democracy.

30. As far as the African continent is concerned, a regional conference of national African institutions will take place in November 1995 in Yaoundé. This meeting, which is in the final stages of preparation, will help to strengthen cooperation between national institutions on the continent and enable them to coordinate their activities more closely with international activities for the promotion and protection of human rights. The Secretary-General will report on the results of the conference in his next report to the General Assembly.

IV. MEASURES TAKEN BY GOVERNMENTS TO PROMOTE NATIONAL INSTITUTIONS

31. The Centre for Human Rights has endeavoured to work with certain States as they undergo a process of internal change, the aim being to strengthen democracy and protect human rights in the light of the evolution of the human rights situation in those countries in recent years.

32. The Centre has received many requests from Governments announcing the establishment of new national institutions and requesting technical assistance in making them effective. Thus, the Centre has provided technical assistance to the following countries:

(a) Georgia: A draft law on the establishment of a national human rights institution to replace the present Human Rights and Ethnic Relations Committee was submitted to the Centre for comment and received careful scrutiny. In February, the Centre sent a mission to assess the needs in Georgia with a view to completing the process of assistance;

(b) Papua New Guinea: Following the request for assistance from the Government of Papua New Guinea, the Centre sent a mission in May 1995 to assess the country's needs in the area of human rights. The mission's task was to

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gather all available information and seek views regarding the technical assistance needs in the area of human rights. On the basis of the information received, the Centre is supporting the establishment of a national human rights commission;

(c) Latvia: The Centre, in cooperation with the United Nations Development Programme (UNDP), has worked with the Latvian Government in drafting a law establishing a National Human Rights Council. This institution will be responsible for overseeing the implementation of the national programme for the protection of human rights in Latvia. With UNDP, the Centre is currently working on the preparation of a large-scale four-year programme to provide technical and material support for the establishment and development of the National Human Rights Council.

33. It should be noted that, in addition to the three countries mentioned above, other countries have also requested help from the Centre for Human Rights in establishing new national institutions. These countries are Nigeria, Indonesia, Panama, Kuwait, Pakistan, Slovenia and Sri Lanka. In these cases, the Centre has already supplied copies of the Manual on National Institutions and has informed the countries about the resources available under the technical assistance programme to help support such initiatives.

34. In order to improve its assistance to Member States, the Centre for Human Rights will set up a comparative database on national legislation. The national institutions have been invited to send their countries' relevant legislation to the Advisory Service and Technical Assistance and Information Branch for inclusion in the database. The Centre also expects to establish a similar database on the qualifications of the various experts in the national institutions field who might be called upon when technical cooperation projects are being implemented.

V. STATUS OF NATIONAL INSTITUTIONS WITHIN UNITED NATIONS BODIES RESPONSIBLE FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

35. In accordance with paragraph 13 of resolution 1995/50 of the Commission on Human Rights, the Secretary-General addressed a note verbale dated 16 May 1995 to Member States seeking the views of Governments and national institutions concerning possible forms of participation by national institutions in United Nations meetings dealing with human rights. In the same context, Mr. Maxwell Yalden, Coordinator for National Institutions for the Promotion and Protection of Human Rights, addressed a letter to the Secretary-General informing him of the wish of the national institutions to be granted the kind of status that would enable them to participate in meetings of United Nations human rights bodies, as had been the case at the World Conference on Human Rights.

36. According to the Coordination Committee for national institutions, national institutions should be granted the same status as the specialized agencies, and space should be made available to them so that their representatives could express their views as representatives of independent bodies. The Coordination Committee also asked that it should be consulted by the Centre for Human Rights

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about which national institutions should be entitled to participate in meetings of United Nations human rights bodies.

37. In his reply to the Coordinator for National Institutions, the Secretary-General said he believed that the question of the status of national institutions at meetings of United Nations human rights bodies was a matter for the Commission on Human Rights and the Economic and Social Council to decide and that he expected them to reach an appropriate decision. The Secretary-General would submit a report to the Commission on Human Rights at its fifty-second session, and the Commission would take a decision on the status of national institutions in relation to United Nations human rights bodies.

VI. CONCLUSION

38. The report has focused on the main activities of the Centre for Human Rights in cooperation with national institutions with a view to continuing the process of their establishment and strengthening. It has also shown the different contributions to the process made by the national institutions themselves, through their regional activities. Lastly, the report has highlighted the need for a clearer definition of the framework for cooperation between national institutions and the international bodies responsible for the promotion and protection of human rights, by assigning a specific status to the national institutions in relation to those bodies.
