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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND  
FUNDAMENTAL FREEDOMS, INCLUDING: (b) IMPORTANCE OF  
NATIONAL INSTITUTIONS IN THE FIELD OF HUMAN RIGHTS

Report of the Secretary-General

Addendum

Greece

A. General comments and suggestions

1. National and local institutions are of special importance for the protection of human rights and fundamental freedoms.
2. Public consciousness necessary to achieve and to defend human rights and freedoms must begin at the national level with emphasis put on the relationship **between the individual and the State.**

Accordingly, the State has a basic, but not exclusive, responsibility and obligation for the protection of human rights, bearing in mind the rights of the individual as proclaimed in the Universal Declaration of Human Rights and other international instruments relevant to the human rights.

3. As the scope of human rights is widening, Member States should consider, within the framework of their Constitution and other legislation and according to the means available to them, the setting up of new national institutions or the improvement of existing ones for an effective promotion and protection of human rights.

4. National institutions may vary in particular functions, structure and jurisdiction in each State; but in an increasingly modern and complex society it is the combination of these institutions that will most effectively safeguard democratic rule and the freedom of the individual.

In this connexion it should be borne in mind that:

- a) National and local institutions involved in promoting and protecting human rights should base their functions, structure and activities in general, on national and political, economic and social conditions, historical background and cultural traditions of each Member State but, in so doing, the national institutions should not derogate from the principles set out in the Universal Declaration and other international instruments on human rights, and
- b) while long standing constitutional practice and traditions may provide adequate protection for the freedom of <sup>the</sup> individual and democratic rule in countries where they have operated for long time, as for example in United Kingdom, they are not so relevant in new States or in States where such long standing practices or traditions do not exist. Hence, the need for a written democratic constitution for such States.

5. The basic guidelines concerning the functions and the structure of national and local institutions suggested by the Seminar on "National and Local Institutions for the Promotion and Protection of Human Rights", which met from 18 to 29 September 1978 in Geneva are on the whole both important and useful to Member States wishing to set up new national and local institutions or to reform the existing ones for the promotion and protection of human rights.

B. Specific suggestions

1. The best safeguard for the protection and respect for human rights is an effective democracy.

2. However, irrespective of how democratic a state may be, it is necessary to provide an effective machinery for the protection of human rights and , in particular, to constrain the executive and even, in certain cases, the legislature to conform with the constitutional provisions.

3. Constitutional and protecting or remedial institutions of human rights in every State should, inter alia, include:

- a) Legislative, executive and administrative institutions
- b) Judicial and quasi - judicial institutions
- c) Independent mediators
- d) Political institutions, i.e. political parties and party groups
- e) Institutions in the field of economic and social development
- f) Legal and social arrangements.

4. A watchful parliament and an effective opposition.

5. A democratic constitution which spells out the rights guaranteed and defines clearly the powers of the executive, the legislature and the judiciary. (In this connexion mention should be made of the Constitution of Greece, voted by the Fifth Revisionary Parliament of the Hellenes on the 9th of June 1975 and entered into force on the 11th of June 1975).

6. An independent judiciary, not subject to direct or indirect pressure by the executive or by parliament, charged inter alia, with the function of upholding the constitution and enforcing its provisions.

7. And administrative tribunal with full powers to:

- a) To cancel , upon petition, executive acts of administrative authorities for abuse of power or violation of the law.
- b) To proceed to the reversal, upon petition, of final rulings of administrative courts for abuse of power or violation of the law.
- c) To decide on substantive administrative disputes submitted thereto as provided by the constitution and the laws.

The administration should be bound to comply with the annulling judgements of the Council of State. A breach of this obligation shall render liable any responsible agent, as specified by law.

Such administrative courts exist in France, Belgium, Greece (article 95 of the Greek Constitution of 1975), and in other countries.

8. The courts should have the power to investigate the constitutionality of the law. In Greece according to the article 93 of the Constitution of 1975" the courts shall be bound not to apply laws, the contents of which are contrary to the Constitution ".

9. A free press, not under government control, which will not hesitate to expose injustice or violations of human rights.

10. Fair and proper operation of the mass media for the promotion and protection of human rights.

11. An informed and concerned public opinion could be a permanent watchdog for the protection of human rights.

In this connection it should also be mentioned that, if an educated and alert public opinion is one of the best guarantees of human rights, the contribution of the schools of every type and level, including universities, should be considered of paramount importance.

12. Non- governmental organizations, including human rights committees, civil liberties unions, bar associations, intellectual associations, United Nations Associations, youth organizations, trade unions etc. could be among the protectors of human rights.

### 13. Functions

The national institutions should, inter alia:

a) Act as a source of relevant information for the Government of a Member State and for the people of that country regarding matters connected with human rights.

- b) Promote the respect for the rule of law and for human rights and fundamental freedoms.
- c) Assist in advancing education in human rights at all levels to ensure that the teaching of human rights is made part of the curricula of all formal educational institutions and informal out-of-school education.
- d) Mobilize public opinion in their countries against gross and massive violations of human rights and in particular against the policies and practices of genocide, cultural genocide, torture, racial discrimination and apartheid.
- e) Assist the needy in the provision of free legal aid.
- f) Receive complaints and information directly from any reliable source, individual or group; there should be no restrictions on submission of communications for violations of human rights.

#### 14. Structure

- a) National institutions **should be statutory** authorities or bodies created within the framework and subject to the constitution and laws of respective member states.
- b) National institutions should be composed of persons of high moral character and recognized competence in the field of human rights, consideration being given as well as to the participation of some persons having legal experience.
- c) National institutions should establish local or regional bodies which could include persons familiar with local problems.

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