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**REPORT OF THE UNITED NATIONS HIGH COMMISSIONER  
FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD  
CONFERENCE ON HUMAN RIGHTS**

**Progress report on support for the strengthening of  
national human rights protection systems**

### **Summary**

Further to the report of the United Nations High Commissioner for Human Rights to the fifty-ninth session of the Commission (E/CN.4/2004/3/14), a questionnaire was sent to Member States soliciting information on their national systems for the protection of human rights. Thirty-one States have thus far replied. The present document contains a summary of their replies to each of the five questions asked.

The present document also describes action taken in pursuance of action 2 contained in the report of the Secretary-General on strengthening of the United Nations (A/57/387 and Corr. 1) with respect to system-wide efforts to support Members States in strengthening their national protection systems.

## **Introduction**

1. In his annual report to the Commission on Human Rights in 2003 (E/CN.4/2003/14), the High Commissioner for Human Rights stated that the prevention of gross violations of human rights would require focus on the adequacy and effectiveness of the national protection system in each country (para. 14). In order to help promote stronger national protection systems, he announced his intention to issue “a short guideline on the concept of a national protection system and to invite every Government to make a brief submission of no more than three pages on the elements of its national protection system” (para. 16).

2. The High Commissioner informed the Commission that the national presentations would be compiled and submitted to an expert group consisting of a representative of each of the six main human rights treaty bodies whom he would ask to study the presentations and to make a general analysis together with their recommendations. The ultimate aim of the exercise would be to identify areas in which, at the request of the Government concerned, the international community could be of assistance in the strengthening of the national protection system, in whole or in part. Furthermore, the programme of technical cooperation for human rights, drawing upon inter-agency contributions, would be drawn upon to be of practical assistance (para. 16).

3. The High Commissioner further informed the Commission that he would publish the presentations and the analysis of the experts in a consolidated volume and that he would repeat the exercise every three years. In this way, there would be a global presentation of efforts for the protection of human rights at the national level, focusing on constructive cooperation and thereby contributing to confidence-building in the human rights area. The intention was not to be intrusive but, rather, to be positive and forward-looking with the objective of strengthening the protection of human rights at the grass-roots level (para. 17).

### **I. SUMMARY OF MEMBER STATES' SUBMISSIONS ON THEIR NATIONAL PROTECTION SYSTEMS**

4. In implementation of the High Commissioner's initiative, the Office of the High Commissioner sent a note verbale to all Member States on 23 June 2003, inviting them to submit, at their discretion, short replies to the following six questions:

(a) In what ways are the provisions of the principal human rights instruments and treaties reflected in the Constitution of the country?

(b) Is there an oversight process on the reflection of international human rights norms in national legislation?

(c) What is the experience of the judiciary in drawing upon the provisions of international human rights norms when considering cases before them?

(d) Are there any specific arrangements to promote human rights education in the country?

(e) What specialized national human rights institutions are in existence and which of their good practices can be highlighted?

(f) Are there arrangements to detect and anticipate potential threats to human rights of groups at risk?

5. The following 31 countries have so far responded to the questionnaire: Algeria, Argentina, Azerbaijan, Bangladesh, Belize, Cyprus, El Salvador, Estonia, Finland, Germany, Grenada, Guatemala, Haiti, Italy, Latvia, Lithuania, Luxemburg, Madagascar, Morocco, Netherlands, Peru, Portugal, Republic of Korea, Romania, Russian Federation, Serbia and Montenegro, Slovenia, Sweden, Switzerland, Turkey and Yemen. The text of the replies as received in the original language from the Governments concerned can be found on the web site of the Office of the High Commissioner for Human Rights at [www.ohchr.org](http://www.ohchr.org).

6. The following is a synthesis of government replies to the national human rights protection systems questionnaire.

7. In response to question (a), all the States that responded stated that they have constitutional human rights provisions. Some referred to human rights in general terms as fundamental principles of the State; others referred specifically to international instruments.

8. In response to question (b), in the majority of responding States, judicial organs, including Constitutional Courts, have the power to review the compatibility of domestic law with the human rights norms of the international instruments to which the State concerned is party. Some of the judicial systems included a constitutional right to *amparo* with respect to a wide range of fundamental rights and freedoms enshrined in the Constitution. In some other States, different State entities, ranging from parliamentary committees to the Attorney-General, and even including the national human rights institution, have the authority to monitor the incorporation of international human rights law into national law. In both monistic and dualistic legal systems, international law was deemed part of the domestic legal order. However, the majority of States admitted that they still require some form of incorporation of international law into domestic law. Two States replied that there was no system of oversight in place.

9. In response to question (c), a number of States replied that national courts do refer to human rights instruments and take into account international human rights law when interpreting national law in cases before them. The frequency of references to international human rights ranges from sporadic to routine, depending upon the country. Some responses referred to the fact that international human rights norms are enforced and drawn upon by judges through constitutional provisions. It was conceded by some States that some training of judges and prosecutors might be needed in order to enhance awareness of international human rights law, and some States said that they are taking measures to provide such training. In a few States, there is a constitutional obligation to take international law into account.

10. In response to question (d), all States that responded reported that they have taken or are taking measures relating to human rights/civic rights education or human rights awareness-raising, both in the primary and secondary school curricula and in the training of professional groups such as police, civil servants, the judiciary and religious groups. A small number of States indicated that human rights-related events aimed at the general public are

organized on a regular basis. Many of the initiatives are undertaken in cooperation with civil society organizations (NGOs), or with some support from international organizations (in particular the United Nations Children's Fund and the United Nations Development Programme).

11. In response to question (e), the majority of responding States indicated that they have some form of national human rights institution which monitors compliance with human rights. Although they are said to be independent, many of the institutions have been set up or created by government, presidential or ministerial Decree. One State indicated that it has no national human rights institution and that several international NGOs present on its territory fulfil some human rights-related functions.

12. Most replies from States to question (f) related to national legislation, programmes and specific plans of action on a range of issues, such as anti-discrimination, violence prevention and protection of particular marginalized, vulnerable or disadvantaged groups. Reference was also made by some States to the role of government institutions or security forces and civil society organizations/NGOs in monitoring threats to human rights of specific groups at risk, including two States which claimed not to have any institutionalized system.

## **II. ACTION 2 OF THE SECRETARY-GENERAL'S PROGRAMME ON STRENGTHENING OF THE UNITED NATIONS**

13. It will be recalled that action 2 of the Secretary-General's programme on strengthening of the United Nations (see A/57/387, paras. 52 ff), requires the United Nations High Commissioner for Human Rights to develop and implement a plan, in cooperation with the United Nations Development Group and the Executive Committee for Humanitarian Affairs, to strengthen human rights-related United Nations actions at the country level. In implementation of the Secretary-General's programme, various parts of the United Nations system have been combining their efforts to develop ways and means of providing support to Member States, at their request, in strengthening their national protection systems. A key goal is to strengthen the capacity of the United Nations country teams (UNCTs) to assist countries in strengthening national systems for the promotion and protection of human rights.

14. In pursuing this objective, particular attention will be given to support for:

(a) Respect for the rule of law, including the independent administration of justice; access of the individual to justice; law enforcement agencies acting in accordance with human rights;

(b) Popular participation in the conduct of public affairs, including regarding the implementation of human rights;

(c) Development planning that respects the linkage between development and human rights;

(d) Enhancing awareness of human rights among public officials and the general public;

(e) The establishment and strengthening of independent national human rights institutions.

15. Parallel to the core national system, specific substantive areas (e.g. housing, health, education) or specific groups (minorities, the indigenous, persons with disabilities or those affected by HIV/AIDS) may require specific legislation, institutions and procedures, as well as targeted education. Needs in this regard are usually addressed by specialized agencies and programmes.

16. UNCTs are at the heart of action 2. It is envisaged that coordinated assistance to UNCTs should focus on:

(a) Providing basic human rights information on the country originating from the national human rights bodies (human rights country profiles) and related advice;

(b) Training on the human rights needs assessment, with particular emphasis on the elements of the national promotion and protection system;

(c) Methodological tools needed for assistance to countries in establishing/improving the core elements of their systems for the promotion and protection of human rights.

### **Observations**

17. It is strongly hoped that more Member States will submit replies to the questionnaire on national protection systems. A reminder will be sent to States that have not yet done so. Thereafter, a meeting will be convened of one expert from each of the human rights treaty bodies to analyse further the replies received and to offer general recommendations on the strengthening of national protection systems. In parallel to this process, cooperation will be intensified with United Nations partners on the provision of support to Member States, at their request, for the strengthening of national human rights protection systems.

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