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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE
TO COMBAT RACISM AND RACIAL DISCRIMINATION

Study on the effects of racial discrimination in the field of
education, training and employment as it affects the children
of minorities, in particular those of migrant workers

Report of the Secretary-General

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I. INTRODUCTION

1. Following the Second World Conference to Combat Racism and Racial Discrimination, held at Geneva from 1 to 12 August 1983, and the adoption of General Assembly resolution 38/14 of 20 December 1983, the Assembly at its thirty-ninth session discussed the implementation of the Programme of Action 1/ for the Second Decade to Combat Racism and Racial Discrimination and adopted resolution 39/16 of 23 November 1984. Among the activities planned for the period 1985-1989, the Assembly requested the Secretary-General to take fully into account various elements, including a study of the effects of racial discrimination in the field of education, training and employment as it affected the children of minorities, particularly those of migrant workers, which was to be undertaken in 1985.

2. The present preliminary study analyses the relevant international standards and discusses efforts to implement those standards against a background which indicates that underlying and persistent attitudes continue to sustain patterns of racial discrimination. The work done to date indicates that differential patterns of access to education, training and employment persist even in countries where extensive measures have been introduced to counteract racial discrimination. Consequently, deeper analysis is needed of the interaction between general social trends and racial discrimination.

II. INTERNATIONAL STANDARDS RELEVANT TO THE STUDY

3. A large number of international standards serve to help protect the children of minorities and migrant workers from racial discrimination in education, training and employment. The discussion in the present section focuses on the various universal standards that have been developed by the United Nations and its specialized agencies. The most relevant legal instruments are:

(a) Charter of the United Nations;

(b) Universal Declaration of Human Rights (General Assembly resolution 217 A (III));

(c) International Covenant on Economic, Social and Cultural Rights (resolution 2200 A (XXI), annex);

(d) International Covenant on Civil and Political Rights (resolution 2200 A (XXI), annex);

(e) United Nations Declaration on the Elimination of All Forms of Racial Discrimination (resolution 1904 (XVIII));

(f) International Convention on the Elimination of All Forms of Racial Discrimination (resolution 2106 A (XX), annex);

(a) International Convention on the Suppression and Punishment of the Crime of Apartheid (resolution 3068 (XXVIII), annex);

(h) Convention (No. 111) concerning discrimination in respect of employment and occupation; 2/

(i) Convention against Discrimination in Education; 3/

(j) United Nations Educational, Scientific and Cultural Organization Declaration on Race and Racial Prejudice; 4/

(k) Declaration on the Rights of the Child (resolution 1386 (XIV)).

4. In assessing the applicability of the norms in these international instruments, two types of provisions are found in them: those intended to have general application and those intended to apply only to specific, enumerated groups. Thus, for example, most rights and freedoms in the Universal Declaration of Human Rights are recognized as applying to "everyone" without qualification, but some appear to be restricted to citizens, and a few relate only to non-citizens, and other rights explicitly apply to all individuals within the territory of a State and subject to its jurisdiction. 5/

5. A more practical point concerns the emerging process of implementation. Many of the standards are to some extent covered by the International Convention on the Elimination of All Forms of Racial Discrimination and by the Committee on the Elimination of Racial Discrimination, which receives periodic reports from the 124 States that are parties to the Convention. It is clear from the dialogue in the meetings where members of the Committee request additional information from representatives of States parties that the process of national implementation is very much influenced by those questions and by the fact that subsequent periodic reports will tend to provide more details on the points raised.

A. Standards protecting children from racial discrimination

6. Principle 1 of the Declaration on the Rights of the Child (General Assembly resolution 1386 (XIV) of 20 November 1959) asserts that every child shall enjoy all the rights set forth in the Declaration and "shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family".

7. In the draft convention on the rights of the child (E/CN.4/1985/64, annex I), the wording is similar, but it is specified that State parties shall extend all the rights set forth "to each child in their territories" without distinction.

8. Access to education and the forms of education specified in the Declaration on the Rights of the Child are beyond the current reality for most children in the world. The Declaration says in Principle 7 that:

"The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture, and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society".

9. The draft convention on the rights of the child is also far-reaching in the norms it sets for education. According to draft article 15, States parties would recognize the right of the child to education. It is then specified that: "with a view to achieving the full realization of this right on the basis of equal opportunity, they shall in particular:

"(a) Make primary education free and compulsory as early as possible,

"(b) Encourage the development of different forms of secondary education systems, both general and vocational, to make them available and accessible to all children, and take such measures as the introduction of free education and offering financial assistance in case of need,

"(c) Make higher education equally accessible to all on the basis of capacity by every appropriate means."

B. Standards protecting ethnic, religious and linguistic minorities

10. International commitments to protect the rights of minorities date back to the first half of the nineteenth century. Then, following the First World War, persons belonging to racial, religious or linguistic minorities were placed under the guarantee of the League of Nations to oversee a system that bound the various States with minority populations to assume full and complete protection of life and liberty for these people. 6/

11. The period of the League of Nations also provided a clear perspective regarding a major concept that has underpinned the rights of minorities ever since. Thus, the 1935 Advisory Opinion of the Permanent Court of International Justice on minority schools in Albania specified that the then existing minorities system

"was primarily designed to attain two objectives: first, complete equality between nationals of the State belonging to racial, religious or linguistic minorities and other nationals (related to the majority) and, secondly, 'to ensure for the minority elements suitable means for the preservation of their racial peculiarities, their traditions and their national characteristics'". 7/

12. The Court stated that these two objectives were closely interconnected since there could be no true equality between a majority and a minority if the latter could not have institutions that would allow it to preserve its special characteristics. Thus, as Dinstein notes, "the basic tenet of the protection of minorities is that each minority has concurrently the right to full equality with the majority and to preservation of its separate identity". 7/

13. Although that specific system for the protection of minorities has been superseded, the principles of the 1935 Advisory Opinion are reflected in more recent work by the United Nations and the specialized agencies. Under article 5, paragraph 1 (c), of the Convention against Discrimination in Education 8/ adopted at the eleventh General Conference of United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1960, States parties agree that:

"it is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language, provided however:

(i) that this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities ...",

The UNESCO Convention also states that the education in these schools should not be of a lower standard than the general standard laid down by the competent authorities for the educational system as a whole. The Convention further provides that attendance at the schools established for minorities shall be optional.

14. An important standard for the protection of minorities is contained in article 27 of the International Covenant on Civil and Political Rights which reads as follows:

"In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

15. The principle of non-discrimination plays a major role in protecting minorities within the framework of general and universal norms for the protection of all people in all countries. The principle of non-discrimination was reaffirmed, strengthened and developed in the Convention on the Elimination of All Forms of Racial Discrimination adopted by the General Assembly in its resolution 2106 A (XX) of 21 December 1965. Under article 5 of this Convention, States parties undertake to guarantee equal treatment in the enjoyment of civil, political, economic, social and cultural rights to everyone without distinction regarding race, colour or national or ethnic origin.

16. At the same time, article 2 of the Convention ensures that, when the circumstances so warrant, States parties shall take special and concrete measures in the social, economic, cultural and other fields "to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms". It further stresses that "these measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved".

17. Regard for the linguistic and cultural needs of children belonging to minority groups is viewed in the standards as part of an effort to enhance equality and access to the language and culture of the State in which they live. The corollary effort to enhance knowledge of the minority culture is generally viewed as an end in itself and as a means to equality in the majority culture which is partly achieved through self-respect and respect for one's own culture. The need for equality and access in a multi-cultural world community is also recognized. The draft convention on the rights of the child would provide, in draft article 9, that States parties would encourage international co-operation in the production, exchange and dissemination of information from a diversity of cultural, national and international sources.

C. Standards protecting the children of migrant workers

18. Standards designed to protect children from racial discrimination with regard to education, training and employment do not always protect the children of migrant workers, because these children are frequently not citizens of the country in which they live. In fact, the children of migrant workers are subject to discrimination because they are aliens and discrimination derived from the economic, social and cultural disadvantages suffered by financially disadvantaged groups in society. 9/ If they belong to an ethnic group which is visibly different from the majority population, they may be subjected to racial discrimination.

19. The International Covenant on Economic, Social and Cultural Rights (General Assembly resolution 2200 (XXI), annex) provides that States parties undertake to guarantee the rights enunciated in the Covenant without discrimination of any kind as to race, colour, birth or any other status. However, this provision of article 2, paragraph 2, is qualified in article 2, paragraph 3, where it is stated that "developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals. It should be noted also that the term "without discrimination" in paragraph 2 of article 2 was introduced in place of "without distinction" in order to allow States some latitude to make distinctions between certain categories of individuals such as nationals and non-nationals.

20. The International Covenant on Civil and Political Rights clearly excludes non-nationals from the rights specified in article 25. It explicitly states that every citizen shall have the right and the opportunity to take part in the conduct of public affairs, to vote and to be elected, and to have access, on general terms of equality, to public service in his country.

21. At the same time, the International Covenant on Civil and Political Rights makes certain provisions for non-citizens. Under article 13, an alien lawfully in the territory of a State has the right not to be arbitrarily expelled.

22. Other articles in the International Covenant on Civil and Political Rights allow more than one interpretation as to the applicability to non-citizens. The provision in article 12 that everyone lawfully within the territory of a State has

"the right to freedom of movement and freedom to choose his residence" (para. 1), and the right of everyone to "leave any country" (para. 2), are not always viewed as unrestricted rights for non-nationals. Thus, during the discussion of this issue in the Commission on Human Rights two points were made. ^{10/} On the one hand, several speakers noted that it might be considered legitimate or necessary for a State to impose restrictions on these rights for migrant workers under certain circumstances. On the other hand, it was widely felt that any such restrictions should be consistent with the other rights recognized in the present Covenant and attention was drawn to the importance of the general provisions on non-discrimination in article 2, paragraph 1. According to those provisions, each State party "undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

23. The United Nations Declaration on the Elimination of All Forms of Racial Discrimination (General Assembly resolution 1904 (XVIII) of 20 November 1963) is couched in comprehensive terms. For example, in article 2, paragraph 1, it is stated that "no State, institution, group or individual shall make any discrimination whatsoever ... on the ground of race, colour or ethnic origin". Thus, discrimination between aliens and nationals on grounds of race is prohibited. However, nothing in the Declaration dissuades States from making distinctions between citizens and non-citizens as such.

24. That limitation is made entirely explicit in the International Convention on the Elimination of All Forms of Racial Discrimination, specifically in paragraphs 2 and 3 of Article 1. In paragraph 2 it is stated that the Convention "shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens". In paragraph 3 it is stated that,

"Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or nationalization, provided that such provisions do not discriminate against any particular nationality".

25. These provisions permit States to make distinctions between citizens and aliens qua aliens. However, they do not exclude aliens from the protection of the Convention in other respects. Thus, various provisions in the Convention must be read in conjunction with the reservation clauses in paragraphs 2 and 3 of article 1, while other provisions are probably not affected by the reservations. Thus, for example, article 6 imposes an obligation on States parties to assure that "everyone within their jurisdiction" shall enjoy "effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination" contrary to the Convention. It would seem to follow that a non-citizen, as well as a citizen, would be entitled to a remedy in the courts unless the discriminatory act for which a remedy was sought could be shown to be a distinction, exclusion or restriction imposed by the State under Article 1, paragraph 2, against an alien qua alien. Thus, from a technical,

legal point of view the reservations in article 1 may not greatly restrict the applicability of the Convention for the children of migrant workers who are aliens. However, in practice, this restriction, however small, could present major problems for young people and their parents if they lack a solid economic base and full communication skills in the national language.

26. The Convention concerning Migration for Employment (No. 97) of 1949 11/ of the International Labour Organisation (ILO) provides that treatment no less favourable than that applied to nationals must be granted by States to immigrants lawfully within their territory, without discrimination in respect of nationality, race, religion or sex. Equal treatment is to apply wherever there are laws or regulations relating to remuneration, family allowances, hours of work, minimum age for admission to employment, apprenticeships and vocational training, or relating to issues concerning the work of young people.

27. The 1975 ILO Convention (No. 143) concerning migrations in abusive conditions and the promotion of equality of opportunity and treatment of migrant workers 12/ seeks more effectively to restrict clandestine movement of migrants and their illegal employment. It also provides for further standards to promote equality of opportunity and treatment of migrant workers at least equal to that of nationals with regard to matters that are regulated by law or administrative procedures. The Convention protects migrant workers from deportation and urges equal treatment with nationals for job security and retraining on the condition that the migrant worker has resided legally in the territory for the purpose of employment.

28. The Recommendation concerning Migrant Workers of 1975 (No. 151) 13/ protects both migrant workers and members of their families who are lawfully in their country of residence. Under this Recommendation, the children of migrant workers are to enjoy effective equality of opportunity and treatment with nationals in respect of access to vocational guidance and placement, vocational training and job security. The provisions in the Recommendation encourage the protection of the children of migrant workers with regard to the legal disadvantages they would have as children of migrant workers who, in most cases, are not nationals of the country in which they live. However, it should be noted that these provisions are only part of a non-binding Recommendation. The standards set by the 1975 Convention are much less adequate for the children of migrant workers.

D. Standards for equal access to education and training

29. The principle of equal access to education and training is established as part of various international legal instruments. The Universal Declaration of Human Rights (General Assembly resolution 217 A (III) of 10 December 1948) states in article 2 that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour ... or other status". Then, in article 26 it makes specific reference to education:

"1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

"2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

"3. Parents have a prior right to choose the kind of education that shall be given to their children."

30. The International Covenant on Economic, Social and Cultural Rights delineates these principles further and states them in a form that places responsibility upon States parties. Thus, "the States Parties ... guarantee that the rights enunciated ... will be exercised without discrimination of any kind as to race, colour ... or other status" (art. 2, para. 2). Then article 13 states:

"1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

"2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

"(a) Primary education shall be compulsory and available free to all;

"(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

"(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

"(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

"(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved."

31. The International Convention on the Elimination of All Forms of Racial Discrimination (General Assembly resolution 2106 A (XX), annex) not only provides for clearly defined action by public authorities, but also provides that each State Party shall "prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization" (art. 2, para. 1 (d)). In a paper for the American Society of International Law, Schwelb wrote in 1975 that this provision which "covers relationships between private persons, groups or organizations", as well as prohibiting objectionable State action, is "a very far-reaching provision". He further notes that the term "public life" in article I, para. 1, is not used as synonymous with "governmental action" but also includes a whole range of individual, non-governmental action which is illustrated by article 5 as a whole. 14/

32. Consequently, the foundation for the effective implementation of the Convention is clearly based on the responsibility of each State party to provide laws within its territory that ensure official behaviour and unofficial behaviour to guarantee equality to everyone on an extensive list of rights. The rights specified include, in article 5, subparagraph (e), the right to education and training and the right to equal participation in cultural activities.

33. The right to training is generally discussed in conjunction with the right to education. Even when this is not made explicit, training for productive work is frequently an implicit part of many secondary and further education programmes. Alternatively, equal access to training is sometimes discussed in conjunction with equality of access to employment. Consequently, the legal norms that relate to training are generally not specified separately from those specified for equal educational rights and equal employment rights.

34. The UNESCO Convention against Discrimination in Education 15/ specifies additional measures to ensure equality of access to education and training without discrimination based on race, colour or any distinction that has the purpose or effect of impairing equality of treatment. These measures include the following obligations, as stated in article 4:

"The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

"(a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;

"(b) To ensure that the standards of education are equivalent in all public education institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;

"(c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;

"(d) To provide training for the teaching profession without discrimination".

E. Standards for developing educational programmes to combat racist ideas and attitudes

35. In the struggle to eliminate racism through education and training, equal access to education is one major aspect of the strategy. Another is the content of educational programmes and the way they can most effectively combat false information and prejudice and engender attitudes of mutual respect among different cultural and racial groups.

36. Thus, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination has two types of provisions. Article 3, which provides for access, states:

"1. Particular efforts shall be made to prevent discrimination based on race, colour or ethnic origin, especially in the fields of civil rights, access to citizenship, education, religion, employment, occupation and housing.

"2. Everyone shall have equal access to any place or facility intended for use by the general public, without distinction as to race, colour or ethnic origin."

37. At the same time, article 4 aims at combating prejudices and changing policies that perpetuate discrimination. It asserts that all States "shall take effective measures to revise governmental and other public policies and to rescind laws and regulations which have the effect of creating and perpetuating racial discrimination wherever it still exists". It calls for the passage of "legislation for prohibiting such discrimination" and for "appropriate measures to combat those prejudices which lead to racial discrimination".

38. As to measures to combat prejudice, article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination provides that:

"States Parties undertake to adopt immediate and effective measures, particularly 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 ethnical groups ..."

39. The Programme of Action for the Second Decade to Combat Racism and Racial Discrimination 16/ identifies additional action which it calls upon States to undertake to change attitudes and practices. They are enjoined in paragraph 16 "to

use effectively education, teaching and training to create an atmosphere for the eradication of racism and racial discrimination". It specifies that education, teaching and training "should serve as channels for exposing the myths and fallacies of theories, philosophies, ideas and attitudes that are inherent in discriminatory actions based on differences of race ...".

40. In the same paragraph States are invited:

"(a) To examine history, geography and social studies textbooks with a view to correcting any erroneous assessment of historical and social data, or their unbalanced presentation, giving rise to racial prejudice;

"(b) To ensure that teachers are made conscious of the degree to which they may reflect the prejudice of their society and are instructed to avoid such prejudices;

"(c) To provide adequate opportunities in schools and institutions of higher learning for the study of the activities of the United Nations in combating racism, racial discrimination and apartheid;

"(d) To provide pupils and students at all levels with access to literature and documentation on racism, racial discrimination and apartheid;

"(e) To ensure that the teaching staff of institutions reflect, as far as possible, the racial and ethnic composition of the community. Affirmative action programmes should be instituted to facilitate the hiring of teachers who represent the racial, ethnic and linguistic composition of the community;

"(f) To make available the resources of schools and of teaching and training facilities to persons belonging to all population groups;

"(g) To take remedial measures in instances where particular racial, ethnic, linguistic or other groups have had a history of being placed at a disadvantage because of their origin and where such a situation has contributed to a lower level of education and a lower standard of living for persons belonging to various population groups. This is the responsibility of society. This might necessitate special educational programmes at all levels of the society;

"(h) To make law enforcement agents aware in their training of the possibility that they may reflect the prejudice of their society;

"(i) To ensure that school curricula promote a dialogue between persons belonging to the various groups of the society. These should be responsive to the needs and backgrounds of all these persons and foster, where possible, an interchange of cultural experience. In this regard, persons belonging to minority ethnic and racial groups should be allowed to inculcate in students the practices and values of the respective cultures. Efforts should also be made to allow the topic of human rights to permeate the curricula.

41. The Programme of Action asserts in paragraph 17 that "national institutions should ensure that persons are made aware of their own rights and those of others and should assist them in the matter of protecting and enforcing their rights". This places considerable responsibility on individuals to monitor the protection of their own rights and those of other individuals, while at the same time placing primary responsibility upon official national institutions to provide education and information to counter racism. There is, thus, an international dimension to the responsibility of both official institutions and individuals, as regards gross and massive violations of human rights: national institutions "should mobilize public opinion in their countries against violations of human rights, especially gross and massive violations, in particular against the practice of apartheid, racism and genocide".

42. In addition to calling for individual and national action to educate against racism, the Programme of Action also calls for international action. In paragraph 20, UNESCO is urged to continue its work in the preparation of guidelines for textbook analysis, teacher training and curriculum development, and to develop materials to explain how deep-seated discrimination internalized within the system can be addressed through remedial programmes.

F. Standards for employment

43. A number of international instruments help to protect the children of minorities and migrant workers from racial discrimination in employment. In article 23 of the Universal Declaration of Human Rights it is stated that everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment, and that everyone, without any discrimination, has the right to equal pay for equal work.

44. Under the International Covenant on Economic, Social and Cultural Rights (General Assembly resolution 2200 A (XXI), annex), States parties undertake to guarantee the various rights enunciated, also without discrimination as to race, colour, birth or other status. In article 7, the right of everyone to "the enjoyment of just and favourable conditions of work" is specified. However, it should be noted that the term "without discrimination" was used in place of "without distinction" to provide some freedom of action to States that might wish to make distinctions between some categories of individuals such as nationals and non-nationals (see para. 19 above). This limitation on the applicability of article 7 of the Covenant is most likely to affect individuals living in countries in which they are not nationals, including migrant workers, and especially the children of migrant workers. It would not, in view of the total complex of standards that exist, be used to introduce any form of legal discrimination based on race.

45. As regards the children of migrant workers, the standards for non-discrimination in employment that protect their parents are often based on the fact of actual or previous employment, and do not apply to the children. Thus, under the ILO Convention concerning migrations in abusive conditions and the promotion and equality of opportunity and treatment of migrant workers of 1975 (No. 143) 12/, a migrant worker who has resided legally in the country "for the

/...

purpose of employment" is to enjoy the same treatment as nationals with respect to job security and the provision of alternative employment, relief work and retraining. However, these rights would not normally be enjoyed by any children of those migrant workers who are non-nationals of their country of residence, for, although they would normally have resided legally in the country, they would not in most cases have done so for the purpose of employment.

46. The Recommendation concerning Migrant Workers, 1975 (No. 151) 13/ removes this limitation for children of migrant workers. It recommends to ILO member States that migrant workers and members of their families lawfully within a country "should enjoy effective equality of opportunity and treatment with nationals," including access to vocational guidance and placement services and to vocational training and employment. Although these protections are extensive, they are part of a Recommendation, and as such, are less likely to become fully incorporated in effective national legislation and administrative practice than is the case for provisions in the Convention.

47. Another set of standards designed to prevent discrimination in employment is that concerned with slavery and slavery-like practices. The Abolition of Forced Labour Convention (No. 105) of 1957 supplements the Convention concerning Forced Labour (No. 29) of 1930 to require the abolition of any form of compulsory labour, including compulsory prison labour, labour imposed as a punishment for participation in a strike, or compulsory labour used for political coercion or education.

48. Action taken by the United Nations to establish standards preventing all forms of slavery began with the Universal Declaration of Human Rights, article 4 of which states that "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms". In 1956 a special conference was convened in Geneva which adopted the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. 17/ This Convention is broader in scope than the 1926 Slavery Convention. 18/ It covers abuses analogous to slavery such as debt bondage, serfdom, the sale of women into marriage without their consent and the sham adoption of children to exploit their labour.

49. The International Convention on the Elimination of All Forms of Racial Discrimination affirms that States parties undertake to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, equality before the law in the enjoyment of "the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work and to just and favourable remuneration" (art. 5, subpara. (e)).

50. Finally it is important to refer to the ILO Convention on Indigenous and Tribal Populations (No. 107) of 1957. In article 15, this Convention asserts that ratifying member States shall, within the framework of national laws and regulations, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to the populations concerned so long as they are not in a position to enjoy the protection granted by law to workers in general.

III. RACIAL DISCRIMINATION AND EFFORTS TO COMBAT IT AS IT AFFECTS
THE CHILDREN OF MINORITIES AND MIGRANT WORKERS

51. Many of the legal standards discussed in the previous section were designed to prevent some form of discrimination that can and often does impinge upon the education, training and employment of the children of minorities and migrant workers; many of these forms of discrimination have a differential effect on different racial groups. The result of such discrimination is racial, regardless of the intent.

52. The present section has two purposes. Firstly, it discusses the process whereby racial discrimination affects the children of minorities and migrant workers and the effects of such discrimination. The second purpose is to indicate some of the approaches being developed to bring social practice into line with recognized legal norms. While the previous section presented a discussion of standards relevant to the protection of children of minorities and migrant workers from racial discrimination, the present discussion focuses on the broad social reality as regards the development and perpetuation of racist attitudes and patterns of behaviour. In this broad discussion the effects of racial discrimination are considered, for the existing knowledge can contribute to an understanding of the dynamics of the social process. In three subsequent sections, measures being taken by Governments and others to end racial discrimination are outlined, and deeply entrenched and persistent problems are discussed. Such policies and measures to meet international standards can have a multiple effect: first, on concrete social policy and related social expectations and, second, on the evolving normative value of the relevant legal standards.

A. Language, culture, education and racism

53. It has been said that "no child is too young to pick up the clues" and the clues that children seek are those they need to understand the social order and the value systems that surround them. In most societies the hierarchical elements in the social order, the relative importance of the father or the mother, the maid or the grandmother, are encountered and accepted during the earliest stages of cognitive and affective development. Having once learned that there are social order differences, either at home, or in the households of friends, children seek, often subconsciously, for clues to explain the observed reality of differential power relationships. The fact that issues concerning social power are generally not discussed, at least not in front of the children, makes the quest for clues seem additionally important.

54. In almost all multi-racial societies some correlation exists between social status and race, the single power relationship that is least honestly examined and least frankly discussed. Since most parents and many teachers have no clear idea of that important relationship, they are unable to communicate effectively with children on the subject of status and race. Rather, they tend to give incomplete answers to questions and to pass on their own attitudes and prejudices by demonstrating them in their manner and behaviour toward people of different races. 19/

55. Investigations of that power relationship, most notably by UNESCO, have showed that:

(a) That the history of slavery and colonialism placed various ethnic groups at a disadvantage;

(b) The resulting inequalities were frequently perpetuated by economic and social differences and by ethnocentric assumptions of cultural superiority by the dominant racial groups;

(c) Diverse cultures arose in diverse situations, generally attesting to the adaptive intelligence of all human beings, and producing a rich heritage of cultural diversity;

(d) That all human beings belong to a single species, descended from a common stock, possessing equal faculties for attaining the highest levels of intellectual and social development.

These conclusions demonstrate that a number of factors that happen to be correlated because of historical causes have no inherent, inevitable causal relationship. For example, there is no inherent causal relationship between the intellectual faculties of a group and its race. The biologist and geneticist Albert Jacquard writes that human intelligence depends so much on the interaction between inherited characteristics and the environment that "it is impossible to infer any classification of intellectual potential corresponding to the genetic inheritances of the various human groups on the basis of a classification of their observed intellectual performance". 20/

56. The relationships outlined above are difficult to comprehend and communicate fully because to do so requires an understanding of causal links - those that do exist, as well as some that do not. The historical factors that led to the subordination of various ethnic groups are widely understood and are no longer tolerated. Slavery and colonialism are viewed as totally abhorrent, and the forms of explicit racial discrimination that grossly reinforced racism for many years are now illegal almost everywhere. These causal links are well understood. Consequently, major efforts are being made throughout the international community to eliminate the vestiges of slavery, colonialism and explicit racial discrimination.

57. Action to combat implicit racist attitudes and prejudices has not advanced as far. Only gradually is an integrated, potentially effective strategy being developed. A major element in this strategy is the structural approach aimed at removing the actual disadvantages experienced by minorities, with a view to changing perceptions of minorities, both by members of these groups themselves and by others. In this context it is important to have role models and authority figures from diverse ethnic groups. A second approach involves increased contact between groups, preferably from a very early age, so that ingroup-outgroup stereotypes are less likely to develop. These approaches recognize that learning comes from the objective reality surrounding the individual and from the experience of open interaction between people who can bring their own differences forward with self-esteem.

58. The effect of racial discrimination on the children of minorities and migrant workers has been low self-esteem and low expectations, often mirroring the expectations of teachers and other authority figures encountered. When authority figures tend in a very large measure to represent a dominant culture, many children from the subordinate culture feel psychologically unengaged in the learning structure of the community or school, while other children assume a role of dependent subordination that constricts emotional and intellectual development. Because of the constant interplay between an individual's internal self-image and the external confirmation of this seen in other people's apparent expectations, racist attitudes can have a cumulative debilitating effect, which in turn leads to low self-esteem and reduced effectiveness.

59. For the children of minorities and migrant workers, access to education in the language spoken at home can provide one important source of self-esteem. Countries in all world regions with minority population groups have made arrangements for parents and local school boards to decide on the amount of home-language teaching in various schools and school districts. Primary school education is most likely to be available in the pupil's home language, but some secondary schools also provide a choice. While the aim in many countries is to provide a transitional experience so the child can learn to adopt the majority language with maximum self-confidence, in other countries continued education in several languages is viewed as valuable in an increasingly interdependent multi-cultural world community. No evidence suggests that learning more than one language harms the intellectual development of normal small children, and some evidence shows that it actually enhances mental agility.

60. The language policies being adopted in countries throughout the world are playing an important role in enhancing the self-image of minority children. These policies are part of a strategy to increase pride in one's own ethnic and cultural heritage as a means of providing a foundation for the full development of the personality. This, in turn, is widely viewed as a corollary to open and healthy interaction between individuals and groups with diverse cultural backgrounds.

61. One major cause of the persistence of racism is the unconscious ethnocentrism of the dominant ethnic group in many countries. Children in dominant groups tend to lack opportunities for healthy interaction with other groups and consequently grow up in a constricted closed system that leads them to perceive the social norms of their families as universal norms to which other groups and countries aspire. Within the context of a closed circle of cosy ingroup values, didactic teaching can be counter-productive either because it is rejected as being out of touch with reality, or because it leads to patronizing attitudes and behaviour. In order to learn that the dominant culture in a given country is not necessarily "best", children of that culture need to experience the strength and values of other cultural groups. Full respect for people in minority groups can help to break down one of the main ethnocentric factors in racism: the internalized belief that the most powerful group must be the best.

62. Within the context of an educational experience that provides to each group its own self-respect, facts and values can be taught that demonstrate the scientific fallacy of racism and the rich value of the multi-cultural heritage of humanity.

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B. Information and education to reverse the effects of racial discrimination for the children of minorities and migrant workers

63. Based on the recent periodic reports of States that are parties to the International Convention on the Elimination of All Forms of Racial Discrimination, a broadly-based effort is being made to provide educational information against racist attitudes and racial discrimination in response to the recognition that racism does continue to exist. Two prevailing, countervailing trends can be seen. On the one hand, Governments are making an effort to provide educational structures and programmes that counteract racism; at the same time, however, economic and social pressures operate to re-ignite the embers of racist attitudes that science should by now have laid to rest.

64. National educational systems in all world regions have undertaken to inform students of the history of racism within the context of the principles specified by UNESCO concerning the common humanity of all people. Emphasis is placed on the distinctive cultural heritage of different groups and the importance of mutual understanding and tolerance among different racial and ethnic groups.

65. A number of countries have stressed the importance of such education during the years of primary education. The Nordic countries stress the importance of early education. Norway reported in its seventh periodic report to the Committee on the Elimination of Racial Discrimination that it was an "overriding objective of the Norwegian educational system to increase understanding of foreign peoples and to combat racism and racial discrimination" (see CERD/C/107/Add.4). As part of the "Model Plan for Teaching in the 9-year Compulsory Primary School", according to the Norwegian Ministry of Church and Education:

"information must gradually be extended to comprise larger and more distant groups and societies, so that pupils learn not only about their own community and country but also about the whole world community which they are entering".

The Ministry took steps in 1978 to set up an information committee with the aim of promoting the development of positive attitudes towards immigrants. Sweden also has organized both adult education and school programmes with the specific objective of promoting tolerance in recognition of the need to improve education concerning immigrants and to expand their contacts with Swedes. The results of preliminary surveys indicate that these efforts have been successful in preventing any growth in the signs of negative attitudes previously displayed by a few individuals.

66. In the Netherlands, where there have been reactions against immigrants, an extensive educational programme includes radio and television documentaries and broadcast interviews with representatives of minority groups. (See the sixth periodic report of the Netherlands to the Committee on the Elimination of Racial Discrimination (CERD/C/106/Add.11)). In the reported cases, a pattern whereby the corrective measures instituted through education and information have a greater impact in producing positive attitudes than the initial incident had in producing negative attitudes.

67. The importance of ensuring respect for ethnic diversity is stressed in the United Kingdom where it is government policy to promote tolerance and racial harmony in all schools whether or not a school contains ethnic minority pupils.

68. In the socialist States of Eastern Europe and the Union of Soviet Socialist Republics, comprehensive programmes promote international ideas that counteract racism. In the German Democratic Republic, scientific information concerning the fallacies of racism is emphasized. In the eighth periodic report of Hungary (CERD/C/118/Add.2), in which the importance of early education was stressed, tolerance and friendship among nations, nationalities and racial and ethnic groups were mentioned. And the eighth periodic report of Bulgaria (CERD/C/118/Add.17) stated that its school curricula were imbued with the ideas of internationalism and with respect for the history and culture of all peoples.

69. China also reported that deliberate programmes had been developed to discourage chauvinism among its minority populations and especially to discourage chauvinism in the majority Han population (see CERD/C/101/Add.2 and 3).

70. In its seventh periodic report (CERD/C/107/Add.2), Iraq stressed that its educational work against racism was based on the UNESCO Convention against Discrimination in Education and the Programme of Action of the Second World Conference to Combat Racism and Racial Discrimination. Accordingly, subjects such as civics, history and geography were taught in such a way as to exclude any racial discrimination or prejudice so as to form a generation unmarked by colonialism and racism. Iraq also reported that the Ministry of Culture and Information included among its objectives: to revive the Islamic heritage and foster knowledge of the values and achievements of Arab civilization and to assess its influence on other human civilization.

71. The educational approach contained in the constitution of Haiti also reflects its own regional ideas as well as universal ideas. The fifth periodic report of Haiti stated that freedom and equality were its essential foundations and these concepts were incompatible with discrimination. It also stated that the legislature was aware in drafting the constitution, that hatred and intolerance represented the most harmful consequences of racial discrimination and that the development of the ideal of national unity, Pan-Americanism and universality were viewed as the most effective means of counteracting racial discrimination.

72. The importance of tolerance and mutual understanding is a recurring theme in the educational objectives reported by many Governments. For example, the eighth periodic report of Cyprus (CERD/C/118/Add.13) states that its civics curriculum suggested that "the attitude of pupils should be aimed towards abolishing dogmatism and making use of dialogue to reach mutual understanding" and that "their approach to other people should be one of tolerance and mutual respect". It is also reported that children in the Greek-speaking community learned Greek and Turkish history and culture especially in the fields where these two people had met and influenced each other positively.

73. In African countries, educational programmes to combat racist attitudes stress national unity as well as international understanding. In answer to questions from

the Committee on the Elimination of Racial Discrimination in March 1984, the representative of Mali stated that education in Mali was intended to inculcate the rejection of all discriminatory practices and that Mali's legislation was aimed at protecting the rights and harmonizing the interests of the various ethnic groups in order to avoid any discrimination.

74. During a meeting of the Committee on the Elimination of Racial Discrimination in March 1985, the representative of Nigeria referred to the role of universities in Nigeria in promoting research on African culture. Various centres have been established devoted to the study of African languages, traditions, history and literature as part of a policy to improve understanding on the basis of mutual respect for the heritage of different groups (see CERD/C/91/Add.32 and 35).

75. Uganda reported in 1984 that its educational system was designed to promote national unity and ethnic integration and that students were encouraged to go to schools in districts other than their own (see CERD/C/71/Add.2). Rwanda reported in March 1984 that the political movement of Rwanda was characterized by its integrationist spirit with its manifesto banning all racism and its party motto, "peace, unity and development". Although a feudal system had existed in Rwanda until 1959, this was no longer a problem, and intermarriage between the three ethnic groups had broken down many divisions as had the educational work of the National Revolutionary Movement for Development.

76. According to the fifth periodic report of the United Republic of Tanzania (CERD/C/75/Add.10), the school curriculum in that country covered civic subjects including the history of the struggles against colonialism and racism and racial discrimination. In its sixth periodic report (CERD/C/106/Add.4), Algeria stressed liberation struggles and the cultural context to enhance people's understanding of their own history. According to its National Charter one of the tasks of the Algerian cultural revolution with regard to education and culture was "to combat prejudices based on race, class, sex, or occupation, as well as anti-social violence, chauvinism and sectarian ideas".

77. According to the seventh periodic report of Tunisia (CERD/C/91/Add.28), the concept of international brotherhood is promoted in Tunisia through cultural events such as international festivals and through educational grants and other assistance to less-developed African countries. In Morocco, which regards itself as a bridge between Europe and Africa, great importance is attached to black African culture and spiritual values, as stated in that country's sixth periodic report (CERD/C/90/Add.6). In the fifth periodic report of Burkina Faso (CERD/C/105/Add.5), it was stated that history textbooks were written under the direction of the African Pedagogical Institute in order to present an African and a humanist view of history which highlighted the contribution of African civilization to the civilization of mankind.

78. Comparable objectives exist in Latin American countries. According to the fifth periodic report of Mexico (CERD/C/115/Add.1), efforts are made to teach pupils to absorb, enrich and transmit their culture, while simultaneously respecting manifestations of other cultures; to combat ignorance and injustice of all types, dogmatism and prejudice; and to develop a feeling of national and

international solidarity based on the rights of all human beings and all nations. In Argentina, as stated in that country's eighth periodic report (CERD/C/118/Add.16), efforts are being made to spread information about the indigenous cultural heritage through the mass media and to publicize its contribution to the national culture.

C. Racism, expectations and the problem of increasing access to education and training for the children of minorities and migrant workers

79. A major effort is being made in countries throughout the world to increase effective access to education and training for children regardless of their ability to pay and regardless of the linguistic and cultural background of their homes. The present section focuses on the problem of internalized racist attitudes that tend to obstruct these goals despite the positive work being done to implement them. The study of the problem of discrimination against indigenous populations by the Special Rapporteur of the Commission on Human Rights, José Martínez Cobo, states that there is no evidence of de jure discrimination as regards access to education for indigenous people. At the same time he reports that States frequently do not recognize traditional indigenous education based on autochthonous educational processes and replace it by formal, alien and alienating processes. Although he acknowledges that there has been a significant improvement in effective access, he notes that there are still de facto restrictions due to inadequate resources and their uneven geographical distribution and due to language problems and differences of cultural background (see E/CN.4/Sub.2/1983/21/Add.8, pp. 13-14).

80. A parallel problem for the children of all minorities, especially for children of migrant workers, shows that de facto barriers to equality exist even where extensive resources have been devoted to removing them and where there are no formal restrictions on access to education.

81. India was one of the first developing countries to apply the principle of granting linguistic, regional autonomy to different states within India. Steps are currently being taken to improve the accessibility of education for members of tribes and scheduled castes, including entirely free education up to the secondary level. In addition, an increasing number of schoolchildren and students from scheduled castes and tribes are being given financial assistance for secondary, high school and university education (see the seventh periodic report of India (CERD/C/91/Add.26)). Pakistan has also allocated increased resources for education and development in its Tribal Areas and in Baluchistan.

82. In Sri Lanka, education is free to all children of all races in Sinhala and in Tamil from kindergarten to university degree level. Free textbooks are provided at schools, most of which also provide free midday meals. In addition, subsistence grants are available for students in need. University places are allocated to applicants according to a formula which is based 55 per cent on merit with the balance depending on the location of the home of the candidate weighted to increase the representation from disadvantaged areas. The proportion of Tamils gaining university admission is in excess of the proportion of Tamils in the national population (see the initial report of Sri Lanka (CERD/C/101/Add.6)).

83. Latin American countries with indigenous population groups are attempting to make more comprehensive provisions for the children of these minorities to be taught in their own language. According to the eighth periodic report of Ecuador (CERD/C/118/Add.4), the Constitution of Ecuador ensures individuals belonging to indigenous groups all the same rights enjoyed by other Ecuadorians. In addition, Article 27 (9) of the Constitution establishes that members of the indigenous population have the right to be taught in their own language. To implement this right the Ministry of Education and Culture has introduced a system of intercultural bilingual education where the objective is not acculturation of the indigenous population, but endoculturation for more effective internal self-development.
84. Nicaragua has initiated a slightly different type of endogenous cultural development. A minority languages literacy campaign has been launched with the participation of the ethnic groups concerned in order to develop a mass-based continuing education programme in the disadvantaged Atlantic coast region of the country where illiteracy rates are generally 75 per cent compared to 50 per cent for Nicaragua as a whole. The minority language literacy campaign is addressed to the groups that speak either Miskito, Sumo or Creole English (see the third periodic report of Nicaragua (CERD/C/103/Add.1)).
85. Colombia has also set up a participatory educational strategy to enable the indigenous peoples to decide on their own future educational system. Bilingual and bicultural programmes have been drawn up for various regions and researchers are working with approximately 25 indigenous peoples to analyse the grammatical rules of their languages. Of Colombia's 28 million inhabitants, approximately half are mestizos, about 8 per cent Negroes, 18 per cent mulattos and 20 per cent white. There are also approximately half a million indigenous people living in 77 indigenous communities (see the initial report of Colombia (CERD/C/85/Add.2)).
86. Peru has compulsory primary education, and indigenous populations have a right to receive primary education in their own language. In those communities where the mother tongue is not Spanish, after primary education in the indigenous language, students are encouraged to learn Spanish gradually in order to increase their ability to relate to the main national society (see the fifth and sixth periodic reports of Peru (CERD/C/90/Add.7)).
87. In Argentina, the Government is giving special attention to the literacy of its indigenous communities which had declined in recent years. In Brazil there is legislation to regulate the legal status of Indians with a view to promoting their harmonious integration into the national society while respecting their cultural values (see the seventh periodic report of Brazil (CERD/C/91/Add.25)).
88. In Haiti, the teaching of Creole was made compulsory in all primary schools in April 1982 with the aim of placing children with different family backgrounds on a more equal social and cultural basis. This did not preclude the teaching of French, but was intended to increase the literacy, and effective access to education in Creole and French for all children in the country.

89. A number of African countries are making a deliberate effort to increase their educational facilities and, particularly, to expand educational and information services in the various national, regional and local languages. In Burkina Faso, the Language Commission is working on the structure of several regional languages so that they can be written down and used in a reformed educational system.

90. Both the United Republic of Tanzania and Zambia abolished the segregated school systems that had separated white and black children, and both countries have now established integrated educational systems. In both countries the official language, English, is widely used. In Zambia, education is free up to the university level and citizenship and public office are open to all regardless of race or country of origin (see CERD/C/106/Add.1 and 7).

91. In the Niger, where the official language is French, efforts to ensure social development and greater literacy include the provision of radio and television programmes, 80 per cent of which are broadcast in various national languages. Education is free, and "nomadic" schools are operated in the northern part of the country. Teachers and schools themselves follow the nomadic population to improve their effective access to education (see the sixth and seventh periodic reports of the Niger (CERD/C/91/Add.34)).

92. In the Sudan, national and ethnic integration are encouraged by ensuring to every citizen the right to take up residence in any part of the country and to enrol their children in the schools wherever they deem fit (see the fourth periodic report of the Sudan (CERD/C/114/Add.1)). In Cameroon, where literacy is 70 per cent, both French and English are taught as part of an effort to increase national unity. At the university level, students may choose their language of instruction. Also the radio services provide educational and information programmes in both English and French (see the fifth and sixth periodic reports of Cameroon (CERD/C/90/Add.1 and 5)).

93. In a number of Western European countries racial discrimination has had an acknowledged impact on the children of minorities and migrant workers. In the United Kingdom of Great Britain and Northern Ireland, a committee of inquiry into the education of children from ethnic minority groups found that many pupils from ethnic minority groups had been achieving below their potential. A number of measures were therefore being introduced to remedy this situation. The Government would promote the teaching of English as a second language for children whose families spoke other languages. Secondly, other measures were needed to counteract the relatively low self-esteem of children in the ethnic minority groups. New initiatives were planned to preserve and transmit national values in a way that would promote tolerance and racial harmony and ensure respect for the United Kingdom's ethnic diversity (see the seventh periodic report of the United Kingdom (CERD/C/91/Add.24)).

94. In a number of countries there have been incidents of racial conflict against ethnically identifiable minorities and against migrant workers and other various immigrant groups. These outbursts have been interpreted as demonstrating deep-seated racial prejudices. They have also contributed to the insecurity of minority children and to the tensions experienced in school by these children.

95. In the Nordic countries, identifiable minorities consist of Lapps (now called Sami people) and relatively small numbers of immigrants and their children. In spite of long-established programmes for language training and cultural integration, these programmes are not always entirely successful for the immigrants themselves, and children from identifiable minority groups sometimes experience racial discrimination even when they are fully fluent in the language and fully adapted to the majority culture. However, the expanded educational programmes developed precisely to counter such discrimination appear to be having a positive effect. The expansion of programmes to improve the image and the competence of minority groups is the core of the strategy to combat racial discrimination in schools. In Europe, as in other regions, the extended use of home languages is one important element in this strategy. In Finland, for example, a provision was included in 1982 in the Law on Children's Day Care according to which municipalities are obliged to arrange day care in the mother tongue of the child - Finnish, Swedish or the Sami language. The purpose of this provision was to be sure that children belonging to a linguistic minority in a given municipality would have the same rights as those in regions predominantly using their mother tongue (see the seventh periodic report of Finland (CERD/C/107/Add.3)).

96. In Canada, the ethno-cultural history of various groups, including blacks and Japanese, is being studied in order to prepare educational material describing the origins of such groups, their arrival in Canada and their contribution to Canadian society. The aim of Canadian multiculturalism is to assist new arrivals in integrating, not assimilating, themselves into Canadian society. With positive educational programmes and a measure of economic stability, experience so far suggests that the Government and the main trends in public opinion will be able to effectively counter the race hatred and intimidation used by the Ku Klux Klan and other similar organizations. Canadian representatives to the Committee on the Elimination of Racial Discrimination have reported that the KKK had met with public rejection and that a number of its leaders were in prison. To amplify the effects of its educational work, the Government helps to finance a number of non-governmental organizations that are engaged in combating the activities of the few racist groups that exist. For over a decade Canada has had a ministry working to strengthen the ethno-cultural identity of all Canadians. In addition to having both English and French as official languages, Canada encourages the teaching of its "heritage languages". Within its programme of multiculturalism, Canadians of American Indian or Eskimo origin are encouraged to maintain and strengthen their own heritage, as are immigrant groups (see the sixth periodic report of Canada (CERD/C/76/Add.6 and 7)).

97. In Australia, measures are being continually expanded to counter the effects of racial discrimination suffered by the Aboriginal population. The effective educational opportunities of Aboriginals had been constricted over the years due to various degrees of ethno-centric attitudes by the white settlers and due to losing some of the land that the Aboriginals had occupied for many thousands of years. The Government recognized that special and concrete measures were required to promote the development and protect the rights of these citizens. The Parliamentary resolution that currently guides government policy toward Aboriginals acknowledges that the forbearers of these people were the prior occupiers and original owners of Australia and calls for close consultation with Aboriginal Australians to develop policy for the future.

98. Australia's immigration policy had also changed in recent years. Within the context of its "global non-discriminatory migration programme", Australia admitted immigrants from a wide range of ethnic origins, including many Asians, a significant number of whom were admitted under the Refugee and Special Humanitarian Programmes legislation. New settlers were assured the right to retain and develop their own cultures, languages and life-styles (see the fourth periodic report of Australia (CERD/C/88/Add.3)).

99. In western European countries with significant numbers of migrant workers there is a particular problem for the children of those workers when they are of an ethnic group visibly different from the majority population. Many children, especially those who arrive in the receiving country after adolescence, have the additional disadvantage of never obtaining full fluency in the national language. The combined effect of limited linguistic skills and a different appearance makes it very difficult for some individuals to be or to feel fully accepted within the educational and training programmes of the receiving country.

100. The effects of racial discrimination can be substantial even when all possible social legislation is formulated in a way that provides complete equality. In the Federal Republic of Germany, for example, special efforts are made to integrate young people from migrant workers' families into society. Accordingly, vocational training is provided even to young foreigners who have not attended German schools and do not hold school certificates recognized by the Government (see the seventh periodic report of the Federal Republic of Germany (CERD/C/91/Add.30)). In spite of such de jure advantages, the de facto situation for many young foreigners is a sense of alienation and rejection produced by a sense of not being accepted. Furthermore, the below average and frequently isolated living conditions of most migrant worker families exacerbate the feeling of isolation from the main society for the children of migrant workers.

101. In Luxembourg, where foreigners and migrant workers account for almost one third of the population, the social isolation of many migrant workers in low-status occupations can readily be contrasted with the social acceptance accorded other foreigners in the country. Since the people in high-status positions are mostly of European ethnic origin, while many migrant workers come from other parts of the world, racial stereotypes tend to be reinforced, which has a negative effect on the children of migrant workers. The effects of discriminatory racial attitudes impact upon the self-esteem of these children and reduce their psychological readiness to make full use of the educational opportunities that are available. This is the situation in a country where legally resident foreigners enjoy the same social benefits as Luxembourg nationals (see the third periodic report of Luxembourg (CERD/C/103/Add.2)).

102. In Austria, where foreign workers are about 6 per cent of the work force, appreciable social and economic stability is obtained. About a third of the foreign workers there at any one time have stayed more than the eight years required to obtain a certificate of exemption from the need to have a work permit. Special efforts are made to ensure equal educational opportunities for the children of foreign workers, and bilateral mixed commissions have been set up with

Yugoslavia and Turkey to guide arrangements for extra tuition in their mother tongue for these children (see the sixth periodic report of Austria (CERD/C/106/Add.12)).

103. Children of migrant workers make less use of available educational programmes than other children. In Belgium where pre-school education is free and open to all children without discrimination, it was reported in 1983 that 93 per cent of Belgian children in the age group attended such classes, which are non-compulsory, as compared to 71 per cent of migrant workers' children. In order to increase pre-school and primary school attendance by the children of migrant workers, additional teachers were appointed to train children who did not know the language used locally (French or Flemish). This action reduced the proportion of primary school children of migrant workers who were unfamiliar with the language of instruction from 50 per cent in 1978 to 30 per cent in 1981 (see the fourth periodic report of Belgium (CERD/C/88/Add.5)).

104. Primary education is free and compulsory in Belgium. Secondary education which is compulsory up to the age of 14, is also free except that foreign pupils whose parents are not domiciled in Belgium generally pay somewhat less than one third of the tuition costs. That restriction would not affect the children of migrant workers. As regards higher education in universities and in commercial and technical courses, which are not free, students from migrant workers' families generally pay the same minimum fees as Belgian students. Formal, legal access to education is thus the same for the children of migrant workers as for Belgium nationals. In addition, programmes exist to facilitate effective access to education, including early language instruction, remedial courses and intensive education courses. New measures to increase the access and integration of children of migrants are being developed, including audio-visual techniques, meetings with parents and offering the migrant's mother language as a second or third language. None the less, any country with a school-leaving age of 14 and with fees, however modest, for higher education (after age 17 or 18) will obtain differential rates of participation and completion among different socio-economic groups. Many children of many migrant workers have specific reasons for terminating education at age 14, among them the economic need to start earning, the expectations of one's family and friends and, for many, the implicit racism that permeates the socio-cultural situation.

105. The debilitating effects of racist attitudes and expectations are very difficult to counter. When young people feel alienated from the majority culture, they tend to live out the worst fears and expectations that others have had for them. Alternately, they can and quite often do develop their own values and hopes. The pop culture that has emerged and re-emerged in various forms, especially since 1968, is a form of self-affirmation that is almost entirely free of racism. In all parts of the world there is great appreciation for at least some of the forms of popular music that have taken their initial inspiration from African music, and cultural values from other third world countries have also had an appreciable impact on the spiritual and esthetic ideas of young people throughout the world. In view of the difficulties of engendering mutual self-esteem through formal education, greater importance should probably be given to the potential role of the endogenous youth culture.

106. In contrast to the problems of alienation experienced by the children of many migrant workers in western Europe, the children of established minorities are usually well adapted, both within their minority cultures and within the majority culture of the State. An example of this can be seen in the situation of the Danish minority in Schleswig-Holstein, Federal Republic of Germany. The Danish minority, which is fully represented in local government bodies and in the Land government, is ensured the right to have its own schools and cultural activities.

107. In the socialist States of Eastern Europe and the Soviet Union, a major effort is made to maintain and enrich the cultural integrity of the various ethnic groups. In Romania, 11 per cent of Romania's 29,500 kindergartens, schools, gymnasia and vocational schools have teaching units and sections in the languages of the other national groups in Romania: 76 per cent for Hungarian, 20 per cent for German and 3 per cent for Serbian, Slovak, Ukrainian, Czech and Bulgarian (see the sixth periodic report of Romania (CERD/C/76/Add.3)).

108. In Poland a number of schools offer courses in Byelorussian or Ukrainian or sometimes in Latvian. In secondary schools, students may choose to attend a school where those languages are taught and to learn a third language in addition to the two normally required. In Hungary, instruction in national languages other than Hungarian can be organized for as few as four or five pupils. In the German Democratic Republic, the Sorb language is preserved in the schools of the Sorb region where over 1,000 Sorb teachers receive special training in a training college for Sorb studies.

109. Educational facilities for gypsy children are organized in Czechoslovakia and Hungary so as to encourage access and a measure of integration into the national society without destroying the gypsy culture. In Czechoslovakia it was estimated that 55 per cent of 3 to 5-year-old gypsy children attended kindergarten in the Czech Socialist Republic and that 64 per cent did so in the Slovak Socialist Republic (see the eighth periodic report of Czechoslovakia (CERD/C/118/Add.18)).

D. The problem of increasing access to employment and work-based training for the children of minorities and migrant workers

110. In employment, as in education and training, there is de facto inequality of access for the children of minorities and migrant workers. This is the case even when there is an absence of any laws creating any formal barriers, and even when there are laws designed to remove barriers. As discussed above, the social dynamics that produce significant inequalities of results are linked to deeply internalized prejudices, including racial prejudices. In education, these prejudices operate to block the development of the full potential of many young people. In employment, restricted access for the children of minorities and migrant workers is based, in large part, upon the prior limitations experienced during their years of education.

111. In Australia, where the unemployment rate in the Aboriginal population was four times the rate for others in 1981, it was reported that a lack of conventional education and vocational skills was the major problem faced by Aboriginals seeking

employment. However, the problem may be lessening in view of the widely extended educational and training opportunities available to Aborigines during the past decade and the increased involvement of Aborigines in the development of their own educational policies (see CERD/C/88/Add.3).

112. In New Zealand, although most Maori people tend to be employed in unskilled occupations, the range of their professions is expanding to include teaching, the church, the army, and government service where 200 places were recently reserved in the annual intake for Maoris and Pacific islanders. In view of the effort to increase the number of Maori teachers in primary and secondary schools, a quota has been set to ensure that at least 10 per cent of those selected for teacher training each year are Maoris or Pacific islanders. The Maori population, defined as persons of half or more Maori descent, increased from 6 per cent of the total population in 1951 to 11 per cent in 1983 (see the fifth and sixth periodic reports of New Zealand (CERD/C/75/Add.14) and (CERD/C/106/Add.10)).

113. While the present study mainly relates to the problems of racial discrimination for the children of migrant workers and minorities who are in their country of residence legally, these problems are compounded for children who are there illegally, often through no fault of their own. Clandestine migration and employment of undocumented migrant workers have been identified as a problem in many countries. People who cannot go to the officials for fear of being extradited from the country are subject to various forms of exploitation, including employment at wages below the legal minimum.

114. In Italy, legislation is being prepared to prevent clandestine migration and the employment of irregular foreign labour. In other countries, including the United States of America, alternative approaches are being examined. In Sweden, the notion of a "guest worker" or migrant worker has been rejected. Instead, it is held that once a foreign national has obtained residence and a work permit, basically the same rights as those enjoyed by a Swedish worker should be assured. This policy produces a greater measure of social stability for the children of immigrants and makes it seem natural for them to become part of Swedish society and thus ensures more effective access to employment and the related social benefits.

115. The United Kingdom attempts to ensure full equal access to employment for its immigrant population. Thus, for example, an attempt is made to ensure that the percentage of ethnic minority people in the civil service is proportionate to the percentage in the population as a whole (approximately 4 per cent). None the less, the clustering of ethnic minorities in certain districts, especially in several major cities, has led to unemployment rates in those groups well above average, especially for young people. Clustering has also created the impression that there are more minority people than is in fact the case. This has contributed to the tension in specific urban areas which has, in turn, detracted from any sense of acceptance by young people in the minority groups. This sense of being an object of racial discrimination produces low self-esteem and leads to lack of success in employment in spite of the fact that both law and policy are attempting to provide equal access (see the eighth periodic report of the United Kingdom (CERD/C/118/Add.7)).

116. In the Netherlands, where unemployment rates were reported as being 35 per cent among immigrants, mainly from former colonies, the Government aims to ensure that its specific measures to create work are applied equitably to all categories, minorities included. Under the job creation scheme a special sum of 30 million guilders was recently reserved for young ethnic minority job-seekers (up to 23 years of age) and an additional 3 million guilders was allocated to re-train unemployed minority persons in areas where they are highly concentrated (see the sixth periodic report of the Netherlands (CERD/C/106/Add.11)).

117. In the Federal Republic of Germany social laws and labour laws guarantee the equal treatment of foreign workers and German workers. Thus, for example, the Law on the Constitution of Enterprises specifically prohibits discrimination against employees on grounds of race, citizenship or origin. None the less, social insurance laws are based on the principle of territoriality, and a stable address is required to receive full benefits. This can operate to the disadvantage of the migrant worker and his family even though social security benefits are available irrespective of nationality, colour or race. The official policy goal of legislation is to integrate foreigners into society and into the labour force, especially second and third generation foreigners. It is to this end that vocational training is provided to young foreigners even when they have not attended German schools and lack the recognized school certificates. In spite of these efforts, unemployment is higher among foreign workers than among citizens and there is a recognized problem of tension between different ethnic groups, including tension among young people. While differential unemployment rates are largely a result of the inflow of new foreign workers, the general situation for young people in the migrant worker community is of considerable concern (see CERD/C/91/Add.30). It is clear that the sense of stability in the lives of these youths is significantly challenged by incidents of racial hatred even though these are rare. The inherent ambiguity as to where one belongs for anyone who is a second generation foreigner is exacerbated by racial incidents, especially in the context of other social factors such as below average housing and below average job security.

118. Special efforts are made in France to assist young foreign nationals known as "members of the second generation" who often have difficulty finding stable employment. These efforts include work-related training programmes, some designed specifically for young non-nationals. France has also taken action to abolish administrative practices that had discriminated against foreign workers, and legislative and judicial measures are being implemented to prevent any provocation to racial hatred or racial discrimination. The French Government has recognized that, to be fully effective, these policies need to be implemented within the context of a broad education programme to promote tolerance and eliminate racial prejudices (see the sixth periodic report of France (CERD/C/90/Add.3)).

119. Educational policies and employment policies relating to minorities and visiting workers are also recognized as interrelated in the socialist countries of Eastern Europe and the Soviet Union. In the German Democratic Republic labour exchange programmes are arranged with a number of countries, including Algeria, Cuba, Mozambique, Poland and Viet Nam. Workers in these exchanges generally stay in the German Democratic Republic for four years, and, after three months of

language training, are incorporated in the general work force where they become qualified as semi-skilled workers or foremen. In the Soviet Union, the employment needs of the expanding population of Central Asia are met by the creation of new jobs in that region. This practice accords with the policy of maintaining the cultural cohesion of various regions.

120. In several South American countries, local development, which is frequently rural development, is the main approach used to meet the employment needs of minority populations. In Bolivia, following land reform, more than 400,000 property deeds had been distributed to rural workers who are frequently Aymaran or Quechuan Indians, although much of this land is administered on a community basis whereby the communal land supports schools and health services. Joint management and participation in planning have been encouraged, and citizens, resident foreigners and refugees may settle in any part of the national territory. Venezuela also has an open-door immigration policy. As a party to the Andean instruments on migrant workers and on social security, the long-term social security needs of workers are covered throughout the country.

121. A number of other developing countries are creating policies to provide equal employment opportunities to the children of minorities and migrant workers. In India, the numbers of members of scheduled castes and tribes employed in public service has risen from 360,000 in 1966 to over 3 million in 1979. In the public sector at both central and state government level specific quotas have been established for members of these groups. In Kuwait, where approximately half the population consists of non-citizens, the International Convention on the Elimination of all Forms of Racial Discrimination has the force of law superseding national law. It is within this context that efforts are made to protect the employment rights of young people from the Palestinian, Iraqi, Egyptian, Jordanian, Syrian, Lebanese, Indian, Pakistani, Korean and Philippine communities living in Kuwait.

122. In many developing countries efforts are being made to establish employment structures that protect young people in minority groups including immigrants and migrant workers. In situations where prejudices exist that relate to the colour or the ethnic background or the historical status of a group, employment policies have to be developed in a context of broad social and educational policies designed to counteract these prejudices.

IV. THE SPECIAL SITUATION OF CHILDREN IN SOUTH AFRICA

123. Laws imposing racial discrimination regulate every aspect of the lives of children in South Africa. For black Africans there is no equality of access to education, training or employment, and no effective equality.

124. Officially, in South Africa, migrant workers are the few hundreds of thousands of contract workers who arrive each year from neighbouring countries to work in the mines. In reality, however, all 23 million black South Africans are treated as alien workers in their own country. The denial of South African citizenship to blacks was an official formalization of a social reality that had been imposed by

many years of apartheid regulations. For, according to the distorted logic of apartheid, black South Africans (73 per cent of the population) belong in the Bantustan "homelands" (13 per cent of the land, producing 3 per cent of the gross national product) and can only live and work in "white South Africa" (87 per cent of the land with 97 per cent of GNP) as it suits the convenience of white South Africans who are 14 per cent of the population. Racial discrimination also exists in a less pronounced form for the three million Coloured people (10 per cent of the population) and for the 880,000 Asians (3 per cent of the population) who live in South Africa.

125. The daily experience of discrimination for many black South African children starts in a Bantustan where, in a typical case, almost half the children die of malnutrition and related diseases before the age of 5. Women and children constitute an increasing proportion of residents in the Bantustans because the lack of employment there drives over half the economically active men to work in mines and cities away from home for about 11 months each year and leads to 70 per cent unemployment for women.

126. In this setting of extreme poverty and disrupted family life, many African children in rural South Africa lack access to any schools. Those that are available are generally primary schools with relatively few secondary schools and almost no high schools. Schools are established in farm areas according to the decision of white farmers who frequently consider a few years of education to be enough for young Africans. As regards training and employment in rural areas, there is virtually none available in view of the generally high unemployment rates. Although various crops are grown in the Bantustans, the possibility of farming, even on a subsistence basis, is limited by the poor soil and, consequently, the toll of poverty, hunger and malnutrition is only relieved by the employment of men and women who leave their homes to work as migrant labourers in "white South Africa".

127. The rules of apartheid make it difficult for children to leave the Bantustans to seek opportunity in the urban areas. If a black South African woman is to obtain any of the very few jobs available that permit legal residence in an urban area, she must generally agree to a contract which stipulates where she must live and which prohibits her bringing children or other dependants into the urban area. Consequently, many African families move illegally to squatter communities or to the townships where they frequently live with relatives in very crowded conditions.

128. Given the dismal choice of settings, providing either extreme poverty in the Bantustans or pass-law tensions in the townships, every aspect of education, training and employment is permeated with racial discrimination for black African children in South Africa. One form of educational deprivation is the disrupted family life imposed by apartheid; the lack of quiet and privacy in the small overcrowded township homes is another limitation on the educational development of black schoolchildren.

129. The actual educational facilities provided are also extremely limited. Whereas school attendance is compulsory and free for white South Africans, black South African children must pay to go to school and are sometimes turned away for

lack of space. Whereas school books are supplied free every year through high school to white and Coloured pupils, black pupils in secondary and high schools must pay in full for their books, which cost as much or more each year as many African workers earn in a month. For several years regulations stopped black young people over 20 years old from enrolling in the final year of high school (standard 10) and stopped those over the age of 18 from enrolling in standard 8. Since many African children have to work as newsvendors or garden boys or parcel-carriers for white women shoppers in order to supplement family income and pay for their school uniforms, books and school fees, these regulations prevented many young people from completing school.

130. It is estimated that more than 70 per cent of South African black children leave school after only a few years of primary education, including many who have not obtained effective literacy. This is due to the extremely discriminatory social and economic educational environment, the inferior school facilities and the quality of the education provided. Many protests by schoolchildren have been directed against the quality and the concept of "Bantu education". The use of Afrikaans as the only language of instruction was the particular focus of several protests, but the underlying issue is the concept and objective of education in South Africa for those children. So long as it is designed to prepare pupils for the restricted opportunities of life in apartheid South Africa, it will inevitably violate the human right to education for the full development of the human personality.

131. Training and employment opportunities for all young black South Africans are extremely poor in South Africa. Whereas in virtually every other country in the world, specific arrangements are made to increase the access of disadvantaged groups to training and employment, in South Africa most official regulations and most corporate policies are structured to limit access or even to block it. White trade unions generally have the same objective of restricting or blocking African access to training and to skilled jobs.

Notes

1/ Report of the Second World Conference to Combat Racism and Racial Discrimination, Geneva (1-12 August 1983) (United Nations publication, Sales No. E.83.XIV.4), chap. II.

2/ United Nations, Treaty Series, vol. 362, No. 5181.

3/ Ibid., vol. 429, No. 6193, p. 93.

4/ United Nations Educational, Scientific and Cultural Organization, Records of the General Conference, Twentieth Session, Paris, 24 October-28 November 1978, vol. I, Resolutions, pp. 61-65.

5/ See the report of the Working Group on the Drafting of an International Convention on the Protection of the Rights of All Migrant workers and Their Families (A/C.3/35/13).

Notes (continued)

6/ See McDougal, Lasswell and Chen, "The Protection of Respect and Human Rights: Freedom of Choice and World Public Order", American University Law Review 919, 1054-1060 (1975), quoted in Lillith and Newman, International Human Rights: Problems of Law and Policy (Boston and Toronto, 1979).

7/ Dinstein, "Collective Human Rights of Peoples and Minorities", 25 International and Comparative Law Quarterly 102, 113-119 (1976), quoted in Weston, Falk and D'Amato, International Law and World Order (St. Paul, 1980), p. 540.

8/ This Convention and a number of others in the field of human rights are included in Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.83.XIV.1).

9/ See International Provisions Protecting the Human Rights of Non-citizens (United Nations publication, Sales No. E.80.XIV.2).

10/ See Official Records of the General Assembly, Tenth Session, Annexes, agenda item 28 (part II), document A/2929, chap. VI, paras. 51-57. See also document A/C.3/35/13.

11/ United Nations, Treaty Series, vol. 120, No. 1616, p. 71.

12/ International Labour Office, Official Bulletin, vol. LVIII, 1975, series A, No. 1.

13/ Ibid., Recommendation No. 151.

14/ Schwelb, "The International Obligations of Parties to the Convention in the United States and the United Nations Treaty on Racial Discrimination", in Studies in Transnational Legal Policy, No. 9, reprinted in Lillith and Newman, International Human Rights: Problems of Law and Policy.

15/ United Nations, Treaty Series, vol. 429, No. 6193, p. 93.

16/ Report of the Second World Conference to Combat Racism and Racial Discrimination, Geneva (1-12 August 1983) (United Nations publication, Sales No. E.83.XIV.4), chap. II.

17/ United Nations, Treaty Series, vol. 266, No. 3822, p. 40.

18/ League of Nations, Treaty Series, vol. LX, No. 1414, p. 253.

19/ In Race Relations and Mental Health (UNESCO, 1960), Marie Jahoda discusses the problem of "inadequate reality testing" as a source of racial prejudice and, regarding children, she writes that "They take over parental attitudes and those of other adults without giving the matter another thought."

Notes (continued)

20/ Jacquard, Albert, "Science and racism" in Racism, Science and Pseudo-science, proceedings of a UNESCO symposium to examine pseudo-scientific theories to justify racism and racial discrimination, Athens, 30 March-3 April 1981 (UNESCO, 1983).
