

HUMAN RIGHTS STUDY MATERIALS



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A. Human Rights

What are Human Rights

(and why does it take so long to get them?)

According to the Bible's newest translation (The New Revised Standard Version), the word "right" occurs 14 times. Compare this to the word "commandment(s)", which may be found a total of 234 times!

Does this mean biblical authors preferred legalistic injunctions to liberating proclamations? Not likely. Closer inspection reveals that commandments point to responsibilities. And responsibilities are very closely related to rights. They are the opposite side of the same coin.

Whenever the Bible speaks of rights, it is almost always in reference to broken commandments or unfulfilled responsibilities.

Who is remiss in their responsibilities? The prophets often accuse the wealthy, and those who misuse their positions of power and privilege.

Who are the people endowed with rights? Proverbs, Isaiah and Jeremiah speak of the rights of "the afflicted, the destitute, the poor, the innocent, the needy".

This biblical understanding of the term "rights" zeros in on an important insight:

Rights are violated whenever and wherever commandments are broken or responsibilities neglected.

Strangely enough, rights were not always human rights. Through most of history, rights were attached to specific people or groups of people according to their functions in society. Kings, czars and emperors claimed to rule by divine right. Those with political or military power considered rights to be privileges they could award for loyalty or support.

In addition, rights were hierarchical in nature. The rights of nobles were superior to those of commoners. Citizens of an empire had more rights than did inhabitants of colonies. Women had fewer rights than men. Slaves had no rights at all. And for most of this century, the rights of nation states have been considered by most heads of government to take precedence over the rights of the people governed.

History teaches that those with power rarely acknowledge the rights of those without power. When they do, it is almost always the result of a tremendous struggle on the part of those who suffer from oppression or discrimination. Throughout history, the struggle for human dignity has moulded the pathway for the evolution of human rights:

- the slave uprisings of Spartacus;
- the Magna Charta;

- the Protestant Reformation of the 16th Century;
- the bourgeois revolutions of the 18th Century;
- the American Declaration of Independence;
- the labour movement of the 19th Century;
- the socialist revolution of the 20th Century;
- the wars of independence in developing countries in the 1960s;
- the struggles against racism and for the liberation of women;
- the popular uprisings against communist governments in Central and Eastern Europe in the late 1980s and early 1990s.

Each of these conflicts helped to enlarge the circle of those who benefit from the legal guarantee of rights. Each achievement in the struggle also helped in enlarge the definition of rights.

The founders of the United Nations were keenly aware of the consequences when rights do not apply equally to everyone. The Jewish holocaust during the Second World War served as a dramatic admonishment that rights make sense only if they are universally applicable. Every single human being has rights by mere virtue of being human. The UN consequently proclaimed "The Universal Declaration of Human Rights".

Human rights are the codification of the achievement of human rights struggles. Each step in the process increases the participation of ordinary people in decisions that affect their lives. Another name for this process is democratization.

The development of human rights coincides precisely with the development of democracy.

Human rights have a life of their own. They have a tendency to grow, to enlarge their scope. Where will it all end? Those in positions of power have always suspected that there is no end.

Every new achievement in human rights exposes further gaps in the implementation of human rights. For those without work, the search for a job takes priority. But those who do have work also wish to have decent working conditions and adequate pay. Those who live under dictatorship will struggle to achieve democratic participation. But people who live in democracies wish to have governments that will respond to their needs, rather than to the needs of those who finance their election campaigns.

The FIRST GENERATION OF HUMAN RIGHTS falls into the general category of "Civil and Political" rights. They deal with the security, freedom, and equality of each individual and each community.

Human rights are by nature open-ended. They continue to grow exactly in those places where people are suffering oppression or deprivation.

Human rights stop growing under only two conditions:

- 1) when those who suffer have lost all hope; or**
- 2) when perfect peace and justice have been established.**

Not only do human rights grow, they procreate. Human rights activists now identify three generations of human rights.

First came the "bourgeois" or "liberal" rights and freedoms, initially fought for by a merchant class that wished to limit the absolute monopoly of monarchs over a nation's economy. Gradually, these rights were expanded to include the following three general areas:

- (i) Life; physical and psychological integrity of the person; private property; privacy of family life, home and correspondence - these are protected against violation, intrusion or dispossession.
- (ii) Freedom of thought and religion; freedom of opinion and expression; freedom of movement, domicile and emigration; freedom of assembly and association. These are obligations states undertake that limit their own power and the power of others to limit the rights of individuals.
- (iii) Equality and dignity for all human beings; entitlement to all human rights without distinction of any kind, whether of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. These are obligations states take on to be assertive in providing everyone with equal protection by the law against every evil of discrimination.

During the industrial revolution it became apparent that the first generation of human rights was not enough. Torn from their peasant roots, industrial labourers often found themselves at the mercy of the captains of industry. They had no right to fight for fair wages. They had no job security. They and their families could be plunged into destitution without the safety net that subsistence farming previously provided.

The colonial heritage of Europe also meant increasing mobility across cultures. The movement of labour across national boundaries highlighted cultural and racial frictions that needed urgent attention.

The first generation of rights provided the conditions for the development of the second generation. The right of assembly and association provided the legal space for labour unions to become strong actors by the end of the 19th and the beginning of the 20th centuries.

These, in turn, fought for: the right to employment and to fair working conditions; the right to standard of living that ensures health and well-being; the right to social security; the right to education; the right to participate in the cultural life of the community; the special rights of motherhood and childhood.

The SECOND GENERATION OF HUMAN RIGHTS is grouped under “ economic, social and cultural” rights. They deal with adequate standards of living, welfare, personal and communal growth, identity and self-determination.

Yet even a combination of first and second generations of human rights cannot adequately cover the full spectrum of human needs. Our most recent history has revealed problems that not only concern individuals and communities, but the human species as a whole.

The nuclear arms race made many people realize that a war engaged by only two protagonists could bring an end to all life. No one should have the right to decide such as epic course of action. The world's people have a right to peace.

The excesses practised by industrial giants have led to habits of production and consumption that are destroying the world's eco-systems. Environmental destruction and pollution are bringing about global disasters and threatening a global suicide. In an effort to stop further deterioration, private industry, public enterprises, and transnational corporations are being confronted with the right of people affected by their activities to a sustainable environment.

Massive starvation among an increasing percentage of the world's population has caused a re-thinking of development priorities in the light of human rights. Changes in the global flow of information have caused increasing concentration of financial resources and relationships within a "global economy". Do the destitute have a right to be free of extreme want? Is there such a thing as the right to development? Can people in such circumstances make a legitimate claim on the rest of humanity?

The THIRD GENERATION OF HUMAN RIGHTS, also called “emerging rights”, are the rights of future generations to their inheritance. They deal with peace, disarmament, protection of the environment and natural resources, a just and sustainable economic order.

If human rights were respected by everyone and in every place, it would be unnecessary to formulate them as national laws and international documents. The writing of human rights standards is meant to provide support to the weak (those whose human rights are violated) in their confrontation with the strong (those who violate human rights).

Those in power usually wish to remain in power. Those who violate human rights usually do so precisely because it helps them to remain in power. It should come as no surprise if powerful people do not look favourably on efforts to implement human rights through the formulation of binding human rights instruments in the UN or other bodies. Once implemented, human rights place limits to the exercise of power, and specify responsibilities for those who govern.

Those responsible for violations are well aware that human rights are open-ended. Each new law, each new definition is seen as a threat, because it will open the door to ever expanding demands. If one concession is made, more concessions will have to follow. That is why even small advances are stubbornly opposed. It is also why once gained these small advances have to be protected and exercised. States have to be held to their word - to the promises they have made in the international arena.

At the international level, agreement on effective human rights conventions and covenants can take many years of struggle and effort, with non-governmental organizations (NGOs) often acting as the main proponents. Governments that violate human rights will do everything to weaken the effectiveness of these instruments.

There is no need to lament this fact of life. It is the context in which the struggle for peace and justice takes place. The human rights movement has viewed this as both a challenge and an opportunity.

The international arena does not exist in a vacuum. International and national efforts for human rights to go together. All human rights activity begins at the local level, where the direct effects of violations are felt by ordinary and extraordinary people. The international struggle reflects the commitment of others to come to the defense of all those who try to claim their rights in local struggles.

It is the many local human rights struggles that have promoted, informed and sustained the worldwide human rights movement. Through small but firm, consistent and untiring steps, the human rights movement has been able to forge an impressive array of international human rights standards.

The first of these is, of course the Universal Declaration of Human Rights (UDHR), proclaimed by the United Nations General Assembly on 10 December 1948. The ecumenical movement was actively engaged during the formulation of the Declaration. The Commission of the Churches on International Affairs, which later became a part of the World Council of Churches, proposed the text of Article 18:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

The problem with the Universal Declaration was that it was a declaration. Its articles were not binding on member governments of the UN. It was also somewhat heavy on first generation rights, and somewhat weak on second generation rights.

Work therefore soon began on the drafting of two covenants on human rights - agreements that would be binding on member states of the UN. These would deal separately with civil and political rights on the one hand, and economic, social and cultural rights on the other.

The reluctance of governments to submit to binding international controls can be seen in the history of these instruments. The drafting of both covenants was completed in 1954, after seven years

of work. But it took twelve more years for the UN General Assembly to adopt them in 1966. It took ten further years before a sufficient number of governments had ratified them in order to bring them into force.

The full implementation of human rights requires not only the existence of international laws and the compliance of governments, but the active participation of all citizens.

Although the UDHR is not a binding legal document, its stature as the first and most widely accepted international catalogue of human rights and freedoms has given it a formidable moral and political authority. It is now common to speak about an "International Bill of Human Rights".

By ratifying the international human rights instruments, governments agreed to ensure that their national laws and policies conform to the articles and provisions in the documents.

The Covenant on Civil and Political Rights also established a Human Rights Committee, to which signatory governments must submit reports on steps they take to fulfill their obligations. The Committee also has the power to investigate complaints when governments do not fulfill their obligations.

The International Bill of Human Rights includes the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (and its Optional Protocol), and the International Covenant on Economic, Social and Cultural Rights.

The United Nations has also passed many subsidiary conventions, dealing with more detailed human rights concerns.

Among these are:

- Convention on the Elimination of all Forms of Racial Discrimination
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Convention Relating to the Status of Refugees
- Convention on the Elimination of all Forms of Discrimination against Women.

Other instruments of a more specific nature have been brought into force by specialized agencies, notably the International Labour Organization (ILO) and the UN Educational, Scientific and Cultural Organization (UNESCO).

In addition to such global documents, various regional bodies have produced their own human rights frameworks and laws. Examples are:

- Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms.
- American Convention of Human Rights.
- African Charter on Human and Peoples' Rights.

On Your Rights If Arrested

P.D. Mathew

Yours Rights if arrested

The Constitution of India guarantees the citizen's fundamental rights to participate in the political life of the country and to express themselves as political beings. But the freedom is hedged in by many legal restrictions by the politicians. Even legitimate activities of citizens may be considered as infringement of the law. The general ignorance of our legal rights is being exploited by law enforcing agents of the State and consequently violation of human rights is increasing day by day at an alarming proportion. The objective of this note on Arrest and Bail is to raise the legal consciousness of the citizens with regard to their rights when confronted by the police and agents of the judiciary.

Arrest of a person

A person is arrested when a police officer or a citizen takes him into custody or otherwise substantially deprives him of his freedom of action so that he may be held to answer for a crime or an offence. The police in India do not have any power to detain anybody for questioning unless he is arrested with or without warrant.

Warrant of Arrest

It is a written order issued by a Court to a police officer to arrest and produce an offender or to search his premises for a particular thing. A police officer who executes the warrant shall notify the substance thereof to the person to be arrested and if he demands, shall show him the warrant. He is expected to bring the required person before the Court without unnecessary delay.

Valid Warrant

A warrant of arrest should be (i) in writing (ii) signed by the presiding officer of the Court and (iii) should bear the seal of the Court. It should also contain the name of the accused, his address and indicate the offence with which he is charged. If any of these factors is absent, the warrant is not in order and an arrest made in execution of such a warrant is illegal. Warrants are of two kinds:

- i) Bailable
- ii) Non-Bailable

A bailable warrant is a Court's order which contains a direction that if the person arrested executes a bail with sufficient sureties for his attendance before the Court, he may be released from custody. In that case it shall further state the number of sureties, the amount of the bond, and the time for attending the Court. (Section 71 Cr.P.C.)

In case of a non-bailable warrant the direction for bail will not be endorsed on the warrant.

Arrest without Warrant

A police officer has power to arrest a person without warrant if he is suspected of having committed a cognizable offence. Normally in non-cognizable offences a police officer cannot arrest a person without a warrant from a Magistrate.

In the first Schedule of the Criminal Procedure Code (Cr.P.C.) offences have been classified and enumerated as cognizable and non-cognizable. The more serious offences such as murder, rape, robbery, theft, waging war against the State etc. are cognizable.

When can a person be arrested without a warrant?

A person can be arrested without a warrant:

1. If he is concerned in a cognizable offence or if there is a reasonable suspicion, complaint or information that he has committed a cognizable offence;
2. If he possesses implements of house breaking;
3. If he possess stolen property;
4. If he is proclaimed an offender;
5. If he obstructs a police officer on duty;
6. If he escapes from a legal custody;
7. If he is a deserter from the army, navy or airforce;
8. Where he is out of India, if he commits an offence punishable under any extradition law or under the Fugitive Offenders Act;
9. If he is released convict who breaks the restrictions imposed by the Court on his movements;
10. If he is suspected of preparing to commit a cognizable offence;
11. If he is habitual criminal;
12. If he, after committing a non-cognizable offence in the presence of a police officer, refuses to give the police his name and address or has given him a false name and address;
13. If he is required by a police officer of another police station who suspects that he has committed a cognizable offence;

How is Arrest made?

Arrest is complete when there is submission to custody by word or action, and in such a case touching or confining of the body of the person arrested is not necessary, but mere surrounding of a person by the police does not amount to arrest. (Section 46).

What happens if you resist arrest?

If you forcibly resist arrest, the police officer can use all means necessary to effect the arrest. (Sec. 46). He can even cause your death provided you are charged with an offence punishable with death or imprisonment. However, he is not justified in using force more than necessary to obtain the arrest (Sec.46). Therefore, unnecessary restraints or causing physical inconveniences tying of hands and feet are not permissible if there is no necessity for doing so.

What are your rights when you are arrested?

If you are arrested:

1. You must be informed of the reasons for your arrest (Fundamental Rights : Article 22 and Sec.50 Cr.P.C.)
2. You have a right to see the warrant if you are arrested under warrant (Sec.75 Cr.P.C.)
3. You have a right to consult a lawyer of your choice. (Fundamental Rights: Article 22 of the Constitution);
4. You must be produced before the nearest Magistrate within 24 hours (Fundamental Rights: Article 22 of the Constitution);
5. You must be told whether you are entitled to be released on bail. (Sec.50 Cr.P.C.)

Can you be handcuffed?

According to the latest ruling of the Supreme Court, normally an arrested person should not be handcuffed unless he is violent or he is desperate character or he is likely to attempt to escape or to commit suicide. Arrest is not a punishment. Hence unnecessary restraints are not permissible, if there is no necessity for doing so.

Search of a place entered by a person sought to be arrested

Sec.47 of Cr.P.C. compels all persons to afford to the police facilities for search in a place for a person sought to be arrested. Police officers have power to break open any door or window to carry out a search and to liberate himself or any person who is detained inside a premises.

Search of an arrested person

A Police officer has the right to search a person only after he is arrested. After the search the police officer must keep in safe custody all the articles taken from the person and give him a receipt for the same.

A search of an arrested female should be done with strict regard to decency. A woman can be searched only by another women. (Sec.51)

Examination of arrested person by medical practitioner

A police officer not below the rank of a sub-Inspector may require an arrested person to be medically examined if he feels that this may provide evidence to prove the offence. (Sec.53)

- He may use reasonably necessary force to have the medical examination performed;
- The accused person can make a request to the Magistrate that he had not committed the offence. (Sec.54);
- A woman has a right to demand that she be examined by a woman doctor. (Sec. 53 A(2), 54);
- In case of torture in police custody, this provision of law must be taken advantage of and the victim should demand in the Court that he be medically examined to prove torture by the police.

Detention of an arrested person

Article 22 (2) of the Constitution lays down that every person who is arrested and detained in custody should be produced before the nearest Magistrate within a period of 24 hours of such arrest exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court. However, Sec.167 of the Cr.P.C. vests the power in the Magistrate to authorize the detention of the arrested person for more than 24 hours of the investigation cannot be completed within that period. In no circumstances can the accused be detained in custody for a moment more than twenty four hours without a special order of a Magistrate who can order his detention for a term exceeding 15 days on the whole. At the end of the 15 days he must be produced before the Magistrate. If there are adequate grounds for further detention in judicial custody (jail), he can pass an order to that effect, for a period not exceeding 15 days. But the total period of detention cannot exceed 60 days, whether the investigation of offence against him has been completed or not. The order of a Magistrate sanctioning the detention for an indefinite period is illegal. If the accused is not able to furnish bail during the stage of investigation he may be detained in judicial custody beyond 60 days. In case of a non-bailable offence the arrested person may be kept in jail until the trial is over.

Search Warrant

Search warrant is issued by the Magistrate for the following purposes:

- For the recovery of a document or thing which may not be produced in the court otherwise;
- For search of a house suspected to contain stolen property, forged documents, etc;
- Seizing any publication banned by the government;
- For discovery of a person wrongfully confined.

A search warrant gives the power to the police officer to search the required place and to seize the objectionable article known as “Mudammal”. Police may use force to effect a legal entry provided that they have come, demanded entry and are unreasonably refused.

The police officer executing the warrant may search any person in or about such place if that person is reasonably suspected of concealing on his person any article for which search is made. If the person to be searched is a female, then the search shall be made by another woman with the strictest possible decency.

Procedure to be followed

The officer making a search shall:

- Call upon two or more respectable residents of the locality (called Panches) to attend and witness the search. Failure to attend is an offence under Sec.187 I.P.C.
- Make the search in their presence. So, the search would be illegal if the panches are kept outside while the search takes place inside the building;
- Make a list of all things seized and of all places in which they are found. (The list is called the panchanama);
- Get the list signed by the witnesses – Panchas
- Permit the occupant of the place to attend the search and give him a copy of the list of things signed at his request;
- Panches are not required to attend the court as witnesses unless specially summoned by the Court.

Rights of the occupants of the premises searched

- The accused himself cannot be compelled to produce any document or property which is likely to involve him in any criminal charge. Hence police have to get a warrant issued by a Court of Law;
- The police have no general power to enter or search your premises without your consent;
- The court may specify in the warrant a particular place only to which the search will extend;
- It is important that the warrant is read and the directions are taken note of before the police are allowed to make inspection;
- If the police have no legal authority to enter your premises you can refuse the entry;
- If they have no legal authority to remain, you have a right to insist that they leave;
- If they refuse you have the legal right to use reasonable force to remove them. (Sec.97, of I.P.C.)

Bail

Bail means releasing an arrested person from legal custody until his trial. Bail gives the freedom to seek advice from friends to consult a lawyer, to trace witnesses and to collect evidence for one's defence and to continue his job.

When bail is not granted, the arrested person will be on remand and will be kept in custody to facilitate the investigation and to obtain evidence.

Provisions regarding bail can be classified into 2 categories: i.e., (1) Bailable cases; and (2) Non-Bailable Cases.

Bailable Cases

In the case of bailable offences, granting of bail is a matter of legal right. This means that bail cannot be refused and shall be granted by a police officer in charge of a police station having the accused in his custody. The release may be ordered on the accused executing a bond, even without sureties.

Non-Bailable Cases

In non-bailable cases, only the Court can order release of the accused person on bail. However, if the police officer or the Magistrate is of the opinion that there is no sufficient material against the accused and that the complaint needs further investigation he may also release the accused on bail.(Sec.437 (2) Cr.P.C.)

Normally bail is not granted when the accused person appears, on reasonable grounds, to be guilty of an offence punishable with death or imprisonment for life. But women, children under 16, and sick people can be released on bail by a Magistrate even if charged with offences punishable with death or life-imprisonment.

An accused person is entitled to be released on bail as soon as reasonable grounds for guilt cease to appear, between the close of the case and the delivery of judgement. A person released on bail may be taken into custody by an order of the Court, if his conduct subsequent to release is found to be prejudicial to a fair trial Sec.48 Cr.P.C. or if he does not observe the conditions of the bail.

Power of the Court to grant bail

The discretionary power of the Court to grant bail is judicial power and is given by established principles. Before granting bail the Court must consider the seriousness of the charge, the nature of the evidence, the severity of the punishment prescribed for the offences and in some cases the character, means and the status of the accused.

If you are arrested, how to get released immediately from police custody?

In warrant cases, find out the directions endorsed in the warrant and execute a bond with sureties (Sec.71):

- If the offence charges is bailable and the arrest is made without warrant, ask the police officer in charge of the police station to grant you bail after executing a bond.
- The police officer has the discretion to release a person on his executing a bond without sureties. (Sec. 436 of Cr.P.C.)
- If you are not granted bail immediately you have the right to telephone your advocate, a friend or a relative. Give your advocate the names and addresses of the possible sureties. If you don't have an advocate inform your friend or relative:
- The name of the Court where you will appear;
- The time the Court starts;
and request him:
- To take to the Court anyone else who is prepared to stand surety;
- To contact an advocate if possible.

If you can deal with these matters before you go to the Court, you may be saved an unnecessary remand in custody.

Granting of Bail by the Magistrate

If a person is arrested for a non-bailable offence, and there exists a reasonable ground to believe the guilt of the person, he may not be granted bail by the police officer. In such cases the accused person must give a written application to the court to grant bail. The court must grant bail unless he is charged with a crime punishable with death or life-imprisonment. In such cases only the sessions or the High Court can grant bail.

Common police objections to bail

- The accused will not appear at his trial;
- He will interfere with witnesses or material evidence;
- He will commit further offences while on bail;
- Police enquiries are not complete;
- Further charges might follow;
- Stolen properties have not been recovered;
- The co-accused are absconding;
- The weapons with which the crime was committed has not been recovered.

Normally the police make an application for the remand of the accused. In such an application they give their reasons for further detention of the accused in custody. The reasons given by the police must be refuted to the extent possible.

Application for Bail

- If the accused can afford an advocate he can make an application and represent the accused before the judge;
- If the accused cannot afford an advocate he may make a written application to the judge. For this he must get an application form from the prison staff and complete it as fully as possible giving sufficient reasons to convince the judge of the need of granting bail.

The following special grounds for release must be mentioned in the application:

- Condition and state of accommodation; whether there is a possibility of eviction in case bail is not granted;
- Whether he is likely to lose his job;
- How refusal of bail would create hardship to the dependent members of the family;
- How keeping in custody would affect the poor state of health and treatment.

Refusal of Bail by the Magistrate

If bail is refused, the Magistrate must record the reasons for the same. Such a record is necessary to make a proper appeal for bail in higher Courts.

Appeal

If application for bail is rejected by the Magistrate, the accused person can appeal to a Sessions Court or High Court.

Disagreement with the objections raised by the police in granting bail or the fact of no objection raised in the Court must be incorporated in the application for bail. If one's application is rejected, one may try again in one's next Court appearance.

Conditions for Bail

The Magistrate may grant a bail:

- Without any condition
- Subject to special conditions;
- Subject to bond with or without sureties.

Special conditions usually state that the accused person must report to the police station at specified times or surrender his passport. One can challenge in a Court any unreasonable condition imposed by the Magistrate. If the Court refuses to change the conditions, the accused person can reject them. But in that case he will not be released until his appeal is heard and disposed of in his favour.

Bond and Sureties

- An accused person may be released on personal bond with or without sureties;
- Sureties are people who guarantee a sum of money for appearance of the accused in the Court on the appointed day and time.
- Those who stand as sureties must be present in the Court and if asked must guarantee the Court under oath that they are prepared to act and have sufficient funds;
- They can file affidavits before the Court stating the fact to show that they have sufficient funds to pay the surety and that they are even otherwise fit to be sureties;
- The Magistrate has the power to reject the surety without giving any reason. If the sureties are not in the Court, the arrested person will be kept in custody until the police have interviewed them and found them to be satisfactory;
- Sureties must be over 18, have a permanent address and have sufficient money to cover the amount of surety after payment of all their debts. The sureties may carry to the Court documents such as ration cards, rent receipts, provident fund slips, salary slips and income tax challans;
- The police and the Magistrate have no right to reject sureties on ground of their personal character, political opinions, criminal records or sex, unless they are professional sureties.

Bail after Conviction

If an accused person is found guilty, the Magistrate will pass the sentence after considering his past record. If the convicted person wants to appeal against his sentence in a higher court, the Court which passed the sentence must release him on bail.

- When the sentence is for imprisonment for a term not exceeding 3 years, or;
- When the offence for which the person is convicted is a bailable one and the person is already on bail.

The release will be for a period that will enable the convict to present the appeal and get the orders of the appellate Court.

Once a person files an appeal against his conviction, the appellate Court may suspend the sentence and release him on bail or on personal bond.

Anticipatory Bail

When a person has reason to believe that he may be arrested for a non-bailable offence, he may apply to the High Court or to the Court of Session for a direction that in the event of such an arrest he may be released on bail.

If such a person is arrested without a warrant by a police officer and if he is prepared to give bail, he must be released on bail. In case a warrant is issued against the accused by a Magistrate, it must be a bailable warrant in conformity with the direction of the High Court or the Court of Session.

The purpose of the provision is to relieve a person from disgrace by being detained in jail for some days before he can apply for bail when he is implicated in a false case by a rival.

Recent Observations and Recommendations of the Supreme Court on Bail

- The Bail system prevalent in our country is oppressive and discriminatory against the poor, since the poor would not be able to furnish bail on account of their poverty. The court, by ignoring the differential capacity of the rich and the poor to furnish bail and treating them equally, produces inequality between the rich and the poor.
- The bail system should be thoroughly reformed so that it should be possible for the poor to obtain pre-trial release as easily as the rich without jeopardising the interests of justice.
- The Court and the police must abandon the antiquated practice of release only against bond with sureties, and if the accused has ties in the community and there is no substantial risk of non-appearance, he may be released on his personal bond without monetary obligation, subject to penalty in case of breach.
- The amount of bond the Court fixes to release the accused on personal bond should not be based merely on the nature of the charge but on the financial capacity of the accused and the probability of the absconding.
- When the accused is released on personal bond, the Court or the police should not insist upon inquiring into his solvency as a condition of acceptance of his personal bond.



UNIVERSAL DECLARATION OF HUMAN RIGHTS

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948.

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations.

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for an observance of human rights and fundamental freedoms.

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realisation of this pledge.

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive, measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, 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.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act, or omission, which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

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.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

A Comparison of Universal Declaration of Human Rights (1948) and Fundamental Rights enunciated in Part – III of the Indian Constitution.

Subject	Indian Constitution	Universal Declaration of Human Rights (1948)
(1)	(2)	(3)
	FUNDAMENTAL RIGHTS	
(a) Equality before law	<p>Art.14:</p> <p>The State shall not deny to any person equality before the Law or the equal protection of the Laws within the territory of India.</p>	<p>Art.7:</p> <p>All are equal before the Law and are entitled without any discrimination to equal protection of the Law. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination.</p>
(b) Prohibition of Discrimination on grounds only of religion, race, caste, sex, place of birth or any of them.	<p>Art.15: (1)</p> <p>The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place or any of them.</p>	<p>Art.2. Para (1):</p> <p>Everyone is entitled to all the rights and freedoms set forth in this Declaration, 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.</p>
(c) Equality of opportunity in matters of public employment.	<p>Art.16 (1):</p> <p>There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.</p>	<p>Art.21(2):</p> <p>Everyone has a right to equal access to public service in his country.</p>
(d) Freedom of speech, assembly, association etc.	<p>Art. 19(1):</p> <p>All citizens shall have the</p> <ol style="list-style-type: none"> a. Right to freedom of speech and expression. b. Right to assemble peaceably and without arms. c. Right to form Unions and Associations. d. Right to move freely throughout the territory of India; e. Right to reside and settle in any part of the territory of India. 	<p>Art.19:</p> <p>Everyone has the right to freedom of opinion and expression;</p> <p>Art.20 (1):</p> <p>Everyone has the right to freedom of peaceful assembly and association.</p> <p>Art.23 (4):</p> <p>Everyone has a right to form and to join trade unions for the protection of his rights.</p>

Art.20 (2):

No one may be compelled to belong to an Association

Art.12 (1)

Everyone has the right to freedom of movement and residence within the borders of each State.

Art.11 (2):

No one shall be held guilty of any penal offence on account of any act or omission, which may not constitute a penal offence, under national or international law, at the time when it was committed. Not shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

(e) Protection in respect of conviction for offences.

Art. 20 (1):

No person shall be convicted of any offence except for violation of law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(f) Protection of life and personal liberty.

Art. 21:

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Art. 3:

Everyone has the right to life, liberty and security of person.

Art.9:

No one shall be subjected to arbitrary arrest, detention or exile.

(g) Protection of traffic in human beings and forced labour.

Art. 23: (1)

Traffic in human beings and 'Begar' and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with Law.

Art. 4:

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all forms.

(h) Freedom of conscience and free profession, practice and propagation of religion.

Art. 25 (1):

Subject to public order, morality and health and to the provisions of this part, all persons are equally entitled to freedom of conscience and right freely to profess, practise, and propagate religion.

Art. 18:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

(i) Protection of interests of minorities.

Art. 29.(1):

Any section of the citizens residing in the territory or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

Art. 22:

Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of personality.

(j) Right to minorities to establish and administer educational institutions.

Art. 30 (1):

All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

Art. 26 (3):

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

(k) Right to Constitutional remedies.

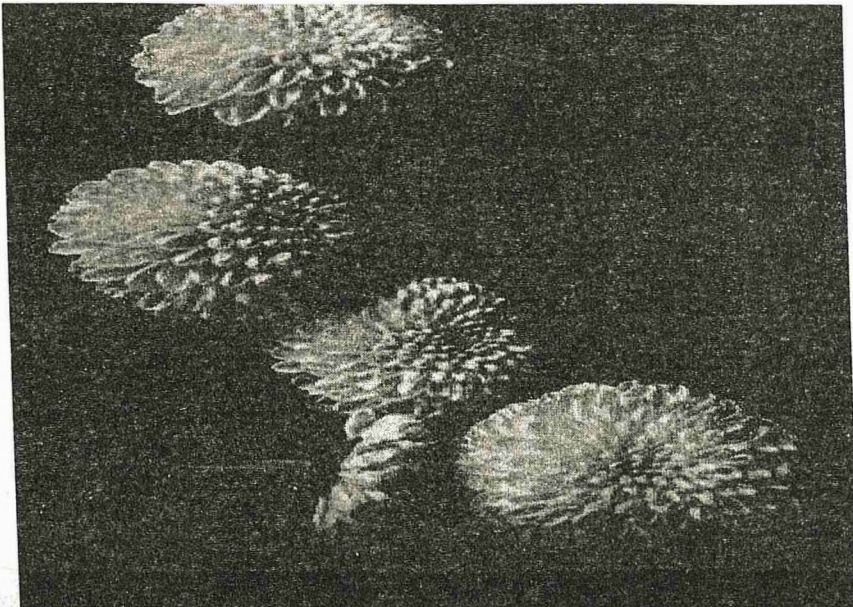
Art.32 (1):

The right to move the Supreme Court by appropriate proceedings for the enforcement of rights conferred by this part is guaranteed.

Art. 8:

Everyone has the right to an effective remedy by the tribunals for acts violating the fundamental rights granted to him by the Constitution or by Law.

Note: 'By this part' refers to Part III – Fundamental Rights.



Dilip K. Basu, Petitioner v. State of West Bengal and others, Respondents.

On December 18, 1996 in D.K. Basu v. State of West Bengal, (1997) 1 SCC 416: (1997 AIR SCW 233), this court laid down certain basic "requirements" to be followed in all cases of arrest or detention till legal provisions are made in that behalf as a measure to prevent custodial violence. The requirements read as follows (para 36)

1. The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.
2. That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at east one witness, who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.
3. A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend of a relative of the arrestee.
4. The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.
5. The persons arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.
6. An entry mush be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particularly of the police officials in whose custody the arrestee is.

7. The arrestee should, where he so requests be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.
8. The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the State or Union Territory concerned. Director, Health Services should prepare such a panel for all tehsils and districts as well.
9. Copies of all the documents including the memo of arrest, referred to above, should be sent to the Ilaqa Magistrate for his record.
10. The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.
11. A police control room should be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.

This court also opined that failure to comply with the above requirements, apart from rendering the official concerned liable for departmental action, would also render him liable to be punished for contempt of court and the proceedings for contempt of court could be instituted in any High Court of the country, having territorial jurisdiction over the matter. This Court further observed (1997 AIR SCW 233. Para 40)

"The requirements mentioned above shall be forwarded to the Director General of Police and the Home Secretary of every State/Union Territory and it shall be their obligation to circulate the same to every police station under their charge and get the same notified at every police station at a conspicuous place. It would also be useful and serve larger interest to broadcast the requirements on All India Radio besides being shown on the National Network of Doordarshan and by publishing and distributing pamphlets in the local language containing these requirements for information of the general public. Creating awareness about the rights of the arrestee would in our opinion be a step in the right direction to combat the evil of custodial crime and bring in transparency and accountability. It is hoped that these requirements would help to curb, if not totally eliminate, the use of questionable methods during interrogation and investigation leading to custodial commission of crimes".

**AN ENUMERATION OF THE VARIOUS RIGHTS OF INDIVIDUALS,
GROUPS AND PEOPLE AS CONTAINED IN MAJOR
INTERNATIONAL DECLARATION AND CONVENTIONS
ON HUMAN RIGHTS.**

UNIVERSAL RIGHTS OF THE INDIVIDUAL

CIVIL RIGHTS

Right to life

Right to liberty

Right to freedom from torture

Right to equality before the law

Right to freedom from discrimination

Right to judicial personality (be recognised as a person before the law)

Right to nationality

Right to (bear and be registered under a) name

Right to due process or the rights to have limitation (derogation) of ones rights implemented according to procedures prescribed by law.

Right to access to court

Right to trial before a competent, impartial and independent judicial authority.

Right to public trial

Right to be informed of charges

Right to be presumed innocent.

Right to freedom from giving self-incriminating evidence

Right to access to relevant information

Right to (free) legal assistance

Right to choose defense (have legal counsel of one's choosing)

Right to have adequate time and facilities to prepare defense

Right to defend and be heard in person

Right to communication with defense counsel

Right to the free assistance of an interpreter

Right to equality of arms (to have a reasonable opportunity to present one's case before the court under conditions which do not place one in disadvantage vis-a-vis one's opponent)

Right to examination of witness

Right to take proceedings (privilege of the writ of habeas corpus)

Right to effective remedy (to have effective means of redress before authorities in case of violations guaranteed rights and freedoms)

Right to freedom from durable jeopardy

Right to non-retro activity of penalty (freedom from penalty heavier than the one applicable at the time the offence was committed)

Right to appeal or have one's conviction and sentence reviewed by a higher tribunal.

Right to human treatment (freedom from cruel, degrading or inhuman treatment or punishment)

Right to appropriate treatment as a prisoner

Right to protection from abuse of authority

Right to receive, seek, and impart information

Right to freedom of conscience and to freely hold opinions (including religious and political beliefs)

Right to security in one's privacy of home

Right to security in one's privacy of communication

Right to have one's honor and reputation protected

Right to liberty of movement (freedom of travel)

Right to freedom of residence

Right to obtain compensation in case of miscarriage of justice

Right not to be subjected to medical or scientific experiments without free consent

Right to marry (including right not to enter into marriage without giving free and full consent)

Right not to be deprived of property arbitrarily

Right to freedom of imprisonment due to debt

Right not to be arbitrarily exiled.

Right to enter a country

Right to leave a country

Right to freedom from incitement to discrimination, hatred or violence (to be protected through the prohibition by the state of the head advocacy of national, racial or religious discrimination, hatred or violence)

Right to conscientious objection (objection to perform compulsory military service for reasons of conscience or profound religious ethical and similar convictions)

Right to alternative service of a civil nature offered as alternative to compulsory military service)

POLITICAL RIGHTS

Right to freedom of expression (including press freedom)

Right to freedom of assembly

Right to freedom of association

Right to vote

Right to political participation (to campaign for and/or participate in party politics etc.,)

Right to free and periodic elections

Right to equal access to public service (including right to be elected to office)

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

- Right to work
- Right to choice of employment
- Right to own property
- Right to adequate standards of living
- Right to access to education
- Right to found a family
- Right to respect and protection of the family as the fundamental group unit of society
- Right to social security
- Right to insurance
- Right to social and medical assistance
- Right to adequate nutrition
- Right to social welfare benefits freedom indispensable for research
- Right to enjoyment of scientific advancements
- Right to protection of health (such as prevention and control by the state of epidemic diseases)
- Right to protection of morals

RIGHTS OF PROTECTED GROUPS

RIGHTS OF WORKERS

- Right to equal remuneration (equal pay for equal work)
- Right to collective bargaining
- Right to appropriate bargaining machinery
- Right to form and join trade unions
- Right (of trade unions to federate)
- Right to strike
- Right to paid leave
- Right to fair remuneration
- Right to limited working hours
- Right to weekly rest periods
- Right to advance notice of dismissal
- Right to equal opportunity for promotion safe and healthy working conditions
- Right to just working conditions
- Right to joint consultation between worker and employers
- Right to progressive reduction of working hours (limitation of working hours specifically in proportion to increase of productivity)
- Right to sheltered employment
- Right to vocational guidance
- Right to vocational training

RIGHTS OF WOMEN

- Right to equal remuneration
- Right to equality of the sexes
- Right to equality of the spouses
- Right to protection from exploitation
- Right to maternity leave of pregnant women
- Right to freedom from capital punishment of pregnant women

RIGHTS OF CHILDREN AND JUVENILES

- Right to a name
- Right (of children born out of wedlock) to enjoy equal rights as those born in wedlock
- Right to access to education (including free and compulsory elementary education)
- Right to free vocational training/ apprenticeship
- Right (of arrested juveniles) to rehabilitation
- Right to freedom from capital punishment
- Right to protection from neglect, cruelty and exploitation
- Right to protection through a minimum age for employment.
- Right to opportunity for play and recreation
- Right to social services

RIGHTS OF ALIENS

- Right to territorial asylum
- Right to freedom from deportation (not to be deported to a country where their right to life or personal freedom is endangered because of their race, nationality religion, social status or political opinion)
- Right to freedom from collective expulsion
- Right to family reunion (right to reunite one's dispersed family)

RIGHTS OF PRISONERS

- Right to be registered as a prisoner
- Right to be separated in categories (men should be detained separately from women, untried prisoners from convicted prisoners, persons imprisoned for debt from criminals, and young persons from adults.
- Right to individual accommodation
- Right to adequate ventilation, lightning, heating sanitary facilities and other necessitates for health and hygiene
- Right to clothing and bedding
- Right to adequate food and water
- Right to suitable exercise and sport
- Right to medical services
- Right to freedom from corporal punishment, and all cruel or degrading punishment.

Right to freedom from punishment, including disciplinary measures, except in accordance with law and regulations
Right to present request or complaints to authorities
Right to contact with family and reputable friends (by correspondence and receiving visits)
Right to be regularly informed of news in the outside world
Right to use of prison library
Right to practice religion
Right to retain personal property
Right to protection from public security
Right (of women prisoner) to be attended to by women officers only
Right (of insane and mentally abnormal prisoners) to be removed to mental institutions

RIGHTS OF AGING PERSONS

Right to freedom from capital punishment
Right to social security

RIGHTS OF DIFFERENTLY - ABLED PERSONS

Right to preferential employment from differently - abled persons
Right to occupational rehabilitation
Right to social resettlement

RIGHTS OF INDIGENOUS PEOPLES

Right to existence
Right to the respect of its national and cultural identity
Right to retain peaceful possession of its territory and to return to it if expelled
Right to self-determination
Right to freedom from genocide
Right to freedom from colonial or foreign domination
Right to freedom from apartheid
Right to a democratic government
Right to dispose of natural wealth and resources
Right to participate in international scientific and technical progress
Right to equal and just terms in international trade
Right to culture, such as the right to linguistic and cultural freedom, and the right to its artistic, historical and cultural wealth
Right to the conservation, protection and improvement of their environment
Right to make use of the common heritage of human kind (the high seas, the sea bed, the outer space)
Right to collective enjoyment of rights and freedoms
Right to linguistic and cultural freedoms
Right to freedom from discrimination.

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2. NATIONAL COMMISSION FOR WOMEN

Present Chairperson : Ms.Poornima Adwani
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3. NATIONAL SC/ST COMMISSION

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Present Chairperson : Justice Mohamed Shamim
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5. STATE HUMAN RIGHTS COMMISSION

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B. National Human Rights Institutions

PRINCIPLES RELATING TO THE STATUS OF NATIONAL INSTITUTIONS

Competence and responsibilities

A National institution shall be vested with competence to promote and protect human rights.

A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

3. A national institution shall, *inter alia*, have the following responsibilities:

To submit to the Government, Parliament and any other competent body, on an advisory basis, either at the request of the authority concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicise them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

Any legislative or administrative provisions, as well as provisions relating to judicial organisation, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

Any situation of violation of human rights which it decides to take up;

The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

To promote and ensure the harmonisation of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

To encourage ratification of the above mentioned instruments or accession to those instruments, and to ensure their implementation;

To contribute to the reports which States are required to submit United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations, and, where necessary, to express an opinion on the subject, with due respect for their independence;

To co-operate with the United Nations and any other organisation the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;

To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

To publicise human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness; especially through information and education and by making use of all press organs.

Composition and guarantees of Independence and pluralism

1.The Composition of the national institution and the appointment of its members; whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective co-operation to be established with, or through the presence of, representatives of;

Non-governmental organisations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organisations, for example, associations of lawyers, doctors, journalists and eminent scientists;

- Trends in philosophical or religious thought;

- Universities and qualified experts;

- Parliament;

- Government departments (if they are included, these representatives should participate in the deliberations only in an advisory capacity).

2.The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3.In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act

which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

METHODS OF OPERATION

Within the framework of its operation, the national institution shall:

Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;

Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;

Address public opinion directly or through any press organ, particularly in order to publicise its opinions and recommendations;

Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;

Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;

Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions);

In view of the fundamental role played by non-governmental organisations in expanding the work of national institutions, develop relations with non-governmental organisations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialised areas.

Additional principles concerning the status of commissions with quasi-jurisdictional competence

A national institution may be authorised to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organisations, associations of trade unions or any other representative organisations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;

Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

Making recommendations to the competent authorities; especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

ELEMENTS FOR THE EFFECTIVE FUNCTIONING OF NATIONAL INSTITUTIONS

Introduction

The Vienna Declaration and Program of Action adopted by the 1993 World Conference on Human Rights specifically recognised the right of each State to choose the framework for a national human rights institution which is best suited to its needs (see para. 30 in the above). This provision represents a clear acknowledgement of the fact that the great differences which exist between States will necessarily be reflected in the structures which they create to implement international human rights standards.

As pointed out earlier it is not the purpose of this handbook to ignore essential differences and to promote a prototype or model institution. Instead, its principal objective is to encourage and facilitate the development of appropriate and effective institutions. "Appropriateness" may be evaluated by reference to the extent to which the structure of a particular national institution takes account of national conditions and circumstances, including political, cultural and economic realities. "Effectiveness", on the other hand, can only ever be measured by reference to the extent to which a national institution positively affects the human rights situation of individuals and groups in a given society.

Appropriateness is a prerequisite for effectiveness. An inappropriate institution (in terms of jurisdiction, powers, or any other measures) will be an ineffective one. It is difficult, and perhaps not particularly useful, to lay down one set of rules for developing an appropriate institution. The present chapter will therefore not deal with the issue of appropriateness except to provide general guidelines within specific contexts. In their efforts to establish and develop appropriate, relevant institutions, States will benefit from the experience of others, particularly those in geographical, political, economic or cultural proximity.

The primary purpose of this chapter, therefore, is to identify those elements, which may be considered essential to the effective functioning of national institutions. The basic differences which exist between States and between institutions make it both difficult and un-wise to formulate inflexible guidelines for ensuring effectiveness. Nevertheless, the fact remains that, by definition, all national institutions share certain common goals. This commonality of objectives permits the following "effectiveness factors" to be identified as generally applicable:

Independence;

Defined jurisdiction and adequate powers;

Accessibility;
Cooperation;
Operational efficiency;
Accountability.

This chapter is divided into six further sections, each devoted to consideration of one of the elements set out above. In each section, an analysis is made of the way in which the subject factor can influence the effective functioning of a national institution. This analysis is followed by an examination of the mechanisms by which the element can be incorporated into both the structure and functioning of a national institution.

Independence

An effective national institution will be one which is capable of acting independently of government, of party politics and of all other entities and situations which may be in a position to affect its work. Independence is, however, a relative concept. The very fact that a national institution is granted a certain independence of action distinguishes it from government instrumentalities. On the other hand, independence for a national institution can never mean a total lack of connection to the State. The definition of a national institution includes the requirement that it be established by law. The founding law of a national institution will identify specific links with the State and define the limits within which the institution is to function. All institutions are necessarily restricted by their links with the State and by the need to conform to their legislative mandates. Other realities precluding full independence include reporting obligations and a lack of full financial autonomy. It is, in fact, this legislative basis, and the restrictions which accompany it, which distinguish a national institution from a non-governmental organisations.

At best, therefore, a national institution will enjoy a measure of qualified independence the implication of which must be considered contextually. The following discussions is based on the view that it is the functions of a national institution which are important in this regard. While the establishment of every institution will necessitate the imposition of certain limitations, restrictions on independence should not be such as to interfere with the ability of an institution to discharge its responsibilities effectively.

Independence through legal and operational autonomy

The founding law of a national institution will be critical in ensuring its legal independence, particularly its independence from government. Ideally, a national institution will be granted separate and distinct legal personality of a nature which will permit it to exercise independent decision-making power. Independent legal status should be of a level sufficient to permit an institution to perform its functions without interference or obstruction from any branch of government or any public or private entity. This may be achieved by

making the institution directly answerable to parliament or to the head of State. Other mechanisms for securing both legal and actual independence are discussed below.

Operational autonomy refers to the ability of a national institution to conduct its day-to-day affairs independently of any other individual, organisation, department or authority. An effective national institution will have drafted its own rules of procedure and these rules should not be subject to external modification. Nor should the recommendations, reported or decisions of the institution be subject to review by another authority or entity, except where specified in the founding legislation.

The legal authority to compel cooperation of others, particularly government agencies, is another prerequisite for full operational autonomy of a national institution which is vested with the power to investigate complaints. The founding legislation of a national institution may usefully set out the circumstances in which government entities are compelled to cooperate with the institution. Such legislation could, for example, state that all officials and public authorities are to facilitate the work of the institution, including answering requests for information and assisting in investigations.

2. Independence through financial autonomy

The link between financial autonomy and functional independence is a strong one. A national institution with no control over its finances will be dependent on the government ministry or other body which exercises such control.

Where possible, the source and nature of funding for a national institution should be specified in its founding legislation. Drafting of such provisions should be undertaken with a view to ensuring that the institution will be financially capable of performing its basic functions. An institution may, for example, be entrusted with responsibility for drafting its own annual budget, which would then be submitted directly to parliament for approval. The role of that body in the institution's fiscal affairs would then be limited to a review and evaluation of financial reports.

Regardless of the particular strategy adopted, it will generally be advisable to ensure that the budget of a national institution is not linked to the budget of a government department or ministry. Furthermore, the budget of the institution should be "secured", so that no official decision or action of the institution will affect its budget allocation. This will be especially important if the institution has a complaints procedure or the capacity to advise government. In such circumstances, a financial connection between the institution and a particular ministry or department may give rise to a damaging conflict of interests.

Financial autonomy must be accompanied by adequate, continuing funding. This matter is considered in detail under "operational efficiency" (see paras 121-124 below).

Any institution can only ever be as independent as the individuals of which it is composed. The granting of legal, technical and even financial autonomy to a national institution will be insufficient in the absence of specific measure to ensure that its members are, individually and collectively, capable of generating and sustaining independence of action.

The terms and conditions applicable to members of national human rights institutions should be specifically set out in the founding legislation. These terms and conditions should address the following issues:

- Method of appointment;
- Criteria for appointment;
- Duration of appointment;
- Whether members may be re-appointed;
- Who may dismiss members and for what reasons;
- Privileges and immunities.

The method by which members of national institutions are appointed can be critical in ensuring independence and, for this reason, consideration should be given to entrusting the task to a representative body such as parliament. The founding legislation of the institution should specify all matters relating to method of appointment, including voting and other procedures to be followed. Criteria for appointment should set out the prerequisites (including nationality, profession, qualifications, etc.) for appointment to a national institution. With regard to duration of appointment, it is generally accepted that senior officials of national institutions should be guaranteed, fixed-term appointments which are not of short duration. Among existing institutions, reappointment for an additional term is generally permissible.

Powers of dismissal are closely related to the independence of a national institution. To avoid compromising independence, the founding legislation should specify, in as much detail as possible, the circumstances under which a member may be dismissed. Naturally these circumstances should relate to ascertainable wrongdoing of a serious nature. Failure to participate in the work of the institution may also be considered for inclusion as a ground for dismissal. The body or individual capable of removing a member from office should be specified. In view of the nature of the activities of a national human rights institution, it is preferable that power to dismiss be vested in parliament or at an equivalently high level.

The granting of certain privileges and immunities to members of national institutions is another legal means of securing independence. Privileges and immunities may be especially important for institutions which are granted the authority to receive and act on complaints of human rights violations. Members of a national institution should enjoy

immunity from civil and criminal proceedings in respect of acts performed in an official capacity.

The composition of a national institution can be further guarantee of its independence vis-à-vis the pub-authorities and should reflect a degree of sociological & political pluralism. True pluralism requires the greatest diversity possible.

The Paris Principles relating to the status of national institutions (see paras. 25-27 above) emphasize the importance of pluralism in the composition of national institutions. Specifically, the Principles call upon national institutions to develop procedures which ensure the representation of all relevant social forces, in particular non-governmental organisations, trade unions, professional organisations and trends in philosophical and religious thought. Representative nature and accessibility also be enhanced by including parliamentary or government officials in an observer or advisory capacity.

A genuine representative nature requires respect of diversity as well as pluralism. The composition of a national institution should as far as possible, reflect the social profile of the community within which it operates. National institution composed solely of men, for example or of one particular ethnic group, is unlikely to select the diversity of society and cannot, therefore, be regarded as truly representative.

Representative composition will, of course, be difficult to achieve in situations where a national institution is composed of one person, as is the case of many devices of the ombudsman. Institutions adopting a commission-like structure or multiple-member ombudsman offices, however, are generally composed of a number of individuals and therefore in a better position to this instrument of independence fully and effectively.

Defined jurisdiction and adequate powers:

1. Subject-matter jurisdiction

An effective national institution will possess early defined subject-matter jurisdiction, Such jurisdiction will usually be set out in its founding legislation. Jurisdiction can be ascertained, at least partially, from actions. A particular national institution may, for example, be established to educate about human rights; to list government in legislative matters; and to receive the act on complaints of human rights violations. These are the areas in which that institution may exercise commence and are therefore part of its subject-matter jurisdiction.

However, while they are generally indicative, it will not always be possible to ascertain the true nature of institution's subject-matter jurisdiction solely from an emanation of its functions. Jurisdiction also involved consideration of the precise legislative basis of specific actions. An institution may, for example, be restricted discharging its functions only is so far as activities will be related to rights protected in the constitution. An ..er institution may have its legislative basis in international human rights instruments to which the State is

a party. This latter approach offers certain distinct advantages. A national institution with a charter based on international instruments will be well placed to oversee domestic implementation of those standards; to identify gaps in protective legislation; and to provide valuable assistance in the process of reporting to treaty bodies (see paras 211-214 below).

Precisely defined subject-matter jurisdiction serves a number of concrete purposes. First, the process of elaborating such precise jurisdiction can be extremely useful for a Government. The establishment of a carefully planned national institution presupposes detailed consideration of priorities and of ways in which those priorities could be most constructively met. An institution with a broad or vaguely defined subject-matter jurisdiction will often be less strong and less effective than one which operates within identifiable limits. The possibility of straying from its central purpose or of being persuaded to take up less important tasks will always be greater for the institution which lacks a clearly defined mandate.

Related to subject-matter jurisdiction is the question of the categories of individuals or entities on which a national institution may focus in the course of its work. These categories will generally be related to the functions which a particular institution is established to perform. For example, an ombudsman-type institution responsible for overseeing fairness and legality in public administration will generally restrict its attention to government departments, government instrumentalities and civil servants. By contrast, an institution with broader function may, in addition to focusing on government, extend its range to include individuals, public or private companies and organisations.

Finally, a defined structure offers distinct benefits to those individuals and groups which a national institution was established to assist and protect. Cultivating an informed constituency is itself an essential element of effectiveness. This process will generally be easier for national institutions which are able to point to specific, ascertainable objectives.

Avoiding conflicts of jurisdiction

It may be the case that the subject-matter jurisdiction of a national institution will at times overlap with the jurisdiction of another entity. It is necessary to ensure that such technical conflicts do not obstruct the effectiveness of either body. Clarity of purpose during the pre-establishment process is the easiest way to prevent conflicts between similar institutions. A Government intending to create a national institution should consider carefully the human rights, law reform and administrative review structures which already exist. The purpose of a new national institution is to perform tasks which cannot be (or are not being) performed by others. The new institution should therefore be structured in such a way as to complement existing bodies, not to compete with them.

Where a national institution is empowered to receive and act on complaints of human rights violations, its jurisdiction may coincide with that of the judiciary. Coincidence will be especially likely if human rights legislation has been enacted or if the State possesses a judicially enforceable bill of rights. In such situations, the individuals or groups alleging a violation may be expected to resort to national human rights institutions as an alternative dispute-resolution mechanism. As discussed in chapter V below, a properly functioning complaints machinery will often be utilised in reference to a court for reasons of accessibility, flexibility and rapidity of action, availability of expertise, and lower relative (or no) cost. However, regardless of its strengths, a national institution may only complement – never replace – a properly functioning judiciary, and the final jurisdiction belongs with the courts. A complainant does not waive his or her right to bring a judicial action by invoking the procedure of a national human rights institution. For this reason, coincidence may be common, but conflicts should not arise.

Furthermore, in some cases, the matter at hand may not involve a justiciable claim under national law. In these instances, the availability of complaints procedures of national human rights institutions is particularly important.

An increasing number of States are choosing to create two or more bodies which may be considered national human rights institutions. A human rights commission, for example, may be set up alongside an office of the ombudsman. A series of commissions are sometime created within a single State to deal with different human rights concerns or to address the problems facing specific vulnerable groups. While an increase in the number of national institutions may generally be considered a positive development, it is important that potential conflicts and duplication at the national level between such similar bodies are avoided. Such conflict and duplication may be avoided by ensuring that each institution is given distinct responsibilities which do not overlap. Inter-agency referral is another way of strengthening complementarity, as are the development and maintenance of good communications between similar institutions. Such cooperation may be encouraged by a provision in the founding legislation of an institution mandating it to establish and maintain close contact with similar bodies in order to promote common policies and avoid conflict in cases of overlapping jurisdiction.

Adequate powers

Power, in this context, refers to the ability of a national institution to perform a certain act or to compel such performance by an individual or other entity. Power must be enforceable. The powers of a national institution should be established by law. Provision should also be made for the imposition of legal or administrative sanctions when the free exercise of a national institution's powers is obstructed.

It is not useful to set out a list of basic or even minimum powers with which a national institution should be vested. Power can only ever relate to purpose. For a national institution, excessive powers may be as damaging as insufficient powers. A national institution must be granted adequate powers to permit the effective discharge of its responsibilities. In the first instance, an evaluation of the adequacy of a national institution's powers should be made with reference to the functions which it was established to perform.

Further information on adequate powers may be found in chapters III to V under the separate function headings.

Accessibility

An effective national institution will be one which is readily accessible to the individuals and groups it is established to protect or whose interests it exists to promote. Accessibility cannot be achieved solely through structural measures but will be influenced by all aspects of an institution's organisation and procedure. An institution which is perceived as responsible and effective and which has the public trust will automatically enhance its own accessibility. An institution which devotes attention to cultivating relationships with individual clients and with other relevant institutions and departments will be similarly well regarded.

The following practical matters should also be taken into account when attempting to improve accessibility.

Awareness of the institution

A national institution cannot be accessible to a constituency which is ignorant of or ill-informed about its existence and functions. Like any other public or private body offering a service, the institution should be especially careful to make itself known to those who are most likely to benefit from what it can offer. The institution must be aware that the individuals or groups who are most vulnerable to human rights violations will quite often be difficult to reach through standard channels of communication. These same persons may in fact be reluctant to voice their concerns to an "official" body. A national institution must therefore be willing to develop creative means of ensuring its visibility among these particularly vulnerable groups and of gaining their trust.

Additional information on strategies for disseminating knowledge of national institutions may be found in chapter III below, which deals with promoting and educating about human rights.

Physical accessibility

In addition to promoting widespread knowledge of the institution itself, efforts should be made to ensure that a national institution is physically accessible to its constituency. Many institutions maintain only one office in a major population centre. While often the

result of unavoidable financial constraints, this practice may obstruct accessibility for those living in remote areas or those who are otherwise unable to travel. A number of national institutions have sought to improve physical accessibility by decentralizing. Regional or local offices may be established to provide a full range of services or to act as a communication channel or “consultation point” between the population of the region and the headquarters of the institution.

Despite obvious advantages, decentralization can be an expensive solution to the problem of inaccessibility. A national institution may choose instead to recruit field officers to serve in different regions. In addition to performing tasks such as information dissemination and witness interviewing, field officers may also fulfil a useful monitoring function – should this a part of the institution’s mandate.

A national institution must be aware of the impact of its own working methods on physical accessibility. A complaints procedure which requires physical attendance of complainants and witnesses, for example, may be inaccessible to a great part of the population. By developing rules of procedure which obviate the need for personal attendance, a national institution can immediately increase its physical accessibility.

Accessibility through representatives composition:

The composition of a national institution should be such as to maximize its accessibility as well as its independence. In order to achieve this goal, composition must be representative of all components of civil society, including those whom the institution has been established to serve. Additional comments on composition may be found above (paras 82-85).

Cooperation

106. According to the Paris Principles relating to the status of national institutions (see paras. 25-27 above) national institutions should “cooperate with the United Nations and any other organisation in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of promotion and protection of human rights”. This principle was included in recognition of the fact that an effective national institution will not function alone but will establish and strengthen cooperative relationships with a wide range of other organisations and groups. Two such groups have already been mentioned in this chapter: similar human rights institutions and the judiciary. Both often work to promote the same patterns of rule observance as a national institution. Cooperation and collaboration will reinforce an institution’s own initiatives, thereby enhancing its overall effectiveness.

As the Paris Principles recognise, a national institution may also develop useful cooperative relationships with the organisations discussed in the following paragraphs.

Cooperation with non-governmental organisations:

A national institution should establish and maintain close contact with non-governmental organisations (NGOs) and community groups which are directly or indirectly involved in the promotion and protection of human rights. There are several important reasons for this. First, the support of these bodies can be extremely useful in enhancing the visibility of an institution by informing the general public of its existence (see paras. 150 –163 below). Non-governmental organisations are often behind efforts to establish and strengthen national human rights institutions. Increasingly, NGOs are involved in the actual process of drafting laws establishing national institutions. It is also not uncommon for NGO representatives to be formally attached to an institution in an advisory or even decision making capacity. These links should be fully utilised in order to highlight the institution and secure community support for its work.

A second, practical reason for national institutions to cooperate with NGOs is that the persons most vulnerable to human rights violations are often unwilling to approach any official body directly to lodge a complaint or to seek redress. In such situations, non-governmental organisations can serve as intermediaries between victims of violations and national institutions. NGOs can also provide the support and information necessary to encourage personal contact.

Thirdly, non-governmental organisations possess certain skills and characteristics which make them ideal partners in efforts to develop a national climate conducive to respect for human rights and fundamental freedoms. Because of their greater operational flexibility, NGOs will often be able to provide a national institution with detailed information on the domestic human rights situation and on structural or legislative inadequacies, as well as alert it to social and other changes. This information can be used to inform and guide the institution's own work in an effort to maximize relevance and effectiveness. Information may be acquired on an ad-hoc basis, or the process may be institutionalized through regular (formal or informal) consultations.

Finally, non-governmental and community organisations can be recruited as useful partners for individuals projects and programs. Education, training and information dissemination are especially suitable areas for cooperation and collaboration. An organisation with special expertise may even be recruited by a national institution routinely consult relevant NGOs when undertaking research or investigation.

Cooperation between national institutions

The phenomenon growth of national institutions in recent years has led to a significant expansion in opportunities for inter-institutional cooperation.

Many cooperative relationships are designed to facilitate the provision of assistance from a relatively strong, developed institution to a newer or smaller one. Actual methods vary according to the specific objectives of cooperation. A State in the process of creating a new institution, for example, may call upon an established institution to provide practical support and guidance in the drafting of legislation; in the recruitment and training of personnel; and in the elaboration of effective working methods. The decision to develop a complaints mechanism within an existing institution may be made following consultations with other national institutions which possess such capacity and are therefore able to provide advice and assistance.

Many national institutions share similar goals, and cooperation is often a mutually reinforcing experience. National institutions may decide to cooperate on a practical level by conducting joint activities and collaborating in studies or research projects on topics of mutual concern. Information exchange is another mechanism of practical cooperation, which can be implemented in a number of different ways. Institutions may decide to convene regular meetings in order to compare experience and methods of work, to exchange reports and publications and perhaps even to address issues of common interest. Two or more institutions may decide to develop programme of regular staff exchanges in an effort to institutionalize cooperation and reinforce the flow of information. At the second International workshop on National Institutions for the promotion and Protection of Human Rights, held at Tunis in December 1993, representative of national institutions established a Coordinating Committee composed of national institutions from Africa, Asia, Australia, Europe, Latin America and North America. The Coordinating Committee was entrusted with the task of ensuring follow-up to the recommendations adopted at the Tunis meeting as well as maintaining regular contacts with the Centre for Human Rights in an effort to coordinate initiatives and develop a point programme of action. It was also given the task of convening the third International workshop on National institutions for the promotion and Protection of Human Rights, which is scheduled to take place in the Philipines in 1995. The decision to established in coordinating committee was welcomed by the Commission on Human Rights in its resolution.

Cooperation with intergovernmental organizations

National institutions can increase their effectiveness by drawing on the resources and expertise available within intergovernmental organizations.

In addition to providing resources and expertise however intergovernmental organizations can be useful in facilitating contacts between national institutions. The United Nations, as noted above, regularly convenes meetings of representatives of national institutions for the purpose of encouraging the exchange of information and experience. National institutions

are often present (in an official or unofficial capacity) at many of the international meetings of human rights bodies held each year. The opportunity presented by these meetings can be and has been utilized by national institutions to hold their own gatherings.

Additional practical suggestions on strengthening contacts with intergovernmental organizations are made throughout this handbook (see, especially, annex II)

Operational efficiency

A national institution like any other organizations must take care to ensure that its methods of work are as efficient and effective as possible. Operational efficiency touches all aspects of an institution's procedure, to the implementation of regular performance reviews. In larger bureaucracies a measure of inefficiency may be inevitable and may not substantially interfere with the achievement of goals. As a general rule however national human rights institutions are not large organizations and are often understaffed, under-resourced and overburdened. In such a situation, operation inefficiency may well have a serious impact on the capacity of the institution to discharge its responsibilities adequately.

Operational efficiency is a broad and complex topic, which cannot be addressed fully within the confines of this handbook. The following observations are consequently far from exhaustive and their objective is to highlight certain aspects of operational efficiency particularly relevant to the type of institution under discussion. It should be noted at this point that external expertise can often be extremely useful to national institutions interested in establishing and implementing efficient administrative and management policies.

Adequate resources

It is evident that, regardless of its specific responsibilities a national institution will have certain fundamental requirements (e.g. staff and premises) which must be fulfilled before it can even begin operating. Sufficient human rights resources and adequate, continuing funding should be guaranteed by law.

In addition to jeopardizing efficiency, inadequate funding or insufficient personnel can also damage an institution's external credibility. The motives of a Government, which establishes and then fails properly to staff and finance a national institution, may be called into question. This in turn can seriously harm public perception of the institution as an independent, effective body.

The issue adequate staffing and funding levels is not, however, merely one of political will. The granting of comprehensive responsibilities to national institutions presupposes the availability of substantial financial and human resources. It is no coincidence that most of the bigger, influential human rights institutions have been established in developed countries of Europe, North America and Australasia. Government experiencing severe economic difficulties may be forced to establish small institutions with limited mandates because they are unable to afford larger, more powerful ones.

It is unlikely that any national institution will operate with excess staff or with a comfortable budget surplus. For this reason, all institutions should endeavor to develop methods of managing scarce resources. The effective management of resources requires a strict setting of priorities and adherence to a fixed and approved budget plan. A National institution may also usefully and technical support. Annex II to this handbook contains a list of organizations, which may be able to provide national institutions with assistance in capacity building, as well as in regard to specific projects or programmes.

Working methods

A national institution will almost invariably be required to establish its own working methods and rules of procedure. Such rules may govern any number of matters, including criteria for the establishment of working groups, procedures to be followed for investigating complaints, and the timing and frequency of staff meetings. The objective of developing and promoting adherence to certain methods and procedures should always to maximize operational efficiency. Rules established over personnel convenience or in unreflecting accordance with tradition are likely to be respected and may obstruct efficient functioning by creating unnecessary bureaucracy.

Personnel matters

The efficiency, representative nature and immateriality of individual staff members can have a crucial affect on the operation of institutions as well as on its public image. A national institution should be given the power to recruit its own support and training of personnel, it may be useful to consider the following elements:

1. Basic functions
2. Job descriptions;
3. Personal qualifications;
4. Candidate profiles:
5. Recruitment and selection;
6. Training;
7. Performance assessment

the basic functions of a national institution all provide the foundation for development of detailed – descriptions setting out the task to be performed. These descriptions should then be supplemented by the necessary qualifications. The result should form—foundation of candidate profiles. For examples, a national institution charged with advising government on matters relating to human rights may seek to recruit a person to analyse existing and draft legislation in relation to domestic and international standards. This function becomes the foundation of a job description. The necessary personal qualifications which may be derived from this description include: a legal background, editing skills, experience in parliamentary

drafting procedures, analytical ability, etc. a candidate profile will resource these qualifications to the functions to be performed.

It is important that the requirement and selection person process be based on candidate profiles and be decided by established procedures; that it be conducted openly; that each vacancy be advertised widely and publicly and that national institutions set an examples in the non-discriminatory hiring of staff. The importance of pluralism and diversity should be kept in mind at all ones. These matters are especially important with respect to recruitment, selection and appointment of senior staff members. A national institution's credibility can be either enhanced or diminished in direct proportion to the level of public esteem accorded its leaders.

A national institution will be called upon to perform tasks, which require certain unique skills. Training of both new and established staff will therefore be an integral aspect of the personnel policy of an efficient institution. Training is a function-specific activity. By virtue of the common function to promote human rights, all national institutions will generally require staff to be familiar with relevant international and domestic human rights standards. The maintenance of an acceptable level knowledge in this area may entail in-house continuing education programmes. An institution involved in training and educational activities itself may seek to train its staff in drafting programmes, selecting experts and conducting seminars. The efficient investigation of human rights seminars. The efficient investigation of human rights violations requires staff trained in special investigatory skills, including witness interviewing and follow up procedures. A national institution with the capacity to advise and assist government may wish to provide staff with training in negotiating techniques and report writing.

An effective national institution will develop and implement procedures for regular assessment of staff performance. A personal path for development of knowledge and skills may be drafted for each staff member and assessments conducted on the basis of progress achieved close monitoring of individual staff performance is also a useful means by which to evaluate the effectiveness of internal working methods and procedures. An under performing workforce may be indicative of other problems existing within the institution which require attention and correction.

Review and evaluation

Most national institutions will be obliged to issue regular detailed reports of their activities. Such reporting is a matter of accountability and is therefore dealt with in section G below. Review and evaluation are quite different, referring to self-examination undertaken by an institution with a view to improving its effectiveness.

Constructive review and evaluation presuppose the existence of specific goals. While objectives will often be set and evaluated externally, this should not prevent a national

institution from determining its own standards, which then become the criteria against which results are measured. Standards will most usefully relate to individual performance of staff members, as well as to more general goals and objectives for the institutions as a whole. In regard to a specific activity or programme component, a national institution may conduct reviews based on the goals it has set for that activity, as well as the expectations of the individuals or groups presumed to derive some benefit from the activity. A training course, for examples, may set out to improve the technical capacity of the target audience to respect human rights while discharging their professional responsibilities. The course itself will be formulated to achieve this objective taking into account the (previously ascertained) expectations of participants. In conducting its immediate post-course review, the institution will attempt to ascertain whether the course lived up to mutual expectations. Subsequent reviews will be conducted in order to determine whether the specific objective of the course –to “improve technical capacity to respect human rights”-was, in fact, achieved. The results of both sets evaluations will be utilized by the institution to improve future training activities. Evaluation of an entire programme or of a specific function can be conducted along similar lines. A national institution seeking to review and evaluate its information programme will be required to do so in relation to the goals which have been set for that activity. One goal may be to improve the visibility of the institution itself. The extent to which this goal has been achieved maybe measured by reference to several different factors, including the quantity of information disseminated and the number of inquiries or requests received.

As these examples illustrate, the actual process of review requires input of accurate, adequate information acquired both externally and internally. External information will come from the constituency of a national institution. Internal information will be based on an assessment of actual processes in relation to the institution’s own expectations.

G. Accountability

A national institution is not an end in itself and can only be as strong or as humble as its achievements. Institutional effectiveness requires the development of a system of accountability based on specific, ascertainable goals.

In accordance with its legislative basis, a national institution will invariably be legally and financially accountable to the Government and/or parliament. This aspect of accountability is most usually deals with through reporting obligations. National institutions are generally required to submit detailed reports of their activities to parliament or a similar body for consideration. In view of their essential link with accountability, reporting requirements should be specified in the founding legislation of the institution and include as much detail as possible on the following points:

Frequency of reports;

Possibility of submitting ad hoc, special reports;

Issues to be reported on;

Procedure for examining reports.

A national institution should also be directly accountable to its clients, i.e., to the constituency which it was established to assist and protect. Public accountability can be achieved in a number of ways. A national institution may, for example, be compelled to conduct public evaluations of its activities and to report on the results. All official reports of the institution should, of course, be subject to open scrutiny and comment. By encouraging public debate, a national institution can motivate internal excellence as well as ensure that the public is aware of the institution and of the standards of achievement it has been set. Transparency, through publication and dissemination of reports, will inevitably enhance an institution's external credibility.

The National Human Rights Commission of India

The national Human Rights Commission (NHRC) was established on Protection of Human Rights Act, 1993, and is in conformity with the 'Paris principles' adopted at the first international workshop on national institutions for the promotion and protection of human rights held in Paris in October, 1991, and endorsed by the General Assembly of the United Nations in Resolution 48/134 of December 20, 1993. The commission is an embodiment of India's concern for the promotion and protection of human rights.

Definition of Human Rights

Section 2 (d) of the protection of Human Rights Act, 1993 (hereinafter referred to a 'the Act'), defines 'human rights' as rights relating to life, liberty, equality and dignity of the individual, guaranteed by the Constitution, or embodied in the international covenants, and enforceable be courts in India.

The international covenants included in the mandate are the 'International Covenant on Civil and Political Rights; and the 'International Covenant on Economic, Social and Cultural Rights' adopted by the General Assembly of the United Nations on December 16, 1966.

Certain Distinctive Features of the NHRC

The NHRC has certain distinctive features not enjoyed by other Commissions/Regulatory bodies/Autonomous institutions.

Composition

The statute lays down the high qualifications that the members are required to have/ to be eligible to be appointed to the Commission. Section 3 of the Act lays down that the Commission shall consist of:

- A chairperson who has been a Chief Justice of the Supreme Court of India.
- One member who is, or has been, a Judge of the Supreme Court of India
- One member who is , or has been, the Chief Justice of a High Court
- Two members to be appointed from among persons having knowledge of, or practical experience in, matters relating to human rights.

The chairpersons of the National Commissions mentioned below are 'ez-officio' members of the Commission:

- The national Commission for Minorities.
- The national Commission for the Scheduled Castes and Scheduled Tribes.
- The national Commission for Women.

Appointment

The other unique feature of the Commission lies in the level of the members of the Committee, on the basis of whose recommendations the Chairperson and members of the Commission shall be appointed.

Section 4 of the Act states that the Chairperson and the Members of the Commission are appointed by the President of India, on the recommendations of a Committee consisting of :

- The Prime Minister; Chairperson
- The speaker of the House of the People: Member
- The Minister-in-charge of the Ministry of Home Affairs in the Government of India: Member
- The leader of the Opposition in the House of the People: Member
- The leader of the Opposition in the Council of States: Member
- The Deputy Chairman of the Council of States; Member

The high level and politically balanced quality of the Committee, together with the statutory requirements relating to the qualifications of the Chairperson and members of the Commission, result in the NHRC enjoying a high degree of credibility.

Administrative functioning of the Commission

There are five divisions in the Commission. Though each of these have been entrusted specific tasks, the Divisions work in close consultation and coordination with each other.

These are:

- The Administration Division.
- The Law Division.
- The Investigation Division
- The Policy Research, Projects and Programmes Division (PRP&P Division)
- The Information and Public Relations Division

The Commission has a Library and a Computer Cell.

The chief executive officer of the Commission is the secretary-general, an officer of the rank of secretary to the Government of India. The secretariat of the Commission works under the general supervision of the secretary-General.

The Administrative Division: This division is headed by a joint secretary, assisted by under secretaries, section officers and other secretarial staff, and functioning under the overall guidance of the secretary-general. This division looks after the administrative, personnel, establishment and cadre matters of the staff and other ministerial staff.

The General Section of the Division takes care of housekeeping jobs.

The Hindi section of the Commission arranges for the translation of complaints from Hindi and other Indian languages into English, as well as the normal Hindi work of the Commission, including the translation of the monthly Newsletters and the Annual reports.

The Law Division : This Division headed by a senior judicial officer. The post has a scale of Additional Secretary to the Government of India.

The division services the Commission in the receipt and disposal of complaints relating to human rights violations.

The registrar(Law) is assisted by a Joint Registrar, Assistant Registrars and others.

The investigation Division: When the Commission requires an independent enquiry to be conducted, it is effected through the Investigation Division, which is headed by an officer of the rank of Director General of police. He is assisted by an Inspector General of police/Deputy Inspector General of police, Superintendents of Police, Deputy Superintendents of police, Inspectors of Police and Constables. The division also assists the Commission in examining complaints, in scrutinising reports received from the police and other investigation agencies and in looking into reports of custodial violence or other misdemeanors.

The Policy Research, Projects and Programmes Division: Whenever the commission, on the basis of its hearings, deliberations or otherwise, arrives at a conclusion that a particular subject is of generic importance, it is converted into a project/programme to be dealt by the PRP&P Division.

The division also undertakes and promotes research in human rights.

The PRP&P Division is headed by the Joint Secretary and consists of a Director, an Officer on Special Duty (Research), a Senior Research Officer, Consultants and secretarial staff.

The information and Public Relations Division: The division disseminates information relating to the activities of the Commission, through the print and electronic media, and is headed by an Information and Public Relations Officer, Who also functions as the editor of the monthly Human Rights Newsletter. The Division also has an Assistant Information Officer.

The Library, besides serving the Commission, is also a resource centre used by interns, research workers and NGOs. It contains a collection of books and a variety of documents of the United Nations, AIR manuals, Supreme Court Reports, Government Reports, NGO Bulletins, etc.

The Computer Cell of the Commission functions in close coordination with the National Informatics Centre (NIC). It has developed a user-friendly package for monitoring the status of complaints, from receipt to final disposal.

Other Functionaries

Personnel serving in the Commission are limited in number, presently around 290. However, the reach of the Commission is greatly enhanced by the appointment of Special Rapporteurs/special representatives, and the constitution of core groups.

Special Rapporteurs/Special Representatives

Special Rapporteurs/Special Representatives are very senior officers who, prior to their retirement, have served as Secretaries to the Government of India or Directors General of Police. They are either given a subject, or a group of subjects, to deal with such as Bonded Labour, Child Labour, Custodial Justice, Dalit Issues, Disability, etc., or have territorial jurisdiction.

Core Groups

Core Groups consist of very eminent persons, or representatives of bodies, in their respective fields in the country, who voluntarily agree to serve, in an honorary capacity, as members of such groups. Presently there are Core Groups on:

- Public Health
- Disability
- NGOs
- Legal Issues

Functioning of the Commission

The Commission has a wide mandate including civil and political rights, economic, social and cultural, and group rights.

Section 12 lays down that the Commission shall perform all or any of the following functions, namely:

- Inquiring, suo motu, or on petitions, presented to it by victims, or any persons on their behalf, into complaints of: violation of human rights or abetment thereof, or negligence in the prevention of such violation, by a public servant.
- Intervening in any proceeding involving any allegation of violation of human rights pending before a Court, with the approval of Such Courts.
- Visiting, under intimation to the state Government concerned, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, to study the living conditions of the protection of human rights, and recommending measures for their effective implementation.
- Reviewing the factors, including acts of terrorism that inhibit the enjoyment of human rights, and recommending appropriate remedial measures.
- Studying treaties and other international instruments on human rights, and making recommendations for their effective implementation.
- Undertaking and promoting research in the field of human rights.
- Spreading human rights literacy amongst various sections of society and promoting awareness of the safeguards available for the protection of these rights, through publications, through media, seminars and other available means.

- Encouraging the efforts of non-governmental organisations, and institutions working in the field of human rights.
- Undertaking such other functions as may be considered necessary for the promotion of human rights.

Complaints Redressal

Filing and Processing

A complaint to the NHRC made in Hindi, English or any other language recognised by the constitution of India, and may be sent through post, telegram, fax or e-mail. Urgent complaints can also be lodged, beyond the working hours of the Commission, through mobile number 98-102-98900. No fee is charged on complaints. The complainants can ascertain the status of their complaints through the Commission's website (<http://WWW.nhrc.nic.in>)

Complaints are processed by the Law Division of the Commission. On receipt of a complaint a case number and a file number is assigned to it. Thereafter details of the complaint are entered into the, and an acknowledgment is mailed to the complainant. The complaints are later placed before a single-member bench, or before the Full Commission for directions. If any complaint requires an investigation to be conducted by the Commission, this is done by the Investigation Division of the Commission.

The commission either:

- Dismisses complaints 'in limini' ordinarily if these do not fall within the purview of the Commission, that is, if the matter is sub judice or pending before another commissions; if the event of the complaint occurred more than a year prior to the lodging of the complaint; if the complaint is vague, anonymous; or if the complaint relates to a service matter.
- Disposes cases with directions to the authorities concerned to take necessary action.
- Issues notices and seeks detailed reports from the authorities concerned, and issues appropriate directions/recommendations thereafter.

Powers Relating to Inquires

The commission is vested with wide-ranging powers relating to inquires and investigation under 13 of the Act. While inquiring into complaints under the Act, the Commission has all the powers of a Civil trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters.

- Summoning and enforcing the attendance of witnesses and examining them on oath.
- Discovery and enforcing of any document
- Receiving evidence of affidavits.
- Requisitioning any public record or copy from any court or office.

- Issuing commissions for the examination of witnesses or documents
- Any other matter that may be prescribed

Inquiry into Complainants

As mentioned earlier, the commission while inquiring into complaints of violations of human rights may under section 17 of the Act:

- Call for information or reports from the Central or State Governments or any other authority or organisation subordinate thereto, within such time as specified by it.
- If the information or reports are not received within the time stipulated by the Commission, it may proceed to inquire in to the complaints.
- If, on the receipt of information or reports, the Commission is satisfied that no further inquiry is required or that the required action has been initiated or taken by the Government or authority concerned, it may decide not to proceed with the compliant, and inform the compliant accordingly.

Steps After Inquiry

After completion of the commission may, under section 18 of the Act, take any of the following steps:

- The commission may, either on its own motion, or on receipt of a petition, seek a report from the Central Government.
- After receipt of the report from the Central Government, the Commission may decide either no to proceed with the compliant or, may make recommendations to the Government.
- The central Government is required to inform the Commission of the action taken on the recommendations within three months, or such further time, as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission.

Procedure in Respect of Armed Forces

While dealing with complaints of violation of human rights by members of the armed forces under section 19 of the Act:

- The commission may, either on its own motion, or on receipt of a petition, seek a report from the Central Government.
- After receipt of the report from the Central Government, the Commission may decide either no to proceed with these compliant or, may make recommendations to the Government.
- The central Government is required to inform the Commission of the action taken on the recommendation within three months, or such further time, as the Commission may allow.

- The commission shall publish its report, together with its recommendations, made to the Central Government and the action taken by the Government on such recommendations.
- The Commission shall provide a copy of the report published to the petitioner or his representative.

Research Projects and Programmes

As mentioned earlier whenever the Commission on the basis of its hearings deliberations or otherwise arrives at a conclusion that a particular subject is of generic importance, it is converted into a project/programme Division (PRP&P Division)

The division has over 50 projects/programmings. The Commission in dealing with projects/programmes functions as a catalyst. It normally holds meetings with officers of the departments/organisations concerned, so that there is focused attention on the problem in question. It thereafter coordinates, orchestrates and monitors the plan of action and implementation. Details of some of the important programmes are given below:

Monitoring of Projects/Organisations under the reference of the Supreme Court

As part of its duties, the Chairperson, members, special Rapporteurs/ Representatives and officers of the Commission inspect jails and make recommendations.

- **Custodial Deaths/Torture/Encounters**

The Commission has issued guidelines to all States and Union Territories, that all deaths in Police and Judicial custody should be promptly reported, within 24 hours of the occurrence, to the Commission. The commission has further directed that in cases of death in police custody, the post-mortem is to be video-graphed, and the video tape sent to the Commission. These measures enable the Commission to exercise checks on custodial torture and violence by the Police and other public servants.

The Commission has also issued detailed guidelines to all States and Union Territories on the procedure to be adopted by law enforcement agencies in cases of deaths in encounters.

On the direction of the Commission, Human Rights Cells have been constituted in the offices of the Directors General of Police in all States. These Cells are headed by officers of the rank of Additional Directors General / Inspectors General of Police, who act as links between the Commission and the State police. The main responsibility of the State Human Rights Cells and the Nodal Officers is to expeditiously process complaints sent by the Commission to the State Government, for enquiry and appropriate action, and also to be sensitise police personnel in matters relating to human rights.

The Commission has also been involved, together with other bodies, in various programmes for training and sensitisation of police personnel.

- **Penal Reforms**

The Commission recommended the introduction of a new Prisons Act to replace the Prisons Act, 1894, with a view to incorporating modern trends in penological thinking. The Commission also suggested the adoption of a model All India Jail Manual. Continuous attempts have been made by the Commission to address issues such as overcrowding, lack of sanitation, delay in trials, health of prisoners, payment of wages, premature release of lifetime prisoners and other measures relating to improvement of prison administration.

Consideration of Important Bills / Ordinances and Monitoring their Impact

The Commission has been regularly examining and giving its comments on important Bills / Acts such as:

- ❖ The Terrorist and Disruptive Activities (Prevention) Act, 1987
- ❖ The Prevention of Terrorism Bill, 2000
- ❖ The Prevention of Terrorism Ordinance, 2001
- ❖ The Freedom of Information Bill, 2000

The implementation of international treaties is also reviewed by the Commission.

Rights of Women and Children

The Commission has been working in areas relating to:

- ❖ Review of the Child Marriage Restraint Act, 1929
- ❖ Child Labour
- ❖ Child Abuse
- ❖ Trafficking in Women and Children
- ❖ Destitute / Marginalised Women of Vrindavan
- ❖ Sexual Harassment of Women at the Workplace

Rights of Marginalised Sections

The Commission has shown special concern towards the violation of the rights of marginalized sections of the population and has been active in:

- ❖ The abolition of Manual Scavenging
- ❖ The abolition of Bonded Labour
- ❖ The rights of the Elderly
- ❖ The rights of the Minorities
- ❖ The rights of the Refugees, Migrants and Internally Displaced Persons
- ❖ The rights of those displaced by Mega Projects
- ❖ Dalit and Tribal Issues, including atrocities on Scheduled Castes / Scheduled Tribes
- ❖ Problems being faced by Denotified Tribes

Natural Calamities / Man-made Tragedies

The Commission has taken the initiative in situations resulting from natural calamities and man-made tragedies which include:

- ❖ Monitoring of measures taken after allegations of starvation deaths in Orissa
- ❖ Monitoring of relief in the aftermath of the super cyclone in Orissa
- ❖ Monitoring of relief measures undertaken by the Government of Gujarat and other agencies, for those affected by the earthquake of January 2001
- ❖ Examination of the human rights situation in Gujarat, commencing with the Godhra tragedy of February 27, 2002.

Health / Disability-related issues

The Commission has taken initiatives in Health / Disability-related issues, including:

- ❖ Public Health and Human Rights, including the rights of those affected by HIV/AIDS
- ❖ Treatment of the Mentally ill (including quality assurance in mental hospitals)
- ❖ Mental anaemia
- ❖ Matters relating to Disabilities

Publications of the Commission include:

- ❖ Important Instructions / Guidelines issued by the NHRC
- ❖ NHRC Guidelines for sponsoring Research
- ❖ State of the Art Forensic Sciences: For Better Criminal Justice
- ❖ Professional Policing: Human Rights Investigation & Interviewing Skills and Human Rights & Custody Management
- ❖ Handbook on Human Rights for Judicial Officers
- ❖ Large Volume Parenterals: Towards Zero Defect
- ❖ Report of the National Conference on Human Rights and HIV/AIDS (November 24-25, 2002, New Delhi)
- ❖ Quality Assurance in Mental Health
- ❖ Information Kit on Trafficking in Women and Children
- ❖ Reports of the National Seminar-cum-Public Consultation on Racism, Racial Discrimination, Xenophobia & Related Intolerance (August 3-4, 2001, Bangalore; August 11, 2001, New Delhi)

Some Major Accomplishments

- ❖ The number of complaints received by the Commission has increased from 496 in 1993-94 to 72, 107 in 2001-2002, reflecting the growing credibility of the Commission and the trust reposed in it by citizens
- ❖ A fast track system for complaints has been introduced, and computerisation and other procedural changes adopted, to deal with the heavy load of case work

- ❖ All States have set up Human Rights Cells in the offices of the Directors General of Police
- ❖ Some States have set up State Human Rights Commissions and a number of them have also set up Human Rights Courts
- ❖ Apart from attending to individual complaints, the Commission has also recommended systemic reforms in police functioning, and in prison administration
- ❖ The Commission has also laid down stringent reporting requirements in cases of deaths / rapes in custody
- ❖ The Commission has reviewed a number of legislative Bills / Acts, which impinge on human rights of people in general, and vulnerable sections of society in particular. The Commission has played an important role in monitoring the misuse of the Terrorists and Disruptive Activities (Prevention) Act, 1987 (TADA) and gave its opinion on the Prevention of Terrorism Bill, 2000 and the Prevention of Terrorism Ordinance, 2001 (POTO)
- ❖ Pursuant to the Commission's efforts, the Government of India has signed the Convention Against Torture and other Cruel, Inhuman, Degrading Treatment or Punishment in 1997
- ❖ Since its inception, the Commission has been strongly recommending that steps be taken to ensure the realisation of the Right to Education of all children upto the age of 14 years, as provided in Article 45 of the Constitution. Efforts are currently under way to process a Constitutional amendment, which seeks to make the rights to education of children in the age group 6-14 years a Fundamental Right.
- ❖ Pursuant to the Commission's efforts, the subject of human rights has been introduced the curricula of educational institutions from school to the university level. Certificates / Post Graduate / Diploma / Degree course in human rights have been introduced in over 20 universities in the country.
- ❖ The Commission has contributed to the evolution of National Plan of Action on human rights education and is closely monitoring the preparation of a National Plan of Action for the protection and promotion of human rights
- ❖ The Commission has been actively involved, in collaboration with other organisations, in providing human rights sensitisation and training to civil servants, personnel of army and paramilitary forces, judicial officers and prison officials
- ❖ Recognising the crucial linkages between public health and human rights, the Commission has made significant recommendations on mental anaemia, HIV/AIDS and access to healthcare

- ❖ In the field of social and economic rights, the Commission has made comprehensive and systematic recommendations for the protection of the vulnerable sections of the people, including women, children, dalits, minorities, disabled and denotified and nomadic tribes. It has also undertaken programmes for the elimination of manual scavenging, bonded labour, child labour and trafficking in women and children
- ❖ The Commission has monitored disaster relief in the wake of super cyclone which hit Orissa in 1999, and later, the massive earthquake in Gujarat in January, 2001
- ❖ The Commission took a stand on the issue of caste discrimination at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance held at Durban in 2001 which received wide coverage
- ❖ Following the tragic incident in Godhra, Gujarat, on February 27, 2002 and the communal violence that followed, the Commission made comprehensive recommendations in respect of the situation and the protection of human rights of those who had been affected.

**AMENDMENT
NATIONAL HUMAN RIGHTS COMMISSION (PROCEDURE) AMENDMENT
REGULATIONS, 1996**

In exercise of the powers conferred by sub-section (2) of Section 10 of the Protection of Human Rights Act, 1993 (No.10 of 1994), and in accordance with the provisions contained in Regulation 19 of the National Human Rights Commission (Procedure) Regulations notified on 17.11.1994, the National Human Rights Commission hereby makes the following regulations further to amend the National Human Rights Commission (Procedure) Regulations, 1994 namely:-

(i) These regulations may be called the National Human Rights Commission (Procedure) Amendment Regulations, 1996.

(ii) They shall be deemed to have come into force with effect from 26th November, 1996.

2. In the National Human Rights Commission (Procedure) Regulations, 1994, Regulation 8 (1), shall be substituted by the following:-

“All complaints in whatever form received by the Commission, shall be registered and assigned a number and placed for admission as per the special or general directions of the Chairperson before a Single Member Bench constituted for the purpose, not later than one week of receipt thereof. If the Single-Member Bench dealing with the case, either for admission or for final disposal, having regard to the importance of the issues involved, is of the opinion that the case should be heard by a Bench of not less than two Members, he/she may refer the case to a Bench of two Members. On receipt of the reference, the case shall be assigned to a Bench of two or more Members, as may be constituted by the Chairperson. Ordinarily complaints of the following nature are not entertainable by the Commission:-

in regard to events which happened more than one year before the making of complaints;

with regard to matters which are sub-judice;

which are vague, anonymous or pseudonymous;

which are of frivolous nature; or

Those who are outside the purview of the Commission.”



NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

There shall be a Commission for the Scheduled Castes and Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes.

Article 338

Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and five other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

The Chairperson, Vice-Chair person and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

The Commission shall have the power to regulate its own procedure.

It shall be the duty of the Commission.

to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Commission or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes;

to participate and advise on the planning process of socio-economic development of the Scheduled Castes and Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

to present to the President, annually and at such other times as the times as the Commission may deem fit, reports upon the working of those safeguards;

to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio - economic development of the Scheduled Castes and Scheduled Tribes; and

to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes and Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such of recommendations.

Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

The Commission shall, while investigating any matter referred to in sub clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:-

summoning and enforcing the attendance of any person from any part of India and examining him on oath;

requiring the discovery and production of any documents;

receiving evidence on affidavits.

requisitioning any public record or copy thereof from any court or office;

issuing commissions for the examination of witnesses and documents;

any other matter which the President may by rule, determine.

The Union and every State Government shall consult the Commission on all major police matters affecting Scheduled Castes and Scheduled Tribes.

In this Article, references to the Scheduled Castes and Scheduled Tribes shall be construed as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) Article 340 by order specify and also to the anglo-Indian community.

THE NATIONAL COMMISSION FOR MINORITIES

CONSTITUTION OF THE NATIONAL COMMISSION FOR MINORITIES:-

("minority" , for the purposes of this Act, means a community notified as such by the Central Government.)

The Central Government shall constitute a body to be known as the National Commission for Minorities to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

The Commission shall consist of a [Chairperson, a Vice-Chairperson and five Members] to be nominated by the Central Government from amongst persons of eminence, ability and integrity.

Provided that five Members including the Chairperson shall be from amongst the minority communities.

FUNCTIONS OF THE COMMISSION

The Commission shall perform all or any of the following functions, namely:-

evaluate the progress of the development of minorities under the Union and States;
monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislature;

make recommendations for the effective implementation of safe guards for the protection of the interests of minorities by the Central Government or the State Governments.

look into specific complaints regarding deprivation of rights and safeguards of the minorities and take up such matters with the appropriate authorities.

case studies to be undertaken into problems arising out of any discrimination against minorities and recommend measures for their removal.

conduct studies, research and analysis on the issues relating to socio - economic and educational development of minorities.

suggest appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments;

make periodical or special reports to the Central Government on any matter pertaining to minorities and in particular difficulties confronted by them; and

any other matter which may be referred to it by the Central Government.

THE NATIONAL COMMISSION FOR WOMEN

THE COMMISSION SHALL CONSIST OF:-

a Chairperson, committed to the cause of women, to be nominated by the Central Government;

five Members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry or organisation committed to increasing the employment potential of women, women's voluntary organisations (including women activists), administration, economic development, health, education or social welfare. Provided that atleast one Member each shall be from amongst persons belonging to the Scheduled Castes and Scheduled Tribes respectively;

a Member-Secretary to be nominated by the Central Government, who shall be-

i. an expert in the field, of management, organisational structure or sociological movement, or

II. an officer who is member of a civil service of the Union or of an all-India service or holds a civil post under the Union with appropriate experience.

COMMITTEES OF THE COMMISSION

The Commission may appoint such committees as may be necessary for dealing with such special issues as may be taken by the Commission from time to time.

The Commission shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons, who are not Members of the Commission, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

The Person so co-opted shall be entitled to receive such allowances for attending the meetings of the Committee as may be prescribed.

Procedure to be regulated by the Commission:-

The Commission or a committee thereof shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.

The Commission shall regulate its own procedure of the committees thereof.

All orders and decisions of the Commission shall be authenticated by the Member Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

FUNCTIONS OF THE COMMISSION

The Commission shall perform all or any of the following functions, namely:-

investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;

present to the Central Government, annually and at such other time as the Commission may deem fit, reports upon the working of those safeguards;

make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union or any State;

review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;

take up the cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities;

look into complaints and take suo motu notice of matters relating to-

(i). deprivation of women's rights;

(ii). non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development.

(iii) non-compliance of police decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues out of such matters with appropriate authorities.

call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;

undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement, such as lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;

participate and advise on the planning process of socio-economic development of women.

evaluate the progress of the development of women under the Union and any State; inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary;

fund litigation involving issues affecting a large body of women;

make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;

any other matter which may be referred to it by the Central Government.

INITIATIVES OF NATIONAL COMMISSION FOR WOMEN 1995-1997

LAW AND OTHER LEGISLATIVE MEASURES

DOWRY PROHIBITION
SATI PREVENTION
SALE OF MINORS
EPILEPSY AND DIVORCE
COMPULSORY REGISTRATION OF MARRIAGE AND DIVORCE.
CRIMINAL LAWS (AMENDMENT), 1994 (WITH REFERENCE TO CHILD
RAPE)
CODE OF CRIMINAL PROCEDURE
LAW ON MARRIAGE
LAW ON DOMESTIC VIOLENCE
THE ORPHAN AND DESTITUTE CHILDREN (ADOPTION)BILL, 1994
CHILD RAPE ORDINANCE 1996

II. VIOLENCE AGAINST WOMEN

ANTI -LIQUOR POLICIES

III. PROMOTIONAL WORK FOR EMPOWERMENT OF WOMEN

POLITICAL EMPOWERMENT
ECONOMIC EMPOWERMENT
ROLE OF MEDIA

IV. PLANNING PROCESS FOR SOCIO-ECONOMIC DEVELOPMENT OF WOMEN.

DATA AND INFORMATION REGARDING WOMEN
EMPLOYMENT
MOBILISATION OF WOMEN
WOMEN IN SLUM AREAS
POPULATION POLICY

V. DEMOGRAPHY AND HEALTH

VI. EDUCATION

VII. WOMEN BELONGING TO SPECIAL GROUPS

SCHEDULED CASTES & SCHEDULED TRIBES
WOMEN BELONGING TO NORTH-EASTERN STATES
WOMEN AND CHILDREN IN PROSTITUTION
THE DEVADASIS
BLIND WOMEN
ADOLESCENT GIRLS

VIII. WOMEN IN CUSTODY

IX. AMENDMENTS RECOMMENDED TO

THE DOWRY PROHIBITION ACT, 1961
COMMISSION OF SATI PREVENTION ACT, 1987
CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 1994
HINDU MARRIAGE ACT, 1955
SALE OF MINORS - IPC, 1860
CRPC, 1973
CHILD MARRIAGE RESTRAINT ACT, 1929
BIGAMOUS MARRIAGES - SEC.198, CRPC
INDECENT REPRESENTATION OF WOMEN (PROHIBITION)
AMENDEMENT BILL, 1995
THE CONSTITUTION 81ST AMENDMENT BILL, 1996
CUSTODY & GUARDIANSHIP
COMMENT ON THE A.P. WOMEN'S COMMISSION BILL 1996.

X. BILLS PROPOSED

THE MARRIAGE BILL, 1994
THE DOMESTIC VIOLENCE TO WOMEN (PREVENTION BILL)
THE ORPHAN & DESTITUTE CHILDREN (ADOPTION) BILL, 1994
THE CRIMINAL LAWS (AMENDMENT) BILL, 1994 (WITH REFERENCE TO
CHILD RAPE)
THE CRIMINAL LAWS (AMENDMENT) ORDINANCE 1996
THE PREVENTION OF BARBAROUS AND BEASTLY CRUELTY AGAINST
WOMEN BILL, 1995
ENACTMENT OF DELHI - PROHIBITION OF EVE TEASING BILL

THE CONSTITUTION OF INDIA

Preamble

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE , social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

PART II

CITIZENSHIP

Citizenship at the commencement of the Constitution. - At the commencement of this Constitution, every person who has his domicile in the territory of India and

Who was born in the territory of India; or

either of whose parents was born in the territory of India; or

who has been ordinarily resident in the territory of India for not less than five years shall be a citizen of India

Rights of citizenship of certain persons who have migrated to India from Pakistan.

- Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if -

he or either of his parents or any of his grand parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

(i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on the application made by him therefore to such officer before the commencement of this Constitution in the form and manner prescribed by the Government;

Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

Right of citizenship of certain migrants to Pakistan.- Notwithstanding anything in articles 5 and 6 a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall be deemed to be a citizen of India :

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under the permit for resettlement or permanence return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of article 6 be deemed to have migrated to the territory of India after the nineteenth day of July, 1948.

Rights of citizenship of certain persons of Indian origin residing outside India. -

Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grand parents was born in India as defined in the Government of India Act, 1935 (as originally enacted) and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of Indias in the country where he is for the time being residing on an application made by him therefore to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India]

Persons voluntarily acquiring citizenship of a foreign State not to be citizens.-

No person shall be a citizen of India by virtue of article 5, or be deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired the citizenship of any foreign State.

Continuance of the rights of citizenship.- Every person who is or is deemed to be a citizen of India under any of the foregoing provision of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

Parliament to regulate the right of citizenship by law.- Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

PART III
FUNDAMENTAL RIGHTS

General

Definition.- In this part, unless the context otherwise required, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within in the territory of India or under the control of the Government of India.

Laws inconsistent with or derogation of the fundamental rights.

- (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this part, shall, to the extent of such inconsistency, be void.

The state shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

In this article, unless the context otherwise requires.-

"law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usages having in the territory of India the force of law;

"laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

Nothing in this article shall apply to any amendment of this Constitution made under article 368.

Right to equality

Equality before law.- The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.-

The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

No citizen shall, on grounds only of religion, race, caste, sex place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to

access to shops, public restaurants, hotels and places of public entertainment; or

the use of wells, tanks bathing ghats, roads and places of public resort maintain wholly or partly out of State funds or dedicated to the use of general public.

Nothing in this article shall prevent the State from making any provision for women and children.

Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens for the Scheduled Castes and the Scheduled Tribes.

Equality and opportunity in matters of public employment.-

There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

No citizen shall, on grounds only of religion, race caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

Nothing in this article shall prevent the State from making any provision for the reservation in matters of promotion of any class or classes of posts in the services under the State in favour of Scheduled Castes and the

Scheduled Tribes which, in the opinion of the State, is not adequately represented in the services under the state.

4a. Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion of any class or classes of posts in the services under the State in favour of Scheduled Castes and the Scheduled Tribes which, in the opinion of the State are not adequately represented in the services under the state.

Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Abolition of Untouchability:- “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

Abolition of titles:- (1) No title, not being a military or academic distinction, shall be conferred by the State.

No citizen of India shall accept any title from any foreign State.

No person who is not a citizen of India, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument or office of any kind from or under any foreign State.

Right to Freedom

Protection of certain rights regarding freedom of speech, etc.-

All citizens shall have the right -

to freedom of speech and expression;

to assemble peaceably and without arms;

to form associations or unions;

to move freely throughout the territory India;

to reside and settle in any part of the territory of India;

to practise any profession or to carry on any occupation, trade or business.

Nothing in Sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, Public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

Nothing in sub - clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the right conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to.

the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

Protection in respect of conviction for offences. - (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

No person shall be prosecuted and punished for the same offence more than once.

No person accused of any offence shall be compelled to be a witness against himself.

Protection of life and personal liberty.- No person shall be deprived of his life or personal liberty except according to procedure established by law.

Protection against arrest and detention in certain cases:-

No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall be denied the right to consult, and to be defended by, a legal practitioner of his choice.

Every person who is arrested and detailed in custody shall be produced before the nearest magistrate within a period of twenty - four hours of such arrest excluding the time necessary for the journey from the place of arrest to court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

Noting in clauses (1) and (2) shall apply

to any person who for the time being is an enemy alien: or

to any person who is arrested or detained under any law providing for preventive detention.

No law providing for preventive detention shall authorised the detention of a person for a longer period than three months unless.-

an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention.

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7)

When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

Parliament may by law prescribe.-

the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

Prohibition of traffic in human beings and forced labour.- (1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Prohibition of employment of children in factories, etc.- No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Freedom of conscience and free profession, practice and propagation of religion - (1) Subject to public order, morality and health and to the other provisions of this Part, all

persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

Nothing in this article shall affect the operation of any existing law or prevent the State from making any law.

regulating or restricting any economic, financial political or other secular activity which may be associated with religious practice;

providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and section of Hindus.

Explanation I:- The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II:- In sub-clause (b) of clause (2), the reference of Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Freedom to manage religious affairs. - Subject to public order, morality and health, every religious denomination or any section thereof shall have the right.

to establish and maintain institutions for religious and charitable purposes;
to manage its own affairs in matters of religion;
to own and acquire movable and immovable property; and
to administer such property in accordance with law.

Freedom as to payment of taxes for promotion of any particular religion.- No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Freedom as to attendance at religious instruction or religious worship in certain educational institutions.- (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

Protection of interests of minorities - (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Right of minorities to establish and administer educational institutions - (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(A.) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

Remedies for enforcement of rights conferred by this part - (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this part.

Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

Power of Parliament to modify the rights conferred by this Part in their application to forces, etc.

Restriction on rights conferred by this Part while martial law is in force in any area.

Legislation to give effect to the provisions of this part - Notwithstanding anything in this Constitution,-

Parliament shall have, and the Legislature of a State shall not have, power to make laws -

with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and

for prescribing punishment for those acts which are declared to be offences under this part,;

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

Explanation - In this article, the expression 'law in force' has the same meaning as in article 372.

Part IV

Directive Principles of State Policy

35. Definition:- In this part, unless the context otherwise requires, the State has the same meaning as in Part III.

36. Application of the principles contained in this part:- The provisions contained in this part shall not be enforceable by any court, but the principles therein laid down nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

37. State to secure a social order for the promotion of welfare of the people-

(1): - The State shall strive to promote the welfare of the people by securing and protection as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2). The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities in status, facilities and opportunities, not only among individuals but also groups of people residing in different areas of engaged in different vocations.

38. Certain principles of policy to be followed by the State: Thus State shall, in particular, direct its policy towards Securing:

- that the citizen, men and women equally, have the right to an adequate means of livelihood;
- that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- that there is equal pay for equal work for both men and women;
- that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

39 A. Equal justice and free legal aid;- The State shall secure that the operation of the legal system promotes justice, on basis of equal opportunity, and shall, in particular, provide free legal aid by suitable legislation or schemes or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

40. Organisation of village panchayats:- The Sate shall take step to organize village panchayats and endow with such powers and authority as may be necessary to enable them to function as units of self-government.

41. Right to work, to education and to public assistance in certain cases;- The State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

42. Provision for just and humane conditions of work and maternity relief;- The State shall make provision for securing just and humane conditions of work and for maternity relief.

43. Living wage, etc for workers:- The State shall endeavour to secure by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and , in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

43 A. Participation of workers in management of industries:- The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.

44. Uniform civil code for the citizens:- The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

45. Provision for free and compulsory education for children:- The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution , for free and compulsory education for all children until they complete the age of fourteen years.

46. Promotion of educational and economic interests of Scheduled castes, Scheduled tribes and other weaker sections:- The State shall promote with special care the educational and economic interests of the weaker sections of the people and in particular of the Scheduled castes and the Scheduled tribes, and shall protect them from social injustice and all forms of exploitation.

47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health:- The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxication drinks and of drugs which are injuries to health.

48. Organisation of agriculture and animal husbandry:- The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibition the slaughter, of cows and calves and other milk and draught cattle.

48 A. Protection and improvement of environment and safeguarding of forests and wild life:- The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

49. Protection of monuments and places and objects of national importance:- It shall be the obligation of the State to protect every monument or place or object of artistic interest, (declared by or under law made by Parliament) to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

50. Separation of judiciary from executive:- The state shall take steps to separate the judiciary from the executive in the public services of the State.

51. Promotion of International peace and security:- The State shall endeavour to:-

Promote international peace and security;

Maintain just and honorable relations between nations;

Foster respect for international law and treaty obligations in the dealings of organised people with one another; and

Encourage settlement of international disputes by arbitration.

Part IV A

51 A. Fundamental duties:- It shall be the duty of every citizen of India:-

to abide by the Constitution and respect its deals and institutions, the national Flag and the National Anthem;

to cherish and follow the noble ideals which inspired out national struggle for freedom;

to uphold and protect the sovereignty, unity and integrity of India;

to defend the country and render national service when called upon to do so;

to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

to value and preserve the rich heritage of our composite culture;

to protect and improve the natural environment including forests, lakhs, rivers and wild life, and to have compassion for living creatures;

to develop the scientific temper, humanism and the spirit of inquiry and reform;

to safeguard public property and to abjure violence;

to strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement.

C.The UN Human Rights System

MAJOR UNITED NATIONS HUMAN RIGHTS INSTRUMENTS

1. An overview of UN human rights instruments
 1. International Convention on the Elimination of All Forms of Racial Discrimination Elimination of All Forms of Racial Discrimination (CERD) 1965
 2. International Covenant on Civil and Political Rights (ICCPR) 1966
 3. International Covenant on Economic, Social and Cultural Rights Economic, Social and Cultural Rights (ICESCR) 1966
 4. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979
 5. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984
7. Convention on the Rights of the Child (CROC) 1990

1. An overview of UN human rights instruments

As a result of many years of standard-setting work, the UN has created a significant body of international human rights law. The International Bill of Rights with its four parts is regarded as constituting the main foundation of this body.

The 1993 edition of the UN's A Compilation of Human Rights Instruments consists of two volumes and includes the texts of some 94 instruments.

A distinction can be made between general and special instruments. General instruments usually encompass a wide range of human rights. They are, in a broad sense, part of a constitutional order and operate within the framework of the UN or regional structures of international cooperation. General instruments include:

- Universal Declaration of Human Rights (1948)
- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)
- European Social Charter (1961)
- American Declaration of the Rights and Duties of Man (1948)
- American Convention on Human Rights (1969)

- African Charter on Human and Peoples' Rights (1981)

In its classification of special instruments, the compilation uses the following categories:

- right of self-determination
- prevention of discrimination
- rights of women
- rights of the child
- slavery, servitude, forced labour and similar institutions and practices
- human rights in the administration of justice
- freedom of information
- freedom of association
- employment
- marriage, family and youth
- social welfare, progress and development
- right to enjoy culture
- nationality, statelessness, asylum and refugees
- war crimes and crimes against humanity, including genocide
- humanitarian law

Amongst these general instruments, there are three main objectives:

- elimination of discrimination:** Special instruments have been developed to combat racial discrimination, discrimination against women, discrimination based on religion or belief, discrimination in employment, occupation and remuneration, and discrimination in education:
- protection of vulnerable persons and groups:** Instruments address the special rights and interests of ethnic, religious and linguistic minorities, women, children, detainees and prisoners, workers, indigenous and tribal peoples, mentally retarded and mentally ill persons, disabled persons, migrant workers, stateless persons and refugees;
- struggle against large-scale evil practices:** These include genocide, apartheid, slavery and other forms of human exploitation, torture and other crimes against humanity.

The legal status of these different human rights instruments varies. Those referred to as declarations, principles, guidelines, standard rules and recommendations are not the same as treaties. They do not require ratification and are without direct binding legal effect. At the very least, they have undeniable moral force and are declaratory of principles broadly accepted within the international community. Some have acquired the status of customary international law.

On the other hand, international treaties, variously referred to as covenants, protocols and conventions, are legally binding on those States which ratify or accede to them. Many establish bodies to supervise implementation by States parties of their treaty obligations. The six major human rights treaties within the UN System are:

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Covenant on Civil and Political Rights (ICCPR)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and
- Convention on the Rights of the Child (CROC)

2. International Convention on the Elimination of All Forms of Racial Discrimination Elimination of All Forms of Racial Discrimination (CERD) 1965

The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) was adopted by the General Assembly on 21 December 1965. It entered into force on 4 January 1969.

In Article 1(1) the term "racial discrimination" is defined broadly as:

"any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

According to this definition, a positive intention to discriminate is not a necessary precondition to racial discrimination.

Parties to CERD undertake "to pursue...a policy of eliminating racial discrimination...and promoting understanding among all races" (Article 2(1)). In particular, parties undertake to eradicate all practices of racial segregation and apartheid, to adopt immediate measures to eradicate incitement to, and acts of racial hatred and discrimination and to declare an offence punishable by law dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and acts of racist violence (Articles 3,4).

In Article 5 States parties undertake "to prohibit and to eliminate racial discrimination ... and to guarantee the right of everyone, without distinction ... to equality before the law". Article 5 contains a lengthy list of rights and freedoms in the enjoyment of which racial discrimination is to be eliminated and equality before the law guaranteed. These include civil and political, as well as economic, social and cultural rights.

The enumerated civil and political rights include:

- right to equal treatment before the organs administering justice;
- right to security of the person and to protection against violence;
- right to participate in elections and to take part in government and in the conduct of public affairs;
- freedom of movement;
- right to leave any country and to return to one's own country;
- right to nationality;
- right to marriage and choice of spouse;
- right to own property alone, as well as in association with others;
- right to inherit;
- freedom of thought, conscience and religion, and of opinion and expression, and
- freedom of peaceful assembly and association.

Prohibition of racial discrimination is guaranteed in the enjoyment of, amongst others, the following economic, social and cultural rights:

- right to work, to just and favourable conditions of work and to protection against unemployment;
- right to form and join trade unions;
- right to housing;
- right to public health, medical care and social security;
- right to education and training, and
- right to equal participation in cultural activities.

The Convention aims to achieve not only de jure but also de facto racial equality. Thus, special measures taken in relation to certain racial or ethnic groups are not considered racial discrimination, provided that:

- they do not lead to the maintenance of unequal or separate rights for different groups; and
- they are not continued after the objectives for which they were taken have been achieved: Articles 1(4), 2(2).

The Committee on the Elimination of Racial Discrimination monitors compliance with the Convention. The Committee consists of 18 experts "of high moral standing and acknowledged impartiality". The Committee is involved in monitoring compliance with the Convention in three ways:

- a) States parties are required to submit periodic reports to the Committee on the legislative, judicial, administrative and other measures they have taken to give effect to the Convention.
- b) The Committee may consider communications by a State party concerned that another State party is not giving effect to the provisions of the Convention. There is no requirement of specific recognition of the Committee's competence to receive inter-State complaints.
- c) The Committee may also receive communications from individuals and groups of individuals claiming violations of their rights under the Convention. This procedure requires a declaration by the relevant State party recognising the competence of the Committee to receive individual petitions and is available only upon the exhaustion of local remedies.

In order to promote a better understanding of the provisions of CERD, the Committee also adopts "general recommendations", comparable to the "general comments" of the Human Rights Committee in relation to the International Covenant on Civil and Political Rights. These do not address the situation in any specific State but draw on experience gained through examination of a large number of reports.

3. International Covenant on Civil and Political Rights (ICCPR) 1966

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the UN General Assembly on 16 December 1966 and entered into force on 23 March 1976.

By becoming a party to the 10P, a State party to the ICCPR recognises the competence of the Committee to receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant. The Committee cannot receive communications concerning States parties to the ICCPR not parties to the 10P (Article 1(2)).

Individuals claiming that their rights in the Covenant have been violated may submit a written communication to the Committee once "all available domestic remedies" have been exhausted (Article 2).

4. International Covenant on Economic, Social and Cultural Rights Economic, Social and Cultural Rights (ICESCR) 1966

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted by the General Assembly on 16 December 1966. It entered into force on 3 January 1976.

Part I (Article 1) contains a provision on self-determination, identical to that in the ICCPR.

Part II (Articles 2-5) contains general provisions relevant to the enjoyment of all the rights set out in ICESCR. Under Article 2(1) each State party undertakes to adopt legislative and other measures, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the Covenant. Under Article 2(2) States parties undertake to guarantee the exercise of the enunciated rights without discrimination. Article 3 contains an undertaking to ensure the equal right of men and women to the enjoyment of the economic, social and cultural rights enumerated in the Covenant.

Part III (Articles 6-15) contains a catalogue of economic, social and cultural rights.

These include:

- right to work (Article 6)
- right to the enjoyment of just and favourable conditions of work (Article 7)
- right to join and form trade unions and to strike (Article 8)
- right to social security (Article 9)
- protection of the family, marriage, maternity protection and special measures of protection and assistance for children (Article 10)
- right to an adequate standard of living, including adequate food, clothing, and housing and the continuous improvement of living conditions (Article 11)
- right to the enjoyment of the highest attainable standard of mental and physical health (Art. 12)
- right to education (Article 13)
- cultural rights, including rights to take part in cultural life, to enjoy the benefits of scientific progress and its applications, and to the protection of moral and material interests resulting from scientific or artistic productions (Article 15)

The Committee on Economic, Social and Cultural Rights consists of 18 independent experts. At present, the reporting procedure is the only international measure for monitoring implementation of ICESCR. States parties undertake to submit reports on measures adopted and progress made in achieving the observance of the rights recognised in the Covenant (Article 16(1)). Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations (Article 17(2)).

In order to promote a better understanding of the provisions of the ICESCR, the Committee also adopts "general comments", comparable to those of the Human Rights Committee. These do not address the situation in any specific State but draw on experience gained through examination of a large number of reports.

The Committee on Economic, Cultural and Social Rights has in recent years also worked towards the adoption of an optional protocol to ICESCR.

5. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the General Assembly on 10 December 1979. It entered into force on 3 September 1981.

In Article 1 the term "discrimination against women" is defined as:

"any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

The definition of discrimination against women is broad. It prohibits unintentional as well as intentional discrimination ("purpose" or "effect"). The spheres in which discrimination is prohibited are public, as well as private ("political, economic, social, cultural, civil or any other field").

Parties to CEDAW condemn discrimination against women in all its forms and agree "to pursue...a policy of eliminating discrimination against women" (Article 2). They undertake to ensure the existence of appropriate constitutional and legal structures to guarantee equality, to provide remedies for public and private acts of discrimination against women and to abolish laws and practices which constitute discrimination against women (Article 2(a)-(g)).

In its General Recommendation No. 12 on Violence Against Women, the Committee on the Elimination of Discrimination against Women noted that States parties are required under Articles 2,5,11,12 and 16 to take appropriate steps to protect women against any kind of violence within the family, at the work place, or in any other area of social life.

Pursuant to Article 4(1), special measures aimed at accelerating de facto equality between men and women do not constitute discrimination as defined in the Convention. When the

objectives of equality of opportunity or treatment are achieved, such measures are to be discontinued.

Other provisions of CEDAW impose obligations on States Parties to undertake measures:

- with a view to eliminating prejudices and practices based on the inferiority or superiority of either of the sexes or on stereotyped roles (Article 5)
- to suppress traffic in women and exploitation of prostitution of women (Article 6) and
- to eliminate discrimination against women in political and public life (Article 7); in education (Article 10); in employment (Article 11); in health care (Article 12); in other areas of economic and social life (Article 13); and in matters relating to marriage and family relations (Article 16).

Pursuant to Article 15, States Parties undertake to accord to women equality with men before the law. Particular areas of the law in which women, especially married women, have traditionally experienced most discrimination are specified, including the recognition of legal capacity, conclusion of contracts, administration of property, freedom of movement and choice of residence and domicile. States parties must also grant women equal rights to acquire, change or retain their nationality (Article 9).

CEDAW pays particular attention to the special rights and needs of women in rural areas. By virtue of Article 14, States parties are required to take into account the problems of rural women and the special role they play in the economic survival of their families. States parties are obliged to take measures to eliminate discrimination against women in rural areas to ensure that they participate in, and benefit from, rural development. These measures shall ensure their rights to, amongst other things:

- participate in the elaboration and implementation of development planning at all levels
- have access to health care services and social security, education and training, credit, marketing facilities and appropriate technology,
- equal treatment in land reform and land resettlement schemes and
- adequate living conditions.

Pursuant to Article 18, States parties are obliged to submit periodic reports on measures adopted to give effect to the provisions of CEDAW and on progress made. These should indicate factors and difficulties affecting the degree of fulfillment of obligations (Article 18 (2)).

The Committee on the Elimination of Discrimination Against Women has also adopted a number of general recommendations, observations and suggestions, in accordance with Article 22.

6. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984

The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) was adopted by the General Assembly on 10 December 1984 and entered into force on 26 June 1987.

In Article 1 "torture" is defined as:

[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Article 2(1) imposes an obligation on States parties to take effective legislative, administrative, judicial or other measures to prevent acts of torture in territories under their jurisdiction. Neither exceptional circumstances nor an order from a superior officer or a public authority may be invoked as a justification for torture (Article 2(2), (3)).

States parties undertake to ensure that all acts of torture, attempts to commit torture and complicity or participation in torture are offences under their criminal law, and are punishable by appropriate penalties (Article 4). In certain circumstances, States parties are required to take measures to establish their jurisdiction over such offences (Articles 5-7).

Each State party is obliged to ensure that individuals alleging they have been subjected to torture in territories under its jurisdiction have the right to complain to its competent authorities (Article 13). Victims of acts of torture are entitled to redress and have an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of torture, his or her dependants are entitled to compensation (Article 14).

Pursuant to Article 16, States parties undertake to prevent in territories under their jurisdiction "other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1." The procedural guarantee in Article 13 entitles individuals alleging to have been subjected to such acts in territories under the jurisdiction of a State Party to complain to its competent authorities. However, CAT does not impose an obligation on States parties to ensure that such acts are offences under criminal law. Neither does CAT address the question of compensation for such individuals and their dependants.

In accordance with Article 17(1) a Committee against Torture consisting of 10 experts "of high moral standing and recognised competence" has been established:

- a) States parties are required to report every four years on measures taken to give effect to their undertakings under CAT:
- b) the Committee may also make such general comments as it considers appropriate (Article 19);
- c) the Committee may also consider inter-State and, subject to a declaration recognising its competence having been made by the relevant State Party, as well as the exhaustion of available domestic remedies, individual communications (Articles 21, 22).

Disputes between States parties concerning the interpretation or the application of CAT can also be referred to the International Court of Justice (Article 29(1)).

Finally, CAT establishes a confidential procedure for the examination of reliable information containing "well-founded indications that torture is being systematically practised in the territory of a State party" (Article 20). The powers of the Committee in connection with this procedure do not extend to acts of cruel, inhuman or degrading treatment or punishment.

7. Convention on the Rights of the Child (CROC) 1990

The Convention on the Rights of the Child (CROC) entered into force on 2 September 1990. CROC recognises that in addition to the full range of human rights recognised in international law, children are also entitled to a range of rights relating to their special needs and interests as children.

Part I (Articles 1-41) enumerates a number of general obligations, as well as a specific catalogue of the rights of children. In Article 1 the term "child" is defined as "every human being below the age of eighteen unless, under the law applicable to the child, majority is attained earlier."

Article 2 imposes upon States parties the obligation to respect and ensure the rights in CROC to each child within their jurisdiction without discrimination of any kind.

Article 3 (1) specifies a general standard against which national laws and practices are to be evaluated. It provides that in all actions concerning children, "the best interests of the child shall be a primary consideration."

Pursuant to Article 5, States parties undertake to respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community, to

provide "in a manner consistent with the evolving capacities of the child" direction and guidance in the exercise by the child of his or her rights.

CROC addresses the civil and political, as well as economic, social, cultural and humanitarian rights of the child. These include:

- right to life and development (Article 6)
- right to protection from violence and neglect (Article 19)
- right to the highest attainable standard of health (Article 24)
- right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (Article 27)
- right to education in a manner directed to the development of respect for the child's cultural identity (Articles 28-29).

Of particular significance is CROC's recognition of the rights of children belonging to ethnic, religious and linguistic minorities and indigenous children, in community with other members of their group, to the enjoyment of their culture, the practise of their religion and the use of their language (Article 30). Related to this is the obligation in Article 20, in the consideration of options for a child temporarily or permanently deprived of his or her family environment, to pay regard to the desirability of continuity in the child's upbringing and to the child's ethnic, religious and linguistic background.

Article 40 enumerates the rights of children in connection with alleged infringements of the penal law and requires the availability of a variety of dispositions.

Article 43 makes provision for the establishment of a Committee on the Rights of the Child. This Committee consists of 10 experts of high moral standing and recognised competence, who serve in their personal capacity. States parties undertake to report two years after the Convention's entry into force, and thereafter every five years, on "measures ... adopted which give effect to the rights recognised ... and on ... progress made on the enjoyment of those rights".

Article 45 lists various measures to foster effective implementation of CROC and to encourage international cooperation in the field of children's rights. At present, CROC contains no provision for inter-State or individual complaints.

INTRODUCTION TO THE UNITED NATIONS SYSTEM

INTRODUCTION

- International Law and Practice prior to the UN Charter
- Evolution of the United Nations
- General Assembly
- Security Council
- Economic and Social Council
- Trusteeship Council
- The International Court of Justice
- Secretariat

1. INTERNATIONAL LAW AND PRACTICE PRIOR TO THE UN CHARTER

International law, traditionally, has been the law between States, represented by their rulers. Modern international law is built up largely on the laws developed among European states. Today, there are fewer than 190 States members of the United Nations and very few States which are not members. The international community is a small-scale community. And, as with small-scale human communities, a primary concern is to maintain peace and security.

International law proceeds on the basis of the sovereignty of each State and the equality of States. In traditional International Law each Sovereign State is an entirely free agent. It is not subject to any compulsory process - no legislature, no executive power, no judicial system. It is subject only to such obligations in regard to other States as it voluntarily assumes. A State assumes obligations in regard to one or more other States when it ratifies a treaty. A treaty is the international equivalent of a contract.

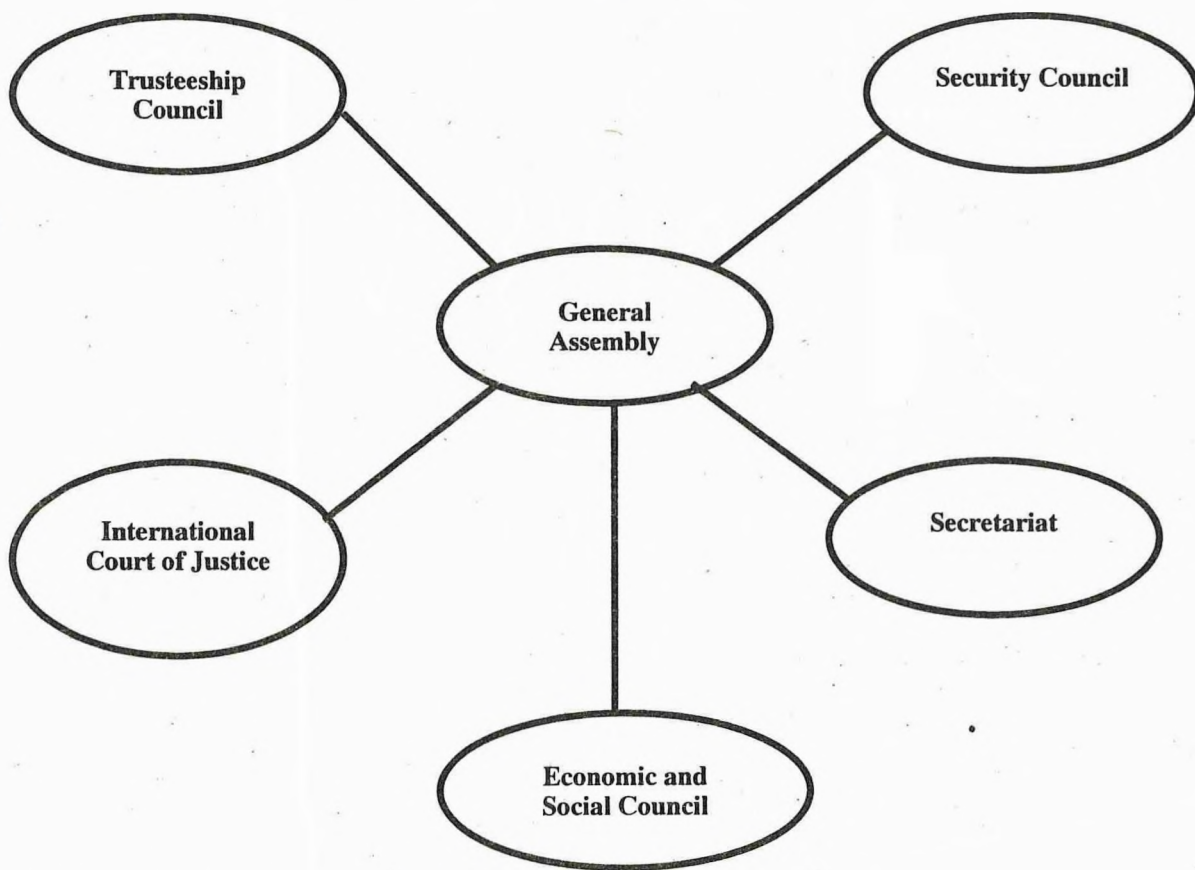
Apart from treaties, the other principal source of international law is custom. Customary international law may be identified from a widespread pattern of States acting in a particular way based on the belief that that is how they should act.

The United Nations system itself is based on a treaty - the Charter of the United Nations. The General Assembly is not a legislature, and it can only adopt resolutions, which States are free to accept or reject. Only the Security Council has power to make decisions binding member States and only for the purpose of maintaining international peace and security. It is not a world executive government. Nor does it command a permanent police force, though, on rare occasions, it has authorised military action (Korea, Iraq) and, less rarely, peacekeeping and humanitarian operations (East Timor).

The jurisdiction of the International Court of Justice is also based on treaty - the Statute of the Court. A State is subject to the Court only if it chooses to accept the Court's jurisdiction.

International Law, then, even in the days of the United Nations, is a relatively undeveloped system of law. And its primary concern has been with the relationships among States, and not with what happens within States.

THE UNITED NATIONS SYSTEM PRINCIPAL BODIES UNDER THE CHARTER



2. EVOLUTION OF THE UNITED NATIONS

The complex apparatus which we see in the UN today is not the same UN which was created out of the ashes of World War II by the victors of that war. Originally, a 'White Man's Club' dominated by the Europeans and the USA, it is still bureaucracy and high powered politics which characterise the UN of today. However, the original 51 members have now seen the membership grow to over 185 member States. The purpose in establishing the UN was to ensure international peace and security. It was built on the principles of International Law, and the UN Charter prescribed the essential principles which were understood to guarantee peace - the rule of law, basic human rights, self-determination, the equality of States and the sanctity of borders.

The UN grew out of the failure of the League of Nations, which had been created after the first world war (1914-1918). It too had attempted to keep the peace. Its Charter had prohibited the use of war but had instituted no ban on the use of force short of a declaration of war. The League found it had no collective system for enforcing its decisions. So when the UN was created it vested enormous power in the Security Council, allowing the UN to intervene with force if necessary. This happened directly in Korea in 1950 (where UN troops are still located) and indirectly in Kuwait in 1991 (when the Security Council allowed member States to intervene).

The UN started off with 51 member States. Art 2 (1) of the Charter refers to "the principle of the sovereign equality of all its Members", regardless of the size, wealth and might of each country. Hence, we have Saint Kitts and Nevis in the Caribbean with only 275 sq km and less than 50,000 people, Seychelles in the Indian Ocean with 280 sq km and 67,000 people, and China with almost 10 million sq km and 1,103,983,000 people, having exactly the same rights and duties in the UN. Obviously that is not possible to achieve in practice.

Part of the problem of international diplomacy is the pretence that things are principled and orderly when in fact, more often than is preferable, naked power reigns. Some nations are more equal than others at the UN precisely because they have larger land areas, population, economic resources, missiles and tank divisions.

Principle of Geographic Distribution

Throughout the UN System a principle of geographic distribution holds. This means that UN staff are selected from every region of the world and that committees and official bodies have representation from all the regions.

The 185 (approx) States are grouped into five Regional Groups for election purposes (the following numbers are approximate only as the situation is very fluid):

- a. African States (50);
- b. Asian States (50);
- c. Eastern European States (28);
- d. Latin American and Caribbean States (34);
- e. Western European and Other States (WEOS) (23).

The US, Canada and Australia belong to the WEOS group while Turkey, for instance, attends both the WEOS group and the Asian group meetings.

It is obvious that the Afro-Asian groups together with the Latin American and Caribbean States form a formidable voting bloc of more than 2/3. This is what former USA Ambassador to the UN Daniel Patrick Moynihan called "tyranny of the majority". It ensured

the passage of many controversial resolutions (such as Zionism equals racism). It was this majority which succeeded in denying the white South African government delegation a seat in the General Assembly.

Main Bodies of the UN are:

- General Assembly
- Security Council
- ECOSOC
- Trusteeship Council
- International Court of Justice
- Secretariat

3. GENERAL ASSEMBLY

Every UN member sits in the General Assembly which meets once a year for about three months commencing always on the third Tuesday of September until about mid December. Sessions are chaired by a President, elected for a one-year term by a 2/3 majority of the Assembly. The election is usually unopposed because each region has its turn and the choice of a candidate results from behind the scenes negotiations by members of the regional group. The President is assisted by 21 Vice-Presidents whose main function is simply to take the seat at the podium when the President is required to attend to his/her numerous other functions.

This is how the General Assembly is structured:

- Main Committees
- Procedural Committees
- Standing Committees
- Subsidiary, "ad hoc" and other bodies

Main Committees

There are six Main Committees of the General Assembly which share the work of the General Assembly:

- | | |
|------------------------------|--|
| First Committee: | deals with Security and Disarmament. |
| Special Political Committee: | shares the work with the First Committee. It has recently Merged with the Decolonisation Committee (the old Fourth Committee). |
| Second Committee: | Economic and Financial |
| Third Committee: | Social, Humanitarian and Cultural |
| Fifth Committee: | Administrative and Budgetary |
| Sixth Committee: | Legal |

All Member States have representatives in the Main Committees which carry out the debate and negotiations on all aspects of the questions on the agenda, vote on them and then report to the Plenary for final decision.

Of interest to human rights defenders are the Third Committee and the Special Political Committee. Successful human rights lobbyists have managed to get resolutions on country situations in the Third Committee and, subsequently, in the General Assembly. Country resolutions have been adopted in the past on Chile, El Salvador, Guatemala, etc. The question of self-determination can also be raised in the Third Committee in the context of human rights.

However, unlike the former Fourth Committee whose rules of procedure provide for individuals to take part in the general debate on any item on the agenda (such as East Timor, New Caledonia, Western Sahara), no such arrangements exist in the Third Committee. Instead, interested individuals lobby government delegations to raise issues of their concern.

Decisions in the General Assembly are taken by simple majority on all issues except on important issues which require a 2/3 majority. Elections for the Security Council, International Court of Justice and other major bodies fall in the category of important issues.

Procedural Committees

There are two procedural committees, the General Committee of the General Assembly and the Credentials Committee of the General Assembly. The agenda and allocation of items to each of the Main Committees is decided by the General Committee.

The Credentials Committee is made up of nine members appointed by the General Assembly on the very first day, acting on a proposal by the President. As in every other UN body, geographic distribution is the criterion for appointment to the Credentials Committee. (Each regional group simply meets and decides who their nominee will be.) It reviews the credentials of Member States' representatives and reports to the Plenary.

It was often mistakenly thought that South Africa was not a member of the UN. South Africa's status as a member of the UN was never in question but the credentials of its representatives were successfully challenged. It was argued that the white minority regime of South Africa lacked legitimacy to represent the whole country. Obviously, if such strict standards of legitimacy were to be observed in all situations, military and one-party regimes would have difficulties in gaining a seat in the General Assembly. Most African countries, for example, would have lost their seat in the General Assembly.

The move in denying South Africa a seat in the General Assembly was initiated in 1974 by the then President of the General Assembly, the brilliant Foreign Minister Abdelaziz Bouteflika of Algeria, with the backing of the Third World and socialist blocs. Similar attempts have been made against Israel by Libya but each time a motion of non-action moved by Sweden defeats the Libyan exercise. Suggestions were made over the years to deny credentials to the Pol Pot delegation and more recently, to the Burmese military junta.

Standing Committees

During and in between sessions, two Standing Committees of the General Assembly, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and Committee on Contributions, deal with relevant questions. Member States' contributions to the UN budget is assessed on the basis of their GNP (Gross National Product). Hence, the US is the largest contributor with 25% of the budget while Vanuatu, Saint Kitts and Nevis and Seychelles contribute with 0.1%.

Some countries have failed to pay their contributions, either for political reasons or for lack of liquidity. The USA has withheld its contribution to a number of UN programs, most notably, to UNESCO, for political reasons. A number of developing countries have failed to pay simply for lack of money. In these situations they cannot vote in the General Assembly and their name is published for all to see. Some have seen their telephone disconnected for not being able to pay the phone bill.

Subsidiary, Ad Hoc and Other Bodies

More than 40 subsidiary and ad hoc bodies have been set up by the General Assembly covering a wide range of themes. Of these, one that is relevant to this course is the Special Committee on Decolonisation to which we shall return further along this chapter.

UN Special Representatives

A technique that is becoming increasingly common is the nomination of a Special Representative for a particular issue or country. An example is the Special Representative on Cambodia. Following the UN withdrawal of its peace keeping troops, the election monitoring and other program staff, a single person was given the task of reporting on the country to the Secretary-General. It is clear that this responsibility is very great and that much depends on the professionalism and goodwill of that person. (As with most of these "expert" tasks the person involved is basically a volunteer paid a per diem while on UN business but effectively providing skills, research time, report writing time etc for free).

The person involved is usually a lawyer or judge. Sometimes they might have NGO experience and can provide effective independent analysis. However this system can also break down as the individuals involved lack back-up and, depending on the issue, their personal influence may not be enough to ensure their report is dealt with effectively. At least in the UN human rights system in Geneva there is some process available which does not leave the experts completely isolated should their reports be troublesome for powerful interests.

4. SECURITY COUNCIL

Made up of five permanent members (USA, UK, Russian Republic, France and China), each of whom holds a veto power (on Security Council), plus 10 non-permanent members, the Security Council is the world's "policeman" whose function is to preserve peace, deter and punish acts of aggression through a wide range of actions provided for in the Charter. The Security Council reaction to the 1990 Gulf Crisis provides an insight into the way that body operates and the forces which dictate its actions.

A draft resolution needs 9 yes votes to be adopted. However, the veto power means that one negative vote by any one of the five permanent members defeats the draft resolution, even if it had secured 14 votes.

The veto power was the price for the involvement of the USA and other powerful nations in the UN (remember that the USA failed to join the League of Nations established after WW1 and this was partly the reason for its failure). The non-permanent members are elected for a two-year non-renewable term. A 2/3 majority is required for election to the Security Council and this is usually secured if the country running for election has the consensus support of its region. However, it has happened that a particular country did not secure the backing of its group and failed to obtain the 2/3 majority. Presidency of the Council is by monthly rotation, following alphabetical order.

The veto power was used in the past by the USA on numerous occasions to defeat motions censuring Israel and South Africa. The Security Council failed to take any action on the war in Afghanistan because any attempt would have been vetoed by the Soviet Union. In 1950 the Security Council intervened in the Korean War only because the Soviet Union had suspended its membership in the Security Council for a month. Since then every time the Soviet Union tried to get the Security Council to terminate the mandate for the so-called UN Command in the demilitarized zone (DMZ), it has been vetoed by the USA. Till this very day, the US forces in the DMZ carry the UN flag.

France and the UK rarely use the veto. The People's Republic of China has rarely used the veto power since 1972 when it took the seat held by the Republic of China (Taiwan). However, in one month alone, December 1981, it used the veto power 16 times to block the re-election of Kurt Waldheim to a third five-year term as Secretary-General of the UN. The Chinese were not very happy with Waldheim who, they felt, was too close to the Russians and the Americans, and argued that "10 years was enough" and that it was the "turn of a Third World candidate" (the words of a Chinese diplomat in informal conversation).

Running against Waldheim was Salim Ahmed Salim, an outstanding Tanzanian diplomat who was backed by every major Third World organisation, the Organisation of African Unity, Arab League, Islamic Conference, and the Non-Aligned Movement. However, Salim was not popular with the Americans and the Soviets because he was seen as an activist and the

superpowers would not have an activist as Secretary-General. Salim was vetoed by the Americans whenever he managed to get the nine majority needed. The Russians did not have to use their veto but would have vetoed Salim if the Americans did not.

Finally the deadlock was broken with the entry in the race of a compromise candidate, a Peruvian diplomat who served as Under-Secretary-General, Javier Perez De Cuellar whose second five-year term ended in December 1991. Boutros Ghali was appointed without controversy, but failed to secure a second term, and was succeeded by another person from Africa, Kofi Annan. The story of the 1981 election for Secretary-General illustrates one aspect of international politics: no matter the opinion of the majority of the world community, each of the five permanent members retains the power over who will be the Secretary-General of the UN.

5. ECOSOC: ECONOMIC AND SOCIAL COUNCIL

ECOSOC is the largest UN body, after the General Assembly, with 54 members. However it is not an active body like the General Assembly, or even its own Commissions and Sub-Commissions. Its mandate encompasses a vast area:

- a) Higher standards of living, full employment, and conditions of economic and social progress and development;
- b) Solutions of international economic, social, health and related problems, and international culture and educational cooperation;
- c) Universal respect for the observance of human rights and fundamental freedoms.

To discharge this mandate, ECOSOC has created a number of subsidiary bodies. These include functional and regional commissions.

Functional Commissions include:

Statistical Commission (New York), Population Commission (New York), Commission on Social Development (Vienna), Commission on Human Rights-includes the Sub-Commission and Working Groups (Geneva), Commission on the Status of Women (Vienna), Commission on Narcotic Drugs (Vienna).

Regional Economic Commissions include:

Economic Commission for Africa (Addis Ababa), Economic and Social Commission for Asia and the Pacific (Bangkok), Economic Commission for Europe (Geneva), Economic Commission for Latin America and the Caribbean (Santiago de Chile), Economic and Social Commission for Western Asia (Baghdad).

Standing committees and Expert Bodies

Committee on Non-Governmental Organisations (New York), UN Centre for Human Settlement (Nairobi), Committee for Programme and Coordination (New York), Committee on Natural Resources (New York), Committee on Transnational Corporations (New York), Committee on Crime Prevention and Control (Vienna), Committee on Development Planning (New York), Ad Hoc Group of Experts on International Cooperation in Tax Matters (New York), Meeting of Experts on Public Administration and Finance (New York), Committee of Experts on the Transport of Dangerous Goods (New York), Inter-governmental Working Group of Experts on International Standards of Accounting and Reporting.

6. TRUSTEESHIP COUNCIL

We are all too familiar with the lofty ideals, principles and purposes embodied in the Charter. The first three words of the Charter are "We the peoples...". Peoples seem to be paramount in the Charter. Yet the wording should have been "We the Governments", thus more accurately reflecting what goes on in the UN. Peoples' concerns and aspirations are seldom represented nor are their voices heard. Rather it is the governments whose agendas are discussed and enacted.

The United Nations is a political body. It is made up of States with their differing, and often conflicting, perceptions and interests. It is a world political arena where governments jockey for advantage and power in their permanent quest to preserve, advance and consolidate their perceived national interests. This is their paramount concern. Not the principles and purposes embodied in the Charter. It is in this environment and against this background that the issue of decolonisation has been decided.

The Charter refers to the principle of self-determination in Articles 1, paragraphs 2 and 55, and deals with the question of dependent territories, the International Trusteeship System and the Trusteeship Council in several Chapters. Of particular importance was the adoption by the founding San Francisco Conference of Chapter XI of the Charter entitled Declaration Regarding Non-Self-Governing Territories. This obliged Member States responsible for territories listed in GA Res 66 (1) of 14 December 1946 to transmit information to the Secretary-General regarding conditions in the territories under their administration (Art 73).

72 Territories were listed as "non-self-governing" in 1946. Of these, 8 became independent between 1946 and 1959. Transmission of information in regard to 21 territories was unilaterally discontinued by the administering powers. The French, for instance, unilaterally ceased to comply with Art 73 in regard to its Territories in the Caribbean, South Pacific and the Indian Ocean.

The case of New Caledonia is an example. While it appeared in the original 1946 list of "Non-self-governing" territories, it no longer appeared in the up-dated list drawn up in 1963. It took almost two decades before it was reinscribed in the list. How did that take place? Was it by miracle or a decision of the Secretary-General of the UN or the President of the General Assembly?

A number of factors must be considered. First, the years of persistent and often lonely lobby by the Kanak representative, Yann Celene Uregei; and second, to the changing attitude by Pacific States to France in the South Pacific, caused in large part by French nuclear tests in the region, as well as the sinking of the "Rainbow Warrior" (belonging to an international NGO, Green peace). An important factor not to be ignored was the independence of Vanuatu in 1981, under Prime Minister Walter Lini who decided to embark on a crusade for Melanesian dignity and freedom. After several unsuccessful attempts, New Caledonia was reinscribed in the GA list of "Non-Self-Governing Territories" in 1985.

The turning point in the anti-colonial struggle was the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in GA Res 1514(XV) of 14 December 1960, sponsored by 43 Afro-Asian States. Operative paragraph 2 of Res 1514(XV) reads: "All peoples have the right to self-determination...".

The wording of the draft was a radical one, uncompromising, reflecting the mood and the new balance of forces in the UN with the emergence of the Third World-Socialist bloc alliance. In 1960 alone, 16 newly independent African States joined the UN, thus substantially altering the composition and balance of power in the General Assembly.

The following day another resolution was adopted, GA Res 1541 (XV) which qualified the sweeping proclamation in 1514(XV).

While Res 1514 favoured independence to the exclusion of other options, Res 1541 suggested that there are three decolonisation options at the UN for the colonised peoples. These options are:

- (a) Independence (the creation of a new State):
- (b) Free Association (for example Cook Islands);
- (c) Integration with an independent State.

One inherent danger in Res 1541 is that Principle IX(b) largely leaves to the colonial power the decision to organise a referendum or any other act, without UN involvement, to determine whether the colonised people wish to be integrated with the independent State holding the referendum. And it must be said, Res 1541 has been used by certain colonial powers to undermine the independence of a number of countries. That was the case of West Papua and Puerto Rico. But a genuine, internationally monitored act of free choice occurred in 1999 in East Timor.

Special Committee on Decolonisation

The Special Committee on Decolonisation was created by GA Res 1654(XVI), in 1961, initially with 17 Members nominated by the President of the General Assembly. This was expanded the following year to 24. Hence it's popular name, "Committee of 24". It has now merged with the Special Political Committee (this happened in October 1993).

The task of the Committee is to seek the most suitable ways for the speedy and total application of the Declaration. It meets once a year in August in New York. It was one of the most important and active UN bodies in the '60s and '70s, sending visiting missions to colonial territories either in cooperation with the colonial power or even through the backdoor.

Now the Committee is under pressure to fold. However, it will certainly continue to exist till at least the year 2,000, the target date the General Assembly set for the total eradication of colonialism.

Specialised Agencies

The inter-governmental agencies related to the UN by separate agreements are separate, autonomous organisations which work with the UN and each other through the coordinating machinery of the Economic and Social Council (ECOSOC).

There are 16 so-called specialised agencies, a term used in the UN Charter, which report annually to ECOSOC. Some of the best known agencies are ILO, FAO, UNESCO, WHO, World Bank and the IMF, etc. All of these agencies have an impact on human rights but rarely do they acknowledge the importance of taking human rights into direct consideration in the course of their work. Some, like UNESCO, have conventions of their own (UNESCO even has a human rights complaint mechanism - but NGO's do not utilise it as it is partly dysfunctional and little known). WHO has made statements about a Right to Health.

7. THE INTERNATIONAL COURT OF JUSTICE

The ICJ is established under its own Statute of the International Court of Justice a "the principal judicial agency of the United Nations".

It consists of fifteen independent judges, no two of whom may be nationals of the same state. They are elected for a nine-year term by the General Assembly and by the Security Council from a list of persons nominated under procedures laid down in The Statute. The electors (in the General Assembly and Security Council) are required to take into account the qualifications of the individual nominees and also 'that in the body as a whole the representation of the main forms of civilisation and the principal legal systems of the world should be assured' (Article 9).

Under Charter II of the Statute, only states may be parties in cases before the Court. And they may be parties only to the extent that they accept the jurisdiction of the court.

In addition, the Court may give an Advisory Opinion on any legal question at the request of the General Assembly or the Security Council.

The scope of the Court's jurisdiction is, clearly limited by the concept of State Sovereignty. Over the years, it has been able to give influential judgements and advisory opinions on a number of matters including issues of self-determination and human rights.

[Note: A statute has recently been approved by the General Assembly for an International Criminal Court which would have jurisdiction in relation to war crimes and crimes against humanity. But the ICC will not commence until the specified number of States have ratified its Statute. In the meantime particular ad hoc tribunals have been established in relation to former Yugoslavia and Rwanda.]

8. SECRETARIAT

The secretariat is the bureaucracy which serves the various activities of the United Nations and its constituent bodies. It is largely located at UN headquarters in New York but has a significant presence in Geneva and, to a lesser extent, other locations.

ACRONYMS

ACABQ	Advisory Committee on Administrative and Budgetary Questions
DMZ	Demilitarised Zone
ECOSOC	Economic and Social Council
FAO	Food and Agricultural Organisation
GA	General Assembly
ICC	International Criminal Court
ICJ	International Court of Justice
ILO	International Labour Organisation
IMF	International Monetary Fund
NGO	Non-Government Organisation
UN	United Nations
UNESCO	United Nations Educational Scientific and Cultural Organisation
WEOS	Western European and Other States
WHO	World Health Organisation



UN HUMAN RIGHTS AGENCIES AND PROCEDURES

INTRODUCTION

1. International Law and Practice prior to the United Nations Charter
2. The United Nations Charter
3. The Universal Declaration of Human Rights and the Covenants
4. The Treaty - Based System
5. The Charter - Based System

In traditional theory and practice, human rights were considered to be a matter of domestic jurisdiction and quite beyond the reach of international law (subject to a few exceptions, such as slavery). A State could treat its own people as it chose. All this has changed quite dramatically since 1945.

The period of the European dictators in the 1920's -1930's and the atrocities of the war period created a widespread belief that international law could no longer leave individuals to the tender mercies of governments. Violations of human rights were seen as a potent source of international conflict.

1. THE UNITED NATIONS CHARTER

The major developments since the Second World War have been in terms of the recognition of the importance of human rights in the founding document of the new international organisation, the United Nations Charter.

Article 1 sets out the purposes of the new organisation, and places the promotion of respect for human rights on the same level as the maintenance of international peace and security. Under articles 55 and 56 member States pledge themselves to take joint and separate action "in cooperation with the organisation" for the promotion and universal respect of human rights. The International Court of Justice in its advisory opinion on the continued presence of South Africa in Namibia in 1971 said that these provisions bind members states to observe and respect human rights.

Under Article 68 of the Charter, the Economic and Social Council (ECOSOC) established a Commission on Human Rights.

2. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE COVENANTS

One of the first tasks completed by the Commission on Human Rights was the drafting of what became accepted by the General Assembly in 1948 as the Universal Declaration of Human Rights. The declaration was never meant to be a legally binding instrument. International treaties in the human rights sphere are commonly developed first by agreement, on a declaration, which is meant to set a standard of conduct without imposing legal obligations, later, that declaration may be developed into a more specific, binding, multilateral treaty. This was the path taken with regard to the Universal Declaration of Human Rights. It was followed by, not one, but two, treaties, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).

There were several reasons why the single Universal Declaration of Human Rights was followed up by two separate covenants. It is often said that it was ideological considerations which caused Western concern with civil and political rights to have to be counter-balanced by the Eastern bloc and Third World concern economic, social and cultural rights. It is also said that because these rights are of rather nature they needed to be implemented in separate treaties.

Another indication of the international politics of human rights lies in the history of the two Covenants. The Commission on Human Rights (CHR) completed its work on the instruments in 1954 but it was only in 1966 that they were approved by the General Assembly and opened for signature. Politics had entered into the discussions in the Third Committee of the General Assembly and was responsible for the long delay. A further ten years elapsed before the two Covenants had been ratified by the required minimum number of States (35) so as to come into force in 1976.

As at 1 January 1998, 137 States had ratified the ICESCR, 140 had ratified ICCPR, 93 had ratified the Optional Protocol to the ICCPR (communications) and 31 had ratified the Second Optional Protocol (death penalty)

3. THE TREATY-BASED SYSTEM

Note again that treaties bind only those States that choose to ratify them.

The United Nations Charter is itself a treaty but one of almost universal adherence. What it has to say about human rights is critically important though it leaves the formulation of those rights to later development.

The Universal Declaration of Human Rights is not a treaty but a "mere" declaration, albeit one that has been given immense weight.

The two Covenants that develop the language of the Declaration into treaty form are of central importance and have attracted widespread, though not universal, ratification.

Other human rights conventions have been developed over the years and the process continues. The development of human rights **standards** has been accompanied by the evolution of implementation **procedures**.

The International Convention on the Elimination of All Forms of Racial Discrimination was completed in 1965 and commenced operation in 1969. It made provision for three forms of implementation, all based on the Committee on the Elimination of Racial Discrimination (CERD). The Committee consists of 18 members, supposedly individual experts of "high moral standing" rather than representatives of government.

Periodic Reports The first method of enforcement is the only one which is absolutely mandatory. This requires State parties to submit Periodic Reports to the Committee. The initial report falls due within one year of a State acceding to the Convention and then every second year thereafter. A report is supposed to cover the legislative, judicial, administrative or other measures which the State has adopted pursuant to its obligations under the Convention. The Committee in its turn makes annual reports on its activities to the General Assembly. Committee reports are made public. However, the reports of individual States are not.

In this respect then the Committee operates as a clearing house and its only real power is to request additional information from States. The effectiveness of these procedures will depend on the independence of the members of the Committee and their interest in asking probing questions of States. The Committee may also be more successful in applying pressures on reporting States to the extent that it is prepared to receive information from non-

official sources about the state of compliance with the Convention and to use such information in putting questions to the representative of the State.

State v State Complaints Under a second enforcement procedure, any State party to the Convention is entitled to lodge a complaint to the effect that another State party is not in compliance with the Convention. Such a State-versus-State complaint will require the Committee to undertake a mediation and conciliation role.

No such complaint has ever been lodged. Under this Convention, as under others, it seems that States are unwilling to cast the first stone.

Communications : The third enforcement procedure is one which provides for individual petitions or communications to the Committee. However this opportunity exists only when the State opts to allow petitions to be lodged against it. Even if a State does so opt, the individual still has to satisfy a number of requirements before his or her petition is heard. Initially all available domestic remedies have to be exhausted. If the Committee admits such a communication the State must submit explanations or statements to the Committee. The Committee can then make suggestions and recommendations to the State. There is no provision for any enforcement of the Committee's findings. The whole petitioning process is supposed to be confidential during the dispute mediation process; however the Committee's annual report to the General Assembly must contain a summary of any communications which it has received.

During the early years after the Convention began operation, the reports submitted by States parties tended to be exercises of self-congratulation. Numbers of States chose to ignore their obligations to submit reports, or to provide additional information, on request of the Committee. In the early years the Committee itself tended to take a fairly formalistic approach to its task and to accept a State's report as satisfactory if it appeared to be in the appropriate form, as distinct from any inquiry into the truth of its contents.

In more recent years, however, the Committee has taken a stronger line. For example, it has decided that its members are not limited to the information contained in State reports and has designed means to obtain necessary additional information. The Committee has decided to permit representatives of States parties to be present during review of their State's reports, and this encourages communication as well as compliance. It issues general recommendations setting out the Committee's interpretation of particular Articles of the Convention, and giving guidance to States about preparation of their reports. And it has

developed an urgent action/ early warning procedure under which it can ask a State party to provide information on developments at any time.

The discussion about the enforcement procedures under the Racial Discrimination Convention is also relevant in regard to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Both adopt rather similar procedures to the Racial Discrimination Convention of State reports and of State-versus-State complaints. Moreover the International Covenant on Civil and Political Rights has a First Optional Protocol which, if accepted by a State party, allows a right of individual communication to the 18 member Human Rights Committee. Optional provisions for communications to committees also are found in the Convention against Torture and are being developed for other core treaties.

Four of these instruments are known collectively as the International Bill of Rights. They are:

- * The Universal Declaration of Human Rights
- * The International Covenant on Economics, Social and Cultural Rights (ICESCR)
- * The International Covenant on Civil and Political Rights (ICCPR)
- * The First and Second Optional Protocols to the ICCPR.

There are other treaties developing specific topics of major concern. Apart from such early treaties focussing specifically on the experience of World War II such as the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and the 1951 Refugee Convention, the major treaties and their respective committees and procedures are as follows. (The six treaties are regarded as the "core human rights treaties")

International Human Rights Treaties	Implementation Committees and Procedures Committee	Periodic Report	State V State Complaints	Individual Communications
Instrument				
Universal Declaration of Human Rights	N/A	N/A	N/A	N/A
International Covenant on Economic Social and Cultural Rights	Committee on Economic, Social and Cultural Rights	Yes	No	No
International Covenant on Civil and Political Rights and First Optional Protocol to ICCPR	Human Rights Committee	Yes	Optional	Optional
International Convention on the Elimination of All Forms of Racial Discrimination	Committee on the Elimination of Racial Discrimination (CERD)	Yes	Yes	Optional
Convention on the Elimination of All Forms of Discrimination Against Women	Committee on the Elimination of Discrimination Against Women (CEDAW)	Yes	Optional	No
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment.	Committee against Torture (CAT)	Yes	Optional	Optional
Convention On the Rights of the Child	Committee on the Rights of the Child (CROC)	Yes	No	No

Reservations Interpretations etc

Treaties bind States in international law only if States accept those treaties by ratification or accession.

Even if a State does, accept obligations under a treaty, by ratification or accession, it may limit the obligations that it accepts by reservations, interpretations and understandings.

A reservation is an indication that, while the State accepts the Treaty generally, it does not accept obligations under a particular provision. By way of example, when Australia ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) it did so subject to a reservation that it did not yet accept obligations under Article 4 (a) which requires a State party to prohibit and punish racial vilification and the like. The Committee (CERD), in considering Australia's periodic reports, regularly interrogates Australia's representatives about that reservation. Reports from Australian inquiries have regularly recommended that Australia legislate in this area (the National Inquiry Into Racist Violence, the Royal Commission into Aboriginal Deaths in Custody.) The Racial Hatred Act 1995 (Cth) provided for civil but not criminal processes for racial vilification.

An **interpretation** or **understanding** lodged with ratification of a treaty simply offers the State's own interpretation of the meaning and scope of a particular obligation, or simply declares that the State considers that particular laws and practices comply with treaty obligations.

It is open to other State parties to challenge such reservations interpretations and understandings that may accompany another State's ratification. And the treaty committee will not hesitate to let State representatives know what it may think about such reservations, interpretations and declarations.

It may also be possible for a State party to a treaty to withdraw from the Treaty altogether (North Korea has proposed to withdraw from the ICCPR, and Jamaica has withdrawn from the ICCPR's first Optional Protocol). In fact, many treaties establish their own orderly processes for denunciation of a treaty. This is a fairly rare occurrence.

4. THE CHARTER - BASED SYSTEM

A State may avoid treaty obligations altogether simply by declining to ratify relevant treaties. The ratification record for human rights treaties by states in the Asia -Pacific region is not impressive.

It does not follow that such States are immune from international scrutiny of their human rights performance.

How can this be, if States are sovereign entities, acknowledging no superior authority other than those which the State voluntarily accepts?

The answer lies in the fact that most States are members of the United Nations. They became members by ratifying a treaty - the Charter of the United Nations.

Do they thereby assume obligations in the human rights field under that Charter? Initially the answer that would have been given on behalf of most governments was, No. While the United Nations Charter did speak of obligations in regard to human rights, such obligations were nowhere specified. Moreover, Article 2 (7) makes it quite clear that the United Nations may not intervene in matters within the domestic jurisdiction of a State. The sole exceptions relate to actions of the Security Council under Chapter 7 of the Charter, where there is a threat to the peace, a breach of the peace, or an act of aggression.

Yet today it is broadly accepted that a State may be under obligations in regard to human rights solely by reason of its membership of the United Nations and its obligations under the Charter. The practice of the United Nations has evolved so as to read Article 2 (7) as not excluding international discussion or even condemnation of conduct by a State to those within its boundaries.

For the most part, however, the United Nations Charter does not spell out what are human rights, and what will amount to violations of those rights. Where then can the specific obligations assumed by member States to the United Nations find definition?

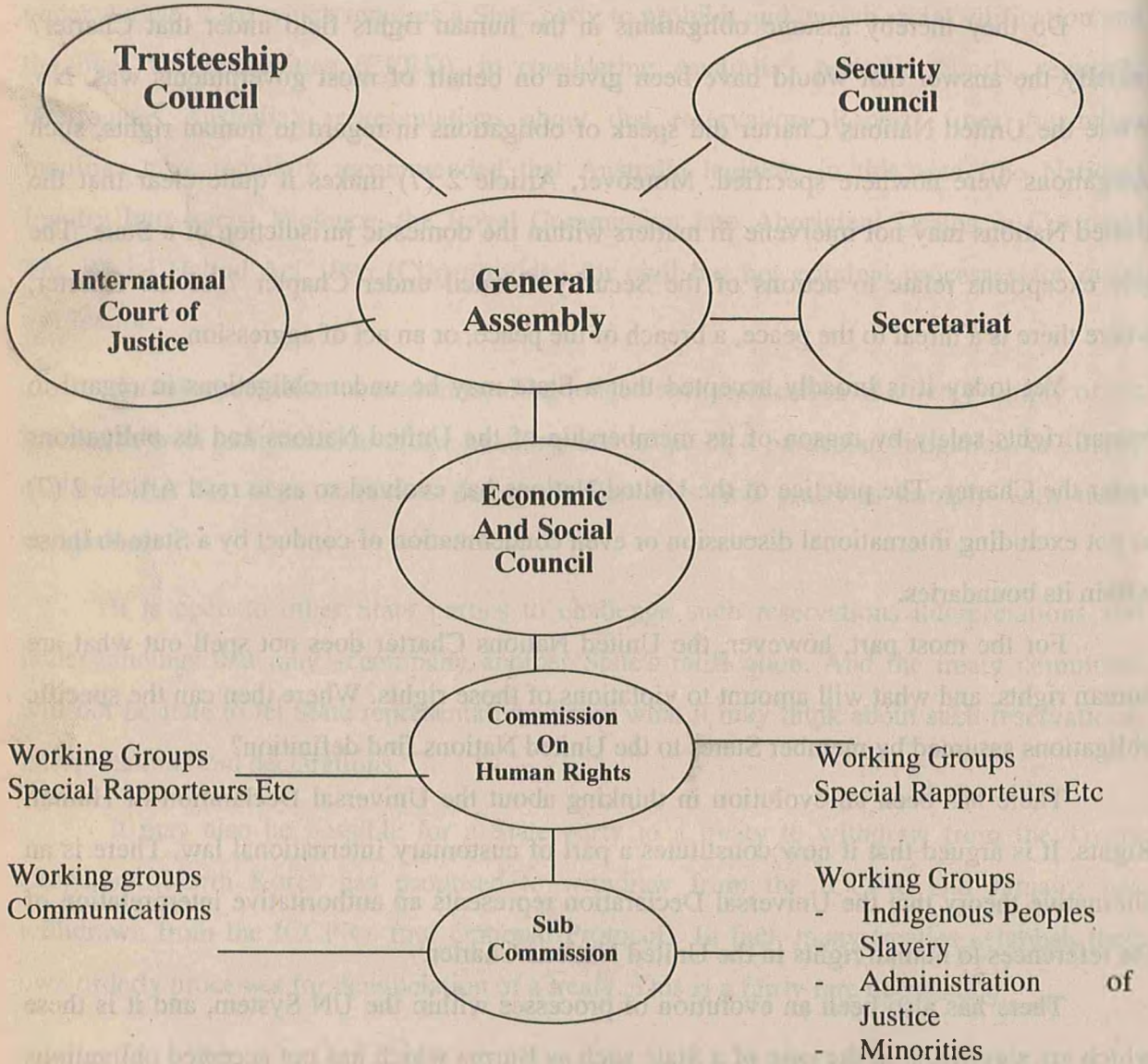
There has been an evolution in thinking about the Universal Declaration of Human Rights. It is argued that it now constitutes a part of customary international law. There is an alternative theory that the Universal Declaration represents an authoritative interpretation of the references to human rights in the United Nations Charter.

There has also been an evolution of processes within the UN System, and it is these which are significant in the case of a State such as Burma which has not accepted obligations under most parts of the Treaty based regime. Under Article 68 of the Charter the Economic and Social Council (ECOSOC) established a Commission on Human Rights (CHR) which

now comprises some 53 members, all representing States. The CHR is assisted by a Sub-Commission on Promotion and Protection of Human Rights. It comprises 26 members who are (supposedly) independent experts and not representatives of governments. In all the work of the Sub-Commission and the CHR, non-government organisations (NGOs) play a major role. The CHR is the body which has overseen the evolution of the treaty-based system through its standard-setting activities. Draft instruments proceed from the CHR via ECOSOC to the General Assembly. A simplified chart of the Principal Charter bodies is set out on the following page.

THE UNITED NATIONS SYSTEM

PRINCIPAL HUMAN RIGHTS BODIES UNDER THE CHARTER



COMMUNICATIONS

ECOSOC Res 1235 - Public Procedure

ECOSOC Res 1503 - confidential procedure

The Charter bodies are not concerned solely with standard-setting-designing treaties under which supervision of human rights at State level is entrusted to treaty committees. They themselves have developed a major role in overseeing human rights. The role of these bodies is, as noted, particularly important in relation to States that have not ratified human rights treaties. But they may also be relevant in relation even to States which have ratified most of the core human rights treaties.

Methods of Work

The Security Council, the International Court of Justice and the Trusteeship Council may all exercise functions which relate to human rights. So, may specialised agencies such as the UN High Commissioner for Refugees and the International Labour Organisation.

Most of the general human rights work, however, goes through the Charter bodies shown on the vertical axis of the chart. At the peak is the General Assembly.

General Assembly: The General Assembly comprises representatives of all member States and meets in New York between September - December each year. It is at the General Assembly that key human rights treaties are adopted and opened for signature, but the GA adopts resolutions on a whole host of matters.

The GA functions through a number of Committees. Its Third Committee deals with social, humanitarian and cultural matters. Most of the agenda items come up from ECOSOC. The GA has also established standing subsidiary bodies of its own including the Special Political Committee which merged with the former Decolonisation Committee.

ECOSOC. The Economic and Social Council Comprises 54 representatives of States. As well as receiving its own mandate under the Charter, the Charter authorises ECOSOC to set up Commissions in human rights and other fields. ECOSOC has established the Commission on the Status of Women (CSW) and the Commission on Human Rights (CHR). ECOSOC receives and considers annual reports from these functional commissions.

CSW. The Commission on the Status of Women has been particularly effective in developing international instruments on such matters as nationality and matrimonial rights and the broad-based Convention on the Elimination of Discrimination against Women (CEDAW). CSW perceives that much remains to be done to translate rhetoric to reality. Such initiatives as the Nairobi Forward - Looking Strategies and the 1995 World Conference in Beijing are designed to advance the agenda for meaningful improvements to women's human rights.

There is also momentum to avoid the "ghettoisation" of women's human rights in CSW and CEDAW, and to require all UN Bodies to consider gender specific issues in their work.

CHR. The Commission on Human Rights comprises 53 representatives of States. They are elected for three year terms on the basis of regional geographic distribution. It meets in Geneva in March- April and July each year. Since it was set up in 1946 it has evolved from a standard setting body into one which can also respond to human rights violations and pursue a wide range of measures to handle human rights. Since 1992 it has occasionally convened special sessions to consider the situation in former Yugoslavia and Rwanda.

The CHR makes studies, prepares recommendations, drafts international instruments, investigates allegations of human rights violations and deals with communications. Only the 53 member states may vote, but other States may participate on invitation, so may specialised agencies and inter-governmental organisations. Particularly important is the work on non-governmental organisations (NGOs) in consultative status with ECOSOC.

Sub Commission. CHR receives particular assistance from the Sub-Commission on Promotion and Protection of Human Rights (the Sub-Commission). It is not confined to matters of discrimination and minorities, but has a general human rights mandate. The Sub Commission consists, not of representatives of States, but of 26 independent experts. It meets in Geneva in August each year and reports to the CHR.

Both the CHR and the Sub-Commission use Working Groups of their members for various purposes. Like the CHR, the Sub-Commission also entrusts studies on particular topics to Special Rapporteurs.

Communications

The capacity of the system to respond to violations of human rights in particular places has evolved over time. Initially, in the face of Charter Art 2 (7), any UN activity in relation to bad human rights situations needed to be predicated on a finding that they constituted threats to international peace and security (eg. South Africa, Rhodesia)

But from the earliest days of the UN people began writing to the Secretary - General drawing attention to violations of human rights. For years, such letters were effectively ignored on the basis that there was nothing that the UN could do. The Secretariat simply compiled an annual list of complaints received.

Res.728 F. In 1959 under ECOSOC resolution 728 F a halting step forward was made. ECOSOC confirmed that the CHR had no power to take any action in regard to complaints concerning human rights. But the Secretary - General was asked to provide to both CHR and the Sub- Commission two lists: a non-confidential list containing a brief indication of the substance of each communication "which deals with the principles involved in the promotion of human rights", and a confidential list containing a brief indication of the substance of other communications concerning human rights. Members of CHR and Sub-Commission were entitled, on request, to consult the originals of communications in the first list. Writers of communications were to receive a response that, apart from this procedure, there was no power to take any action. Member States were to receive copies of communications about them, without divulging the identity of the author. Replies from States might, on request, be circulated to Members of CHR (but not to authors).

Res.1235. In 1967 the UN was ready for a further advance with the adoption of ECOSOC Resolution 1235. This authorised CHR and the Sub-Commission to examine communications on the lists prepared under Resolution 728F. (We shall return to other aspects of Resolution 1235).

Res.1503. Even higher hopes were initially held for ECOSOC Resolution 1503 adopted in 1970 which established what has become known as the "confidential procedure".

Resolution 1503 authorised establishment of a 5-person Sub-Commission Working Group to consider all communications, including replies of Governments thereon, received by the Secretary - General under Resolution 728 F. Their purpose was to select out, from the vast number of communications received (350,000 in 1989) those, together with replies of Governments, if any, "Which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms".

There are three levels of qualified: the violations have to be "reliably attested", they have to be "gross", and they have to form a "consistent pattern".

Those communications, and replies of Governments, if any, which have been so identified by a majority of the Working Group are then considered, together with "other relevant information", by the Sub-Commission as a whole. The Sub-Commission then decides in closed session whether or not to refer to CHR "particular situations" (not the communications as such) which appear to reveal a consistent pattern of gross and reliably attested violations.

The CHR in 1974 established its own Working Group on Communications to screen the "situations" referred to CHR by the Sub-Commission. Governments involved are invited to submit any observations. The Working Group prepares draft decisions.

The CHR as a whole considers these "situations" in closed session attended by the Government concerned. CHR may determine that it requires a "thorough" study. They may also decide that it shall be the subject of investigation by an ad hoc committee, but only with the express consent of the State concerned. This has never been done. Instead, if CHR simply decides to keep a situation under review it may send written questions to the Government, or send a CHR member or a staffer to make direct contacts. CHR announces the names of countries, which are under consideration.

May be only a couple of dozen communications each year are sufficiently detailed to receive serious consideration by the Sub-Commission's Working Group. The Sub-Commission may refer to the CHR some 8-10 "situations" each year. The communications that do best in the process are those that are prepared by lawyers or researchers for NGOs that send representatives to the Sub-Commission to ferret out information as to what is happening and to lobby members (as Governments do).

The process is slow, complex, secret and vulnerable to political influence at various stages. It does provide a way of exposing Governments to political pressure. But a choice may need to be made as to whether the Government in question may respond better to the public procedure involved in Resolution 1235. In many cases, a problem Government can be moved out of "confidential procedure" into the "public procedure" - Myanmar (Burma) is one example.

Resolution 1235 authorised establishment by CHR of a regular agenda item: "Question of violation of human rights and fundamental freedoms". CHR and the Sub-Commission were authorised to examine information relevant to "gross violations" contained in communications.

In practice, the resolution has provided the basis in both CHR and Sub-Commission for an annual debate on human rights violations around the world. Such debates are not confined to matters brought forward on communications. Both bodies regularly adopt resolutions expressing concern about violations in particular places.

Working Groups and Special Rapporteurs

Under authority of Resolution 1235 there has also been the development of very important special procedures. Before 1975 there were a few such special procedures to maintain critical scrutiny in respect of Southern Africa and Israeli - occupied territories. Since 1975 there have been a number of **Country mechanisms** established, for Cuba and a succession of other countries. These special procedures may take the form of Working Groups of the members of CHR or "Special Rapporteurs", Special Representatives or Independent Experts.

There was a further evolution in 1980. There was a proposal to appoint a "country rapporteur" for Argentina to look largely at the phenomenon of "disappearances" under the military junta. Argentina strongly resisted the proposal, so CHR resolved on the establishment of the first "**thematic procedure**", the Working Group on Enforced or Involuntary Disappearances. Other thematic procedures have since been established on other significant topics. The following chart lists CHR thematic procedures as in 1994.

Commission on Human Rights

Thematic Procedures - 1998

- Enforced or involuntary disappearances (Working Group)
- Extra judicial, summary or arbitrary executions (Special Rapporteur)
- Torture and other cruel, inhuman or degrading treatment (Special Rapporteur)
- Use of mercenaries (Special Rapporteur)
- Religious intolerance (Special Rapporteur)
- Sale of Children, child prostitution and child pornography (Special Rapporteur)
- Arbitrary detention (Working Group)
- Internally displaced persons (Special Representative)
- Racism, racial discrimination and xenophobia (Special Rapporteur)
- Freedom of opinion and expression (Special Rapporteur)
- Violence against Women (Special Rapporteur)
- Independence of judges and lawyers (Special Rapporteur)
- Effects of toxic and dangerous products on human rights (Special Rapporteur)
- The Right to Development (Working Group)
- The Rights of Migrants (Working Group)

The Sub-Commission, too, has established Working Groups on topics such as Slavery, Detention, indigenous Peoples, and Minorities.

As noted, both CHR and the Sub-Commission have Working Groups to deal with communications under Resolution 1503.

Working Groups, Special Rapporteurs and Experts are also regularly established to develop policy, to carry out studies, and to draft new instruments. A primary agenda item for the Sub-Commission's Working Group on Indigenous Populations (WGIP) was the 'evolution of standards' which, to date, has produced the Draft Declaration on the Rights of Indigenous peoples. The CHR has established its own open-ended Working Group to consider that Draft and to take matters further. If a Declaration emerges from the CHR it will proceed via ECOSOC to the General Assembly's Third Committee.

Participation of NGOs

WGIP is particularly flexible in allowing NGOs and indigenous individuals to participate in its work. In bodies higher up in the system only NGOs in consultative status are permitted to participate. Even in WGIP, NGOs in consultative status have stronger rights and entitlements than others.

To become an NGO in consultative status with ECOSOC, organisations need to work within ECOSOC resolution 1296. The process is detailed and applications are considered only every second year. An alternative is to seek access to UN procedure through existing accredited NGOs.

Conclusion

Finally, in place of the very simple organisational chart presented earlier, the chart on the next page indicates the bewildering variety of human rights processes and mechanisms at the international level as the date of its publication, 1993.

STATUTES OF THE INTERNATIONAL HUMAN RIGHTS INSTRUMENTS WITH

REFERENCE TO SOUTH ASIAN COUNTRIES AS ON NOVEMBER, 1997

The International human rights instruments of the United Nations which establish treaty bodies to monitor their implementation are the following:

- The International Covenant on Economic, Social and Cultural Rights (ICESCR), which is monitored by the committee on Economic, Social and Cultural Rights.
- The International Covenant on Civil and Political Rights (ICCPR), which is monitored by the Human Rights Committee;
- The Optional Protocol to the International Covenant on Civil and Political Rights (OPT), which is supervised by the Human Rights Committee;
- The Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at the abolition of the death penalty (OPT2);
- The International Convention on the Elimination of All Forms of Discrimination (ICERD), which is monitored by the Committee on the Elimination of Discrimination against Women;
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which is monitored by the Committee against Torture.
- The Convention on the Rights of the Child (CRC), which is monitored by the Committee on the Rights of the Child;
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of their families (MWC), which was adopted by the General Assembly in 1990 and will enter into force when at least 20 States have ratified it.

The following listing of all Member State of the United Nations shows which of those State;

- Are a party, i.e. have ratified the treaty, indicated by the year of entry into force or, for the Migrant Workers' Convention, the year of acceptance;
- Have signed the treaty, i.e. indicating their intent to ratify and shown in the list by an "s".

State	CESCR	CCPR	OPT	OPT2	CERD	CEDAW	CAT	CRC	MWC
Bangladesh	--	--	--	--	1979	1984	--	1990	---
Bhutan	---	---	---	--	S	1981	--	1990	---
India	1979	1979	---	---	1969	1993	S	1993	---
Maldives	--	--	--	--	1984	1993	---	1991	---
Nepal	1991	1991	1991	--	1971	1991	1991	1990	--
Pakistan	1980	1980	1997	--	1982	1991	1994	1991	1996
Sri Lankan	1980	1980	1997	--	1982	1981	1994	1991	1996
Sudan	1986	1986	--	---	1977	--	S	1990	---

STATUS OF RATIFICATION OF SOME OTHER CONVENTIONS WITH REFERENCE TO SOUTH ASIAN COUNTRIES

(AS OF DECEMBER, 1997)

In the following list of States it indicated when they became a party to five additional Conventions relevant to Human Rights. The year indicates the year of ratification by that State, "S" means the State only signed the convention.

They are:

- The Convention on the Status of Refugees (CSR 1951);
- The Optional Protocol, protecting non-European Refugees (CSR-OP 1967);
- The Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG 1948);
- The Geneva Conventions (GCs 1948);
- The Additional Protocol, on protection of victims of international armed conflicts (AP I 1977);
- The Additional Protocol, on protection of victims of non-international armed conflicts (AP II 1977);

State	CSR 1951	CSR-OP 1967	CPPCG 1948	GCs 1949	AP I 1977	AP II 1977
Bangladesh	--	--	--	1972	1980	1980
Bhutan	---	---	---	1991	--	--
India	--	---	1959	1950	--	--
Maldives	--	--	1984	1991	1991	1991
Nepal	---	---	1969	1964	--	--
Pakistan	---	---	1957	1951	---	---
Sri Lankan	---	---	1950	1959	---	--
Sudan	1974	1974	--	1957	---	--

THE UNITED NATIONS

HUMAN RIGHTS THEMATIC MECHANISMS

INTRODUCTION

What are the thematic mechanisms?

The United Nations (UN) thematic mechanisms consist of a number of special rapporteurs, representatives, independent experts or working groups appointed usually by the UN Commission on Human Rights (the Commission) to look at specific types of human rights violations wherever in the world they occur. They are referred to as 'thematic' to distinguish them from the country mechanisms, also appointed by the Commission, which look at the human rights situation in specific countries.

The purpose of this paper is to provide assistance to those wishing to submit information to or follow studies undertaken by the thematic mechanisms. The primary focus of the paper is with the mechanisms that take action on individual cases but it contains basic information about all 20 of the current thematic mechanisms. Some mechanisms may appear to be covered in more detail than others but this is because of the nature of particular mandates or because less information exists for certain mechanisms. This document is not meant to be exhaustive, but rather to serve as a guide to the scope of work of the thematic mechanisms and the types of information they seek, particularly from non-governmental sources. The paper reflects the mandates of the mechanisms following the 55th session of the Commission, held in March and April 1999.

The first thematic mechanism, the Working Group on Enforced or Involuntary Disappearances, was created in 1980. By 1985, with the creation of mechanisms dealing with summary or arbitrary executions and torture, the Commission had created a means of UN intervention to reports of threats to the right to life or to physical and mental integrity. Later in the 1980s, mechanisms were established to deal with religious intolerance, the use of mercenaries and the dumping of toxic waste. During the 1990s new mandates have been established to deal with the sale of children, child prostitution and child pornography; arbitrary detention; internally displaced persons; racism; freedom of opinion and expression; violence against women; and the independence and impartiality of the judiciary. Most recently new mandates have brought important aspects of economic and social rights on to the thematic agenda. These include the effects of foreign debt; education; extreme poverty; development and structural adjustment.

The thematic mechanisms have built up a reputation for being one of the UN's most effective tools in the promotion and protection of human rights. They can receive information about human rights violations from a variety of sources, both governmental and non-governmental. Those that take up individual cases can raise allegations with the government concerned and receive its reply, without revealing the source of the allegation. Most visit countries to examine at first hand the human rights situation, although only at the invitation of the government concerned, and make recommendations that should lead to an improvement in the situation. All the mechanisms compile detailed and candid reports to the Commission which not only describe human rights situations both generally and in individual countries but include valuable developments of the legal framework relevant to their mandate and make recommendations to both governments and the Commission.

The thematic mechanisms are mandated by the Commission to carry out their task "with discretion", but those parts of the Commission resolutions outlining their mandates are often worded in broad terms thus giving the mechanisms a relatively large measure of freedom in developing their own working methods. The mechanisms in their general approach are careful not to appear overly critical, but they are nevertheless in the valuable position of being able to expose, where it is warranted, to an international audience human rights violations in almost any country in the world, regardless (for the most part) of whether the government is party to a particular human rights treaty. For governments that seek their assistance in identifying solutions to human rights violations, the thematic mechanisms constitute a unique resource human rights expertise.

For individuals and non-governmental organizations (NGOs), the mechanisms offer a source of valuable information about current developments in human rights, a means to contribute to studies and the development of international legal norms and, in some cases, the possibility of reporting alleged human rights violations to the UN. Particularly in the latter case, it is essential that every effort is made to collect and report full information about the alleged violation. Many of the mechanisms that take up individual cases provide a questionnaire for reporting purposes. These questionnaires are available on the website of the Office of the High Commissioner for Human Rights (<http://www.unhchr.ch>).

Who are they?

The special rapporteurs, representatives, experts and members of the working groups serve in an unpaid capacity. Although some are diplomats or government officials, increasingly they are people who have developed their expertise on human rights in the non-state sector. Members of the working groups are chosen from all Five UN regional groups. They are appointed by the Commission following the establishment of their mandate. They are supported by staff at the Office of the High Commissioner for Human Rights in Geneva,

although there is a chronic and growing problem of resources both in terms of staff support and funding for their activities. The mandates of the mechanisms are not permanent but are renewed by resolution of the Commission.

The specific human rights violations covered by the thematic mechanisms, and the current incumbents, are listed below. The year the mechanism was established is given in brackets.

Working Group on Enforced or Involuntary Disappearances (1980) '

Mr Ivan Tosevski (Macedonia), chairperson; Mr Jonas K D Foli (Ghana); Mr Diego Garcia-Sayan (Peru); Mr Agha Hilaly (Pakistan); and Mr Manfred Nowak (Austria)

Special Rapporteur on extrajudicial, summary or arbitrary executions (1982)

Ms Asma Jahangir (Pakistan)

Special Rapporteur on torture (1985)

Sir Nigel S. Rodley (United Kingdom)

Special Rapporteur on religious intolerance (1986)

Mr Abdelfattah Amor (Tunisia)

Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination (1987)

Mr Enrique Bemales Ballesteros (Peru)

Special Rapporteur on the sale of children, child prostitution and child pornography (1990)

Mrs Ofelia Calcetas-Santos (Philippines)

Working Group on Arbitrary Detention (1991)

Mr Kapil Sibal (India), chairperson; Mr Louis Jointct (France); Mr Roberto Garreton (Chile); Mr Laity Kama (Senegal); and Mr Petr Uhl (Slovakia)

Representative of the Secretary-General on internally displaced persons (1993)

Mr Francis Deng (Sudan)

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (1993)

Mr Maurice Glele-Ahanhanzo (Benin)

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (1993)

Mr Abid Hussain (India)

Special Rapporteur on violence against women, its causes and consequences (1994)

Ms Radhika Coomaraswamy (Sri Lanka)

Special Rapporteur on the independence of judges and lawyers (1994)

Mr Param Cumaraswamy (Malaysia)

Special Rapporteur on adverse effects of the illicit movement and dumping of toxic and dangerous products and waste on the enjoyment of human rights (1995)

Ms Fatma Zohra Ksentini (Algeria)

Special Representative on the impact of armed conflict on children (1996)

Mr. Olara Otunnu (Cote d'Ivoire)

Independent expert on structural adjustment (1997)

Dr. Fantu Cheru (USA)

Special Rapporteur on effects of foreign debt on the full enjoyment of economic, social and cultural rights (1998)

Mr. Reinaldo Figueredo (Venezuela)

Special Rapporteur on the right to education (1998)

Ms Katarina Tornasevski (Croatia)

Independent expert on human rights and extreme poverty (1998)

Ms. Anne-Marie Lizin (Belgium)

Independent expert on the right to development (1998)

Mr. Arjun Sengupta (India)

Expert to prepare a revised version of the basic principles and guidelines on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights (1998)

Mr. Cherif Bassiolini (Egypt/USA)

• **What do they do?**

The activities of the Special Rapporteurs or Working Groups usually include:

Studies: The mechanisms undertake general studies. They determine which human rights violations fall within their mandate, analyze their occurrence and causes and comment on institutional aspects of national legislation and international standards. They also make general recommendations on how to prevent the human rights violation and remedy the consequences.

Receiving communications: As noted above, some of the mechanisms can receive communications alleging human rights violations in individual cases. They will act on allegations received from individuals, NGOs, governments, intergovernmental organisations and other UN institutions or offices (including other country or thematic rapporteurs).

Communications with governments: If the mechanism finds the information credible and within their mandate, it is transmitted to the government in question, either in the form of an urgent appeal or by letter. In urgent cases (such as fear of imminent execution), an appeal is transmitted to the government to protect those concerned, and provide information on the case. For less urgent cases or for general allegations, the mechanism addresses a letter to the government containing a description of the allegation and requests a reply.

Some rapporteurs actively follow up on the government's response (for example by raising the different accounts of an incident) until a satisfactory answer is received, whereas others merely summarize the government's reply in their annual report. In cases where no reply is received, reminders are sent.

Not all allegations received result in a letter or urgent appeal to the government. This may be due to a lack of resources at the Office of the High Commissioner for Human Rights or to the quality of information received.

Annual reports to the Commission: Each year the mechanisms issue a report to the annual session of the Commission (March/April) in which they describe their activities during the previous year. The reports discuss both general issues (mandate, working methods, theoretical analysis, recommendations) and surveys the reports they have received, and the government's response, on a country-by-country basis. Some reports also contain statistics on the number of urgent appeals or requests for information sent to governments, and the number of replies by governments. Some mechanisms are requested to present an interim report to the UN General Assembly (September to December). The exception is the Special Representative on the impact of armed conflict on children who is appointed by and reports to the General Assembly but presents an interim report to the annual session of the Commission.

Country visits: The mechanisms also undertake on-site visits to study the situation in any country first-hand, but only at the invitation of the government. Country visits can provide the rapporteur with great opportunities for collecting information through contact with government representatives, local NGOs and victims or their relatives. Country visits are usually the subject of a separate report to the Commission and include recommendations to the government. On occasion, two or more mechanisms (thematic or country) may make a joint visit or joint representations to a government. Otherwise thematic mechanisms do not usually visit a country for which a country rapporteur has been appointed, although there are exceptions to this rule. A list of country visits carried out since 1982 is contained in the Appendix.

The recommendations contained in reports of country visits are a valuable guide to the steps that the government needs to take to stop the human rights violation in question. However, the Commission gives scant attention to the implementation of recommendations and most of the mechanisms are so under-resourced that it is rarely possible for them to follow up on country visits.

Annual meetings: The chairpersons of the working groups, special rapporteurs, country rapporteurs, special representatives and various experts meet on an annual basis to "harmonize and rationalize their work" as required by the Vienna Declaration and Programme of Action (Part II, paragraph 95). The first of these meetings took place in Geneva in 1994. The issues discussed at these meetings include working relations between the mechanisms and the Commission, the implementation of thematic resolutions adopted by the Commission, cooperation with the High Commissioner for Human Rights, the integration of women's rights in mandates, and the question of resources and administration, resource room support services and use of media.

Other activities: The mechanisms are involved in other activities including requests to governments and often NGOs for information relevant to studies they are undertaking. They also attend conferences, issue press releases and undertake other activities to make their work better known.

• How to contact the thematic mechanisms

To submit information to or for more information about all the thematic mechanisms please write to the relevant mechanism at the following address:

Office of the High Commissioner for Human Rights
United Nations Office in Geneva
1211 Geneva 10
Switzerland
Fax: +41 22 917 9006 or 9003
Email: lgariup.hchr@unog.ch

Full information on the Commission and the work of the thematic mechanisms, including recent reports, resolutions and to access the forms or questionnaires designed to assist those wishing to submit information questionnaires, can be found at the following website address:

<http://www.unhchr.ch>.

GENERAL MANDATE

In addition to resolutions specific to each mechanism, the Commission adopts resolutions at each of its sessions instructing all the mechanisms to take into account particular recommendations and concerns in the execution of their mandates. At recent sessions these have included the following elements.

Human rights and thematic procedures

The Commission has asked the mechanisms to include in their reports:

information furnished by governments on follow-up to communications sent by the mechanisms;

comments on problems of responsiveness and the result of analyses in order to carry out their mandates more effectively;

suggestions as to areas where governments might request relevant assistance through the programme of advisory services and technical cooperation administered by the Office of the High Commissioner for Human Rights;

gender-disaggregated data and an analysis of the characteristics and practice of human rights violations that were specifically or primarily directed against women, or to which women were particularly vulnerable;

information on the situation of human rights defenders and how their protection can be enhanced.

Elimination of violence against Women

The Commission has requested all governments to cooperate with and assist the Special Rapporteur on violence against women in the performance of her mandate - particularly to respond to requests by the Special Rapporteur for information on violence against women, its causes and consequences. In addition, almost all the mechanisms have been asked by the Commission to pay particular attention to the gender-specific violations of the human rights in the framework of their specific mandate.

Promotion of the right to freedom of opinion and expressions

The Commission has invited the mechanisms to pay attention to situations of persons detained, subjected to violence or ill-treatment, or discriminated against for having exercised their right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and other relevant human rights instruments; and to note any deterioration in the right to freedom of expression.

Advisory services and technical cooperation

The Commission has asked the mechanisms to include in their recommendations, wherever appropriate, proposals for specific projects to be realized under the program of advisory services and technical cooperation organized by the Office of the High Commissioner for Human Rights.

Rights of persons belonging to national or ethnic, religious and linguistic minorities

The Commission has asked the mechanisms to continue to give due regard, within their respective mandates, to the promotion and protection of the rights of persons belonging to minorities, and to furnish, as appropriate, information on the application of the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992).

Human rights and mass exoduses and displaced persons

The Commission has asked the mechanisms to seek information, where appropriate, and include information and recommendations in their reports, on problems resulting in mass exoduses of populations or impeding their voluntary return home and situations which have already created or could create internal displacement.

Internally displaced persons

The Commission has invited the mechanisms to pay attention to issues of internal displacement, and to continue to seek information on situations which have already created or could create internal displacement and to include relevant information and recommendations thereon in their reports.

Co-operation with representatives of UN bodies

The Commission has called on governments to refrain from all acts of intimidation or reprisal against those who seek to cooperate with UN human rights bodies, and asks the representatives of those bodies, including the thematic mechanisms, to help prevent the hampering of access to UN human rights procedures. The thematic mechanisms are asked to include in their reports to the Commission information on any such incidents and action taken by them in response.

Rights of the child

The Commission has asked the thematic mechanisms to pay special attention to particular situations where children are in danger and where their rights are violated, including street-children, the exploitation of child labour, children in armed conflicts and children who are victims of sale, child prostitution and child pornography.

Impunity

The Commission has invited the mechanisms to give due consideration to the issue of impunity in their work.

Human Rights Defenders

The Commission has urged all special rapporteurs and working groups to give due regard to the Declaration on Human Rights Defenders' (1998) within their mandates.

Globalization

The Commission has requested that all special rapporteurs, representatives, independent experts and working groups of the Commission take into consideration the issue of the impact of globalization on the full enjoyment of all human rights in their reports.

SUMMARIES OF THE THEMATIC MECHANISMS

(LISTED BY DATE OF ESTABLISHMENT)

WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES (WGEID)

Mandate and working method

The WGEID is mandated to examine questions relevant to enforced or involuntary disappearance of persons, and to assist families in determining the fate and whereabouts of their missing relatives. The WGEID endeavors to establish a channel of communication between the families and governments concerned, often through NGOs, with a view to ensuring that individual cases are investigated and the whereabouts of the "disappeared" person is clearly established, irrespective of whether the person is alive or dead.

The WGEID's mandate is primarily based on the International Covenant on Civil and Political Rights (1966) and the Declaration on the Protection of All Persons from Enforced Disappearance (1992) (the Declaration). The WGEID has a special role to play with regard to the Declaration. It should be noted that the WGEID participated actively in the elaboration of the Declaration and welcomed it as a milestone in the united efforts to combat the practice of "disappearance". The WGEID has been entrusted by the Commission to monitor states' compliance with their obligations deriving from the Declaration. The Commission has requested WGEID to give full attention to the provisions of the Declaration and its implementation.

Definition of "disappeared"

In defining "disappearance", the WGEID applies the definition provided in the preamble to the Declaration, which reflects many of the WGEID's proposals and recommendations, and the implementation of which is central to its mandate. A "disappeared" person is:

a clearly identified individual;

who has been arrested, detained or abducted against his or her will or otherwise deprived of his or her liberty by (a) officials or different branches or levels of government, or (b) organized groups or private individuals acting on behalf of or with the support (direct or indirect), permission or acquiescence of a government (consequently WGEID does not deal with "disappearances" attributed to opposition groups); and

these Forces then conceal the whereabouts of that person or refuse to disclose that person's fate or acknowledge that the person was deprived of their liberty, thus placing that person outside the protection of the law.

Examining individual cases

The WGEID receives and examines reports of "disappearances". To be admissible a communication must be submitted in writing and clearly indicate the identity of the sender. The submission originates from the family or friends of the missing person but is often channeled through an NGO. The WGEIU may not take any action in an individual case on its own initiative.

The WGEID constantly urges senders of reports to provide them with information that contains at least a minimum of data. Submissions must fulfil the following basic criteria before the WGEID will take up a case:

- full name of the missing person and relevant identification data (for example, national identity document number or photograph);
- date of "disappearance" - day, month and year of arrest, abduction or when last seen. If the missing person was last seen in a place of detention, an approximate indication is sufficient;
- place of arrest or abduction or where the missing person was last seen. At least an indication of the location is required;
- parties presumed to have carried out the arrest or abduction or to hold the missing person in unacknowledged detention;
- steps taken to determine the fate or whereabouts of the missing person or at least an indication that efforts to resort to domestic remedies were frustrated or have otherwise been inconclusive.
- identity of the person or organization submitting the report (which will be kept confidential on request).

The WGEID encourages those submitting information to include supporting documentation (a photograph of the missing person or witness statements, for example) wherever possible but emphasizes that copies, not original documents, should be sent.

Handling of cases

The WGEID's action is based on the principle that the state is responsible for human rights violations committed within its territory and is obliged to prevent such violations or to investigate them when they have occurred. The WGEID will therefore not process individual cases of "disappearance" perpetrated by irregular or insurgent groups fighting a government on its own territory.

It is important to confirm that the "disappearance" is not in fact a case of short-term unacknowledged detention, in which case it should not be submitted to the WGEID.

After determining whether the report of "disappearance" complies with the above criteria, the WGEID transmits the case to the government concerned, requesting the authorities to carry out investigations and to inform the WGEID of the results.

Urgent action procedure

Cases that occurred within three months preceding the receipt of the report of the "disappearance" by the WGEID are transmitted directly to the government concerned. This is referred to as the urgent action procedure.

Replies from governments and clarification of cases

Any reply from the government containing detailed information on the fate and whereabouts of a "disappeared" person is transmitted to the source. If the source does not respond within six months of the date from which the government's reply was communicated to it, or if it contests the government's information on grounds which are considered unreasonable by the WGEID, the case is considered clarified and is accordingly listed under the heading "Cases clarified by the government's response" in the statistical summary of the annual report. If the source contests the government's information on reasonable grounds, the government is so informed and asked to comment and the case is kept open.

The WGEID reminds every government concerned at least once a year of the cases which have not yet been clarified, and twice a year of all urgent actions cases transmitted during the preceding six months for which no clarification has been received.

To facilitate the submission of cases, the WGEID has prepared a standard format for the reporting alleged "disappearances" which can be obtained from the website of the Office of the High Commissioner for Human Rights (<http://www.unhchr.ch>).

THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS

Mandate and working method

The mandate of the Special Rapporteur is primarily based on the Universal Declaration of Human Rights (1948), articles 4,6, 14 and 15 of the International Covenant on Civil and Political Rights (1966) and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (1989).

The Special Rapporteur will take action on cases submitted by individuals, NGOs, governments or intergovernmental organizations that meet the following criteria:

Violations of the right to life in connection with the death penalty. The Special Rapporteur intervenes when capital punishment is imposed after an unfair trial, or in case of a breach of the right to appeal or the right to seek pardon or commutation of sentence. The Special Rapporteur also intervenes if the convicted person was a minor at the time of the offence, or is a mentally retarded or insane person, a pregnant woman or a recent mother;

Death threats and fear of imminent extra-judicial executions by state officials, paramilitary groups, private individuals or groups cooperating with or tolerated by the government, as well as unidentified persons who may be linked to the categories mentioned above;

Deaths in custody owing to torture, neglect or the use of force, or life-threatening conditions of detention;

Deaths owing to the use of force by law enforcement officials, or persons acting in direct or indirect compliance with the state, when the use of force is inconsistent with the criteria of absolute necessity and proportionality;

Deaths owing to attacks by security forces of the state, by paramilitary groups, death squads or other private forces cooperating with or tolerated by the government;

Violations of the right to life during armed conflicts, especially of the civilian population, contrary to humanitarian law;

Expulsion or *refoulement* of persons to a country where their lives are in danger;

Genocide;

Breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice;

Breach of the obligation to provide adequate compensation to victims of violations of the right to life.

In her report to the last session of the Commission,⁷ the Special Rapporteur highlighted the following areas as "issues of special concern": capital punishment; impunity; child soldiers; traditional practices and customs affecting the right to life and the right to life and sexual orientation.

Examining individual cases

The following minimum information is needed:

Full particulars of the victim;

Date and place of the incident and description of how it occurred;

Name of the alleged perpetrators, if known, and explanation of the reasons why they are suspected to be responsible; if perpetrators are non-state agents, details on how these forces or individuals relate to the state;

Name and full address of the organization or individual submitting the allegations to the Special Rapporteur.

Handling of cases

Alleged cases of extrajudicial, summary or arbitrary executions are transmitted to the governments concerned. The government is requested to respond with information about the progress and results of investigations conducted with respect to these cases, penal or disciplinary sanctions imposed on the perpetrators, as well as compensation provided to the family of the victim.

Urgent action procedure

Urgent appeals may be sent by the Special Rapporteur in cases that evince a fear of imminent extra-judicial, summary or arbitrary executions. These cases include death threats and fear of imminent execution of death sentences in contravention of the limitations on capital punishment set forth in the pertinent international instruments, including those mentioned previously. The Special Rapporteur may also send urgent appeals to governments after having been informed of the imminent expulsion of persons to a country where they are at risk of extra-judicial, summary or arbitrary execution.

When transmitting urgent actions, the Special Rapporteur appeals to the government concerned to ensure effective protection of those under threat or at risk of execution. The Special Rapporteur also urges the authorities to undertake full, independent and impartial investigations with respect to those violations, to bring the perpetrators of extra-judicial executions to justice, and to protect the rights of the victim's family. Governments are urged to keep the Special Rapporteur fully informed of all steps taken.

Replies from governments and clarification of cases

The Special Rapporteur may request further or updated information from the government or the source of the allegation. In cases where the violation has already taken place, the Special Rapporteur will focus on the obligation of the state to carry out a full and impartial investigation, to bring the perpetrators of extra-judicial executions to justice, and protect the rights of the victim's family. A case will be closed only when these conditions have been fulfilled.

To facilitate the submission of cases, the Special Rapporteur has prepared a standard format for the reporting of alleged extrajudicial, summary or arbitrary executions which can be obtained, from the website of the Office of the High Commissioner for Human Rights \\' (<http://www.unhchr.ch>).

Mandate and working method

The mandate of the Special Rapporteur on torture is primarily based on the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), which guarantee the right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment.

In addition to the more obvious cases of torture, the following are some examples of other situations which the Special Rapporteur classifies as torture:

Physical torture including: exposure to excessive light or noise; administration of certain drugs (for example apomorphine which causes vomiting, curare which causes asphyxia); prolonged denial of rest, sleep; prolonged denial of food; prolonged denial of sufficient hygiene; prolonged denial of medical assistance; judicially ordered corporal punishment; custodial rape and sexual abuse.

Psychological or mental torture including: total isolation and sensory deprivation (these conditions, if prolonged, can entail serious and often irreversible psychosomatic, intellectual and emotional problems); being kept in constant uncertainty in terms of space and time; threats to kill or torture relatives; total abandonment; simulated executions; "disappearance" of relatives.

Examining individual cases

Information on the torture of a person should be transmitted to the Special Rapporteur in written form and should contain the following minimum information:

Full particulars of the victim:

Date on which the incident(s) of torture occurred (at least as to the month and year); place where the person was seized and location at which the torture was carried out (if known);

Indication of the forces carrying out the torture;

Description of the form of torture used and any injury suffered as a result;

Identity of the person or organization submitting the report.

Copies of any relevant corroborating documents, such as medical or police records should be supplied where it is believed that such information may contribute to a fuller account of the incident. Only copies and not originals of such documents should be sent.

Handling of cases

The Special Rapporteur transmits to the government concerned summaries of all credible and reliable information addressed to him alleging violations in individual cases as well as practices of torture. He requests the government to look into those allegations and to provide him with relevant information on the allegations, to prosecute and impose appropriate sanctions on any persons guilty of torture regardless of rank, office or position they may hold; to take effective measures to prevent the recurrence of such acts; and to compensate the victims or their relatives in accordance with the relevant international standards.

Urgent action procedure

The Special Rapporteur will make an urgent appeal whenever he receives information that an individual has been arrested and there are well grounded fears that person may be subjected to torture. The appeal is sent to the government concerned drawing its attention to the case, with the object of preventing or stopping an act of torture. In such cases actual evidence of torture taking place or having taken place is not required. The Special Rapporteur only has to determine whether there are reasonable grounds to believe that a person is held under circumstances indicating an credible risk of torture. Deaths as a result of torture are dealt with by the Special Rapporteur on extrajudicial, summary or arbitrary executions.

Replies from governments and clarification of cases

Replies from governments are processed and the sources are consulted. If warranted the dialogue continues, and from these communications the Special Rapporteur draws conclusions and makes recommendations to governments.

The Special Rapporteur acknowledges where appropriate the existence of persistent acts of violence, including torture, committed by armed groups. However, he transmits allegations of torture only to governments, as the authorities responsible under international human rights standards.

To facilitate the submission of cases, the Special Rapporteur has prepared a standard format for reporting allegations of torture which can be obtained from the website of the Office of the High Commissioner for Human Rights (<http://www.unhchr.ch>).

SPECIAL RAPPORTEUR ON RELIGIOUS INTOLERANCE

Mandate and working methods

The Special Rapporteur on religious intolerance is mandated to examine incidents and governmental action in all parts of the world inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief (1981) and to recommend remedial measures for such situations.

The Special Rapporteur has identified seven categories of violation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. These are:

Violations of the principle of non-discrimination in matters of religion and belief: policies, laws and regulations, discriminatory practices and acts against (a) certain communities with regard to religion and belief, particularly when such communities are minorities or do not subscribe to the official religion or recognized religions and beliefs, and (b) against women based on interpretations of religion and traditions supposedly based on religion or belief.

Violations of the principle of tolerance in matters of religion and belief: these are policies, practices and acts of religious intolerance on the part of the state and society, particularly of communities in matters pertaining to religion and belief, of politico-religious groups and other non-state groups, the most marked manifestations of which are connected with the problem of religious extremism as well as the role of the media in propagating a climate of intolerance.

Violations of freedom of thought, conscience and religion or belief: these are policies, laws and regulations, practices and acts contrary to the principle of conscientious objection" and the freedom to change and keep one's religion and belief.

Violations of the freedom to manifest one's religion or belief: these comprise policies, laws and regulations, practices and acts constituting controls, interference, prohibitions and restrictions on freedom to manifest one's religion or belief.

Violations of the freedom to dispose of religious property: these are policies, practices and acts that impair the freedom to dispose of religious property in the form of non-restitution of confiscated religious property; refusal of access to places of worship (obstacles to, and even banning of, construction or rental; restrictions on the number of followers); a tax against enclosure and destruction of places of worship, cemeteries and denominational schools, and confiscation of religious property (including religious works).

Violations of physical integrity and health of persons (religious figures and the faithful):

these are policies, practices and acts in the form of threats, ill-treatment (including slavery and rape, arrest and detention, forced disappearances, and even death sentences, executions and killings).

Violations affecting women: this refers to the specific application to women of the six categories of violations listed above.

The Special Rapporteur is examining the contribution of education to the more effective promotion of religious tolerance. He has conducted a survey, by means of a questionnaire

addressed to states, on problems related to freedom of religion and belief from the standpoint of the curricula and text books of primary or elementary and secondary educational institutions. He is currently establishing a compendium of national enactments concerning freedom of religion and belief. His aim is to create a basic reference work, to be updated regularly.

The Special Rapporteur has proposed that his title should be changed to "Special Rapporteur on freedom of religion or belief" since his present title, with its reference to religious intolerance, "antagonizes certain interlocutors and sometimes makes dialogue difficult". In Resolution 1999/39 the Commission decided to consider the change of title at the next session. It also encouraged the Special Rapporteur to contribute effectively to the preparatory process for the UN World Conference against racism, racial discrimination, xenophobia and related intolerance which will be held in 2001.

Examining individual cases

The procedure for communications about individuals is similar to that used by other thematic mechanisms. The Special Rapporteur will transmit information concerning alleged violations to the state concerned, request that the allegations be investigated and that he be kept informed of the results.

SPECIAL RAPPORTEUR ON THE USE OF MERCENARIES AS A MEANS OF IMPEDING THE RIGHT OF PEOPLES TO SELF- DETERMINATION

Mandate and working method

The Special Rapporteur on mercenaries is mandated to seek and receive credible and reliable information from governments, specialized agencies and intergovernmental and non-governmental organizations on the use of mercenaries.

In his latest report to the Commission the Special Rapporteur reports on his activities; mercenary activities in Sierra Leone; the persistence and evolution of mercenary activities; private security and military assistance companies and mercenary activities; and the current status of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. This treaty was adopted by the UN General Assembly in 1989 but still lacks sufficient number of ratifications to come into force.

The Special Rapporteur concluded that mercenary activities continue to exist in many parts of the world. Although mercenaries pose as technicians or military experts, hired by private companies or governments, this did not change the nature or the status of those who hire

themselves out to meddle and cause destruction and death in foreign conflicts and countries. The information submitted to him suggested that Africa continued to be the country most affected, mercenary activity has spread to other continents. He recommended that the Commission pay priority and urgent attention to the challenge to the international system of human rights protection created by the growth and development of companies providing security services and military assistance and advice.

This mechanisms does not take up individual cases.

SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Mandate and working method

The mandate of the Special Rapporteur is to study the phenomena of the sale of children, child prostitution and child pornography and make recommendations for preventing such abuses. Her mandate is carried out within the framework of international human rights instruments relevant to children, particularly the Convention on the Rights of the Child (1989).

In earlier reports, the Special Rapporteur identified and analyzed the roles of three catalysts which she felt were indispensable in the fight for the protection of children, namely the justice system, education and the media. She has made extensive recommendations on how these catalysts could be most effective in responding to children who are entrenched in situations of abuse and in the prevention of such abuses.

The Special Rapporteur has studied the involvement of children in commercial sex, prostitution and pornography, considered issues definition, causation, international and national developments and their effects on children, and made recommendations. She is now focussing on the third element in her mandate: the sale of children. The increased international attention being given to the issue of sexual exploitation has heightened awareness of the extent to which children in virtually all areas of the world are being sold for sexual exploitation and for other purposes. This awareness has also brought to light that fact that in most cases where there is sale, there is also trafficking involved.

In July 1998 the Special Rapporteur circulated a questionnaire to governments, relevant UN bodies and agencies, intergovernmental and non-governmental organizations. The questionnaire requested the following information:

- the paths within the countries through which children are trafficked; the origin of the children and their final destination;
- the international trafficking routes which may originate in, pass through or terminate in the country in question;
- the profiles of the children and of those involved in the trafficking - their nationality, age and background circumstances;
- the purposes for which children are trafficked - for sexual exploitation, illegal adoption, for use in labour or sports or as organ donors, or any other purpose;
- whether the children are part of a general trafficking path along with commodities such as drugs or firearms;
- provisions for prevention/extradition/repatriation/rehabilitation of the child victims after trafficking.

This mechanism does not take up individual cases.

WORKING GROUP ON ARBITRARY DETENTION (WGAD)

Mandate and working method

The WGAD is mandated to investigate cases of deprivation of liberty imposed arbitrarily in contravention of the Universal Declaration of Human Rights (1948), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988) and other relevant international instruments accepted by the states concerned.

In 1997 the Commission additionally mandated the WGAD to devote all necessary attention to reports concerning the situation of migrants and asylum seekers who are allegedly being held in prolonged administrative custody without the possibility of administrative or judicial remedy, and to include observations on this question in its report.²¹ That resolution also placed some restrictions on the work of the WGAD by instructing it not to apply the International Covenant on Civil and Political Rights (1966) or other relevant international human rights treaties to states that are not a party to such treaties, and to give views rather than take decisions on cases. The WGAD was asked to re-examine its methods of work, particularly regarding the admissibility of cases and to be flexible in setting deadlines for governments' replies to its inquiries.

The WGAD may, at the invitation of governments, make visits to places of detention in order to satisfy itself not only with conditions of detention, but also with the legal status of prisoners.

Types of arbitrary detention

As a general rule, in dealing with situations of arbitrary deprivation of liberty, the WGAD refers to the following three categories :

Category 1: cases in which the deprivation of freedom is arbitrary as it manifestly cannot be linked to any legal basis such as continued detention after the completion of a sentence or despite an amnesty law applicable to the prisoner;

Category II: cases of deprivation of freedom resulting from the exercise of fundamental rights or freedom guaranteed by the Universal Declaration of Human Rights (1948) specifically articles 7, 13, 14, 18, 19,20 and 21 and, for state parties to the International Covenant on Civil and Political Rights (1966) specifically articles 12, 18, 19, 21, 22, 25,26 and 27. These articles refer to freedom of thought, conscience and religion; opinion and expression; and peaceful assembly and association;

Category III: cases in which non-observance of all or part of the international provisions relating to the right to a fair trial is such that it confers on the deprivation of freedom, of whatever kind, an arbitrary nature. It should be noted that detention can be arbitrary both during pre-trial judicial or administrative detention as well as post-trial imprisonment.

The WGAD has provided a detailed list of unfair pre-trial and post-trial situations of arbitrary detention which it considers to be arbitrary."

Examining individual cases

The WGAD studies complaints about individual cases of alleged arbitrary detention to establish whether a detention is arbitrary. Until the WGAD has sufficient information to come to a decision, the case will remain open. The WGAD's involvement in a case is generally triggered by communications sent to it by the family or representative of a detained person, NGOs, governments or intergovernmental organizations. The WGAD may, on its own initiative, take up cases which might constitute arbitrary deprivation of liberty."

Cases must be submitted in writing and should contain, as far as possible, the following facts:

- the identity of the person arrested or detained;
- the date and place of arrest or detention; forces presumed responsible; and all other available information;
- the reasons given by the authorities for the arrest or detention or the offences;
- the legislation relevant to the case;
- the steps taken at the national level to verify the detention, especially approaches to the administrative and legal authorities; the results or reasons why such steps were ineffective or were not taken;

a short account of the reasons for regarding this case as one of arbitrary detention;
full particulars of the person(s) submitting the information.

Handling of cases

Offering the government an opportunity to refute the allegations

Cases which are considered to be arbitrary are transmitted to the government concerned, with an invitation to respond to the WGAD, preferably within 90 days, on both the facts of the cases and the relevant legislation. The government is also requested to provide information on the progress and outcome of any investigation that may have been ordered.

The WGAD's views

In the light of the information collected, the WGAD reaches one of the following opinions:

If the person has been released since the WGAD took up the case, it can decide in principle to file the case. Nevertheless, the WGAD reserves the right to decide whether or not the detention was arbitrary, when the circumstances of the detention raise a matter of principle or are of a particularly serious nature;

the WGAD may consider that the case is not one of arbitrary detention;

the WGAD may keep a case pending while it seeks additional information from the government concerned or the source of the complaint;

the WGAD may file the case if it considers that it is not in a position to obtain sufficient information;

if the WGAD considers that the arbitrary nature of the detention is established, it declares the detention arbitrary and makes recommendations to the government concerned.

The WGAD's "deliberations"

The WGAD may also adopt a position of principle, known as a "deliberation", on matters of a general nature in order to develop a consistent set of principles and assist states, for purposes of prevention, to guard against the practice of arbitrary detention. The WGAD has already adopted such "deliberations", on the questions of house arrest and deprivation of freedom for purposes of rehabilitation through labour. By means of these "deliberations" it defines the criteria on the basis of which deprivation of freedom linked with such situations may become arbitrary.

Urgent action procedure

The WGAD has developed an urgent action procedure for cases in which there are sufficiently reliable allegations that a person is being detained arbitrarily and that the

continuation of the detention may constitute a serious danger to that person's health or life. The urgent action procedure may also be resorted to in other circumstances, when the WGAD deems that the situation warrants such an appeal (such as failure to release a person despite a court order to that effect). In such cases, an urgent appeal is sent to the government concerned, requesting the government to take prompt measures to ensure that the detained person's right to life and to physical and mental integrity is respected. Such urgent appeals in no way prejudice the WGAD's final assessment of whether the detention is arbitrary. When the state of health of the detained person appears to give grounds for particular concern the WGAD may also appeal to the government to consider releasing that person without delay.

Replies from governments and clarification of cases

Any reply sent by the government to the WGAD is transmitted to the source for any further comments and observations. If the government has not communicated its response within the deadline, the WGAD may take a position on the case on the basis of the information available.

To facilitate the submission of cases, the WGAD has prepared a standard format for reporting allegations of torture which can be obtained from the website of the Office of the High Commissioner for Human Rights (<http://www.unhcr.ch>).

REPRESENTATIVE OF THE SECRETARY-GENERAL ON INTERNALLY DISPLACED PERSONS

Mandate and working method

This mandate was created in 1993 by the UN Secretary-General, at the request of the Commission, to seek views and information from all governments on the human rights issues related to internally displaced persons, including an examination of existing international, human rights, humanitarian and refugee law and standards and their applicability to the protection of and assistance to internally displaced persons.

As the Special Rapporteur notes in his most recent report¹⁰ the development of a normative legal framework has been a major part of his work. He has so far published a two part compilation and analysis of legal norms and a report on Guiding Principles' The First part of his compilation and analysis¹¹ examined the relevant provisions of international human rights, humanitarian and, by analogy, refugee law once people had been displaced. The study concluded that, while existing law covers many aspects of relevance to the situation of the internally displaced, there exist significant gaps and grey areas as a result of which the law fails to provide sufficient protection.

The second part of the compilation and analysis" examined the legal aspects relating to the protection of arbitrarily displaced persons and found that many provisions in international law point to a general rule according to which forced displacement may be undertaken only exceptionally, on a non-discriminatory basis and not arbitrarily imposed. However, this protection is largely only implicit. The Guiding Principles based on the compilation and analysis, consolidate the numerous relevant relating to the protection of and assistance to internally displaced persons.

The Representative of the Secretary-General on internally displaced persons does not take up individual cases. He has, however, produced a number of country studies entitled Profiles in Displacement. These are listed in the Appendix.

SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

Mandate and working method

The Special Rapporteur's mandate is based on the International Convention on the Elimination of All Forms of Racial Discrimination (1965). He is mandated to report on allegations of and make general recommendations on, contemporary' forms of racism, discrimination based on race, xenop5o51a~and related intolerance. He has given particular attention to these violations in developed countries and to racism and discrimination directed against migrant workers and other vulnerable groups and the examination of measures adopted by governments to overcome racism and racial discrimination. In his latest report the Special Rapporteur reported on contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance under the following headings: activities of the far right and neo-Nazi movements; discrimination against blacks (Negrophobia); racism and racial discrimination against Arabs; anti-Semitism; discrimination against the Roma; and the question of the untouchables in India. In addition, he included information on legislative and judicial measures taken or envisaged by governments where he has carried out field visits. Follow-up measures from Germany, Brazil, the United States of America, France and the United Kingdom are summarized.

In 2001 the United Nations will hold a World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance for which the Commission on Human Rights will be the preparatory body. Section V of Resolution 1999/78 details the preparations for the conference.

Examining individual cases

The procedure for communications about individuals is similar to that used by other thematic mechanisms. The Special Rapporteur will transmit information concerning alleged violations

to the state concerned, request that the allegations be investigated and that he be kept informed of the results.

SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

Mandate and working method

The Special Rapporteur is mandated to report and make recommendations on discrimination, threats or use of violence, and harassment (including persecution and intimidation) directed against persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, and in particular against professionals in the field of information.

The Commission has expressed concern about the extensive occurrence of human rights violations directed at people who exercise the right to freedom of opinion and expression and the intrinsically linked rights to freedom of thought, conscience and religion, of peaceful assembly and freedom of association and the right to take part in the conduct of public affairs, and against those who promote the rights contained in the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) and seek to educate others about them or who defend these rights and freedoms. The Special Rapporteur has noted that such human rights violations may be facilitated or aggravated by factors such as abuse of states of emergency, exercise of powers specific to states of emergency without formal declaration, and too vague a definition of offences against state security.

The Special Rapporteur has defined the right to freedom of opinion and expression as:

Opinion: each person should be free to hold any opinions, and hence be free from being influenced against his or her will by threat, coercion or the use of force.

Expression: This is the right to (i) seek and receive information and ideas of any kind, and (ii) impart these, through any media of one's choice. The right to freedom of expression can be restricted only for the following purposes:

- to respect the rights or reputations of others;
- to protect national security;
- to protect public order;
- to protect public health;

to protect public morals.

Restrictions and limitations must have been formally and specifically enacted in law. Moreover, the restrictions should be in proportion to the legitimate purpose to be achieved.

Handling of cases

The Special Rapporteur has prepared guidelines for the submission of information. These are:

Allegation regarding a person or persons: as detailed a description as possible, including name, age, gender, ethnic background (if relevant), profession, affiliations, past or present participation in political, social, ethnic or labour group/activity and information on other specific activities relating to the alleged violation.

Allegation regarding a medium of communication: as detailed a description of the alleged infringement of the right as possible, including date, location and circumstances of the event; the nature of the medium affected (such as newspapers, independent radio); including circulation and frequency of publication or broadcast, public performance etc; political orientation of the media (if relevant).

Information regarding the alleged perpetrators: name, state affiliation (for example, military police) and reasons why they are considered responsible. For non-state actors, description of how they relate to the state (for example, co-operation with or support by state security forces); if applicable, state encouragement or tolerance of activities of non-state actors, whether groups or individuals, including threats or use of violence and harassment against individuals exercising their right to freedom of opinion and expression, including the right to seek, receive and impart information.

Information related to state action: the identity of the authority involved (individual and/or ministry and/or department), the legal statute invoked, and steps taken to seek domestic remedy. If the incident involves an arrest or detention, the identity of the authority involved, the law invoked, location of detention if known, information on provision of access to a lawyer and family members, steps taken to seek domestic remedy or clarification of persons, situation and status. If applicable, information on whether or not an investigation has taken place and, if so, by what ministry or department of the government and the status of the investigation at the time of submission of the allegation, including whether or not the investigation has resulted in indictments.

Examining individual cases

The Special Rapporteur has summarized guidelines for the submission of information in his latest report. He is particularly interested in receiving information on problems and violations related to:

detention of, discrimination against, or threats or use of violence and harassment. Including persecution and intimidation, directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, including professionals in the field of information;

activities of political opposition parties and trade union activists, whether a group or an individual;

Actions against the media (print and broadcast) or impediments to their independent operation

Actions against publishers and performers in other media, including books, magazines, film and theatre and the studio arts;

activities of human rights defenders (e.g. lawyers, community activists);

women's human rights, within the context of obstacles - including laws and practices – which impede the right of women to express their views and be heard, participate in the decision-making process, have equal standing before the law, and seek and receive information on matters of particular relevance to them such as family planning and violence against women;

obstacles to access to information at the local, regional and national levels on projects and initiatives proposed by the Government to advance the right to development and obstacles to participate in the decision-making process, as well as obstacles to access to information on other subjects such as environmental and health impact studies, national budgets, social spending, industrial development projects and trade policies.

Information on the source of the communications: name, full address, telephone, fax numbers and e-mail address (if possible). Where considered necessary by the Special Rapporteur or requested, information on the source of the allegations will be treated as confidential.

In addition to the information requested above, the Special Rapporteur welcomes any additional comments or background notes that are considered relevant to the case or incident, and attaches great importance to being kept informed of the status of cases and thus welcomes updates of previously reported cases and information. This includes both negative and positive developments including the release of persons detained for exercising their rights to freedom of opinion and expression and, or the adoption of new laws, policies or changes to existing ones that have a positive impact on the realization of the rights to freedom of opinion and expression.

SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES

Mandate and methods of work

The Special Rapporteur is mandated to seek information on violence against women, study its causes and consequences, to respond effectively on such information, and to recommend appropriate measures to halt its occurrence. The Special Rapporteur has emphasized that she is only in a position to process cases of alleged violence against women that are gender-specific, that is violence or threats of violence directed against women because of their gender.

The Special Rapporteur's mandate on gender-based violence against women is taken from the UN Declaration on the Elimination of Violence Against Women (1993~ Article 2 of which states:

"Violence against women should be understood to encompass, but not to be limited to, the following:

Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital and mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation:

Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs".

This last category includes:

Custodial violence: violence against women held in custody by government agents (including custody as a result of a "disappearance");

Armed conflict: violence against women in situations of armed conflict, including rape and sexual torture, either as a deliberate policy (ethnic cleansing), or as a result of instability due to war;

Refugees and displaced women: violence against women as a result of their increased vulnerability as refugees or internally displaced people.

The Special Rapporteur's reports to the Commission have covered the different aspects of her mandate both as general studies and reports of country visits (see Appendix for details). Topics covered in her reports include:

- the nature of violence against women and relevant international standards;
- domestic violence;
- violence in the community including rape, trafficking and forced prostitution;
- a framework for model legislation on domestic violence;
- violence against women in armed conflict;
- violence against women in the family;
- violence against women in custody.

Examining individual cases

Information concerning one or more individuals identified by name, or information relating to a more general nature of a prevailing situation condoning or perpetrating violence against women may be submitted to the Special Rapporteur. However, she has emphasized that information sent to her often lacks sufficient detail for her to take the appropriate action.

Urgent action procedure

The Special Rapporteur will issue urgent appeals in cases of imminent threats, or fear of threat, to, the right of life. In such cases, she urges the government not only to provide comprehensive information on the case but also to carry out an independent and impartial investigation into the case and take immediate action to ensure that no further violations of the human rights of women are incurred.

To facilitate the submission of information, the Special Rapporteur has prepared a standard format for reporting alleged cases of gender-based violence against women which can be obtained from the website of the Office of the High Commissioner for Human Rights (<http://www.unhcr.ch>).

SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS

Mandate and working method

The Special Rapporteur's work is based on standards contained in the International Covenant on Civil and Political Rights (1966), the Basic Principles on the Independence of the Judiciary (1985), the Basic Principles on the Role of Lawyers (1990) and the guidelines on the Role of Prosecutors (1990). The Special Rapporteur carries out his mandate in co-operation with other UN bodies notably the UN Centre for International Crime Prevention. He is collaborating with the Office of the High Commissioner for Human Rights to develop a training manual for judges and lawyers in the context of the current UN Decade for Human Rights Education.

The Special Rapporteur's mandate is to:

- enquire into any substantial allegations transmitted to him and report on his conclusions;
- identify and record not only attacks on the independence of the judiciary, lawyers and court officials but also progress achieved in protecting and enhancing their independence, and make recommendations including the provision of advisory services or technical assistance when they are requested by the State concerned;
- study, for the purposes of making proposals, important and topical questions of principle with a view to protecting and enhancing the independence of Judges and Lawyers.

Principles of independence and impartiality of Judges and Lawyers include:

- everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures;
- objectivity is to be secured with respect to the appointment and conditions of service of the judiciary and of prosecutors; the judiciary shall have guaranteed tenure;
- subject to certain exceptions, judges should enjoy personal immunity from civil suits for monetary damages for improper acts or omissions in the exercise of their judicial functions;
- prosecutors should consider the views of victims, and ensure that they are informed of their rights;
- prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded;
- prosecutors shall give due attention to the prosecution of crimes committed by public officials;

if evidence has been obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, then the prosecutors shall use this evidence only against those who used such methods, or inform the Court accordingly, and take all steps to ensure that those responsible for using such methods are brought to justice;

all persons, including the poor and other disadvantaged groups, shall have the possibility to call upon the assistance of a lawyer. In criminal justice matters, all persons must be immediately informed of their right to be assisted by a lawyer; they are entitled to have a lawyer of experience and competence commensurate with the nature of the alleged offence in order to provide effective legal assistance; adequate opportunities, time and facilities must be provided to communicate and consult with a lawyer, in full confidentiality (not within the hearing of law enforcement officials);

detained persons shall have prompt access to a lawyer, and in any event not later than 48 hours from the time of arrest or detention;

lawyers should have timely access to appropriate information; such access should be provided as early as possible;

governments shall respect the confidentiality of communications and consultations between lawyers and their clients;

governments are to ensure that lawyers can perform their functions free from intimidation, harassment or improper interference, are able to travel and to consult with their client, and do not suffer sanctions for appropriate actions.

Examining individual cases

The procedure for communications about individuals is similar to that used by other thematic mechanisms. The Special Rapporteur will transmit information concerning alleged violations to the government concerned - as an urgent appeal if appropriate, request that the allegations be investigated and that he be kept informed of the results.

SPECIAL RAPPORTEUR ON ADVERSE EFFECTS OF THE ILLICIT MOVEMENT AND DUMPING OF TOXIC AND DANGEROUS PRODUCTS AND WASTES ON THE ENJOYMENT OF HUMAN RIGHTS

Mandate and working method

The mandate of the Special Rapporteur is to:

undertake, in consultation with the relevant UN bodies and organization and the secretariats of relevant international conventions, a global, multi-disciplinary and comprehensive study of existing problems of and solutions to illicit traffic in and dumping of toxic and dangerous products and wastes, particularly in developing countries;

make recommendations and proposals on adequate measures to control, reduce and eradicate these phenomena;

provide the Commission with information on persons killed, maimed or otherwise injured in the developing countries through the illicit movement and dumping of toxic and dangerous products and wastes;

provide governments with an appropriate opportunity to respond to allegations transmitted to her and reflected in her report and to have their observations reflected in her report to the Commission.

The Special Rapporteur's most recent recommendations" contain a number of points of particular relevance to NGOs. She has requested authors of communications to endeavor to provide detailed information in the submission of complaints, in particular to try to identify the countries of origin and the transnational corporation allegedly engaging in matters covered by her mandate and to identify any victims and specify which human rights have allegedly been violated. It is also important for the Special Rapporteur to know whether internal judicial remedies are adequate and efficient and whether they have been exhausted. The Special Rapporteur has additionally drawn the attention of NGOs and others to the dangers of the alleged disposal of dangerous products and outdated medicaments in the context of emergency humanitarian assistance operations. Lastly, she noted that the public at large, NGOs and local bodies responsible for environmental problems and human rights have not been sufficiently familiar with her mandate: to this end she has requested the Office of the High Commissioner for Human Rights to publicize her mandate including by the dissemination of a brochure and practical information on an internet site.

SPECIAL REPRESENTATIVE ON THE IMPACT OF ARMED CONFLICT ON CHILDREN

Mandate and working method

In 1996 Graca Machel (Mozambique), the UN Secretary-General's first Independent Expert on this subject, submitted her report on the impact of armed conflict on children to the General Assembly. In response, the General Assembly asked the Secretary-General to appoint a Special Representative to continue the study. Thus the Special Representative on the impact of armed conflict on children, unlike any other thematic mechanism, presents his or her main report to the annual session of the General Assembly, and an interim report to the Commission.

The present Special Representative has noted" that a serious and systematic effort is needed by all concerned parties - from governments to the UN system and from civil society organizations to private citizens - to address the abominations being directed against

children in the context of armed conflict. His role is to spearhead the effort to combine normative, political and humanitarian strategies in efforts to promote prevention, protection and rehabilitation for the benefit of children. His report included a detailed description of the issues he is exploring and the tasks he is undertaking. These range from a summary of relevant international norms to reports of his visits to affected countries: the Federal Republic of Yugoslavia (Kosovo), Liberia, Sierra Leone, Sri Lanka and the Sudan plus two assessment visits to Afghanistan.

The Special Representative attaches high importance to working with NGOs. He reported that he had met with some 200 international NGOs and other civil society organizations in many countries. He has called on NGOs to develop activities in three areas in particular: building a movement of advocacy at both the national and international levels; developing operational programmes on the ground to respond better to the needs of victimized children, and serve as an important source of independent and objective information.

He has expressed support for NGO coalitions including the Coalition to Stop the Use of Child Soldiers, working on the adoption of an optional protocol to the Convention on the Rights of the Child prohibiting military recruitment and use of any person under 18 years; the Leadership Council on Children in Armed Conflict, advocating action to protect children in war and support programmes to meet their most urgent needs; and the International Action Network on Small Arms, campaigning on the proliferation of small arms and light weapons. He commented that local NGOs active in countries affected by conflict deserve substantial international, particularly financial, support.

This mechanism does not take up individual cases.

INDEPENDENT EXPERT ON STRUCTURAL ADJUSTMENT

Mandate and working method

In 1996, the Commission decided to establish an open-ended Working Group to develop policy guidelines on structural adjustment programmes and economic, social and cultural rights. The Working Group, after its First meeting in March 1997, recommended that the Commission appoint an independent Expert to undertake a study of the effects of structural adjustment on economic, social and cultural rights, including a draft set of guidelines.

The Independent Expert presented his first report to the 1999 session of the Commission. Prior to the Commission session, he had presented his report to the Working Group. They recommended that the Independent Expert be mandated to assist the working group draft guidelines and monitor new developments, including actions undertaken by international financial institutions, UN bodies, intergovernmental organizations and NGOs regarding structural adjustment policies and human rights.

The Independent Experts report is in three sections. The first examined briefly the roots of the third world development crisis which, manifested as debt, represents only a fraction of a much deeper and systematic problem of underdevelopment. The second section explored the links between structural adjustment programmes and the realization of economic, social and cultural rights. The third section presented basic principles for "adjustment with transformation" and provided recommendations for action at the international, regional and national levels.

The Independent Expert made reference to the Global Jubilee 2000 campaign in his recommendation on debt cancellation for heavily-indebted countries. He noted that any debt cancellation programme must have broad-based citizen support and be consonant with a national economic plan that is formulated with broad consultation with all the relevant national actors, particularly civil society actors. A role for NGOs is implicit in many of his other recommendations. In addition, the working group recommended that NGOs, particularly those involved in development, be included in those invited to submit comments before their next meeting.

This mechanism does not take up individual cases.

SPECIAL RAPPORTEUR ON EFFECTS OF FOREIGN DEBT ON THE FULL ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Mandate and working method

The Special Rapporteur is mandated to present an analytical report to annual sessions of the Commission paying particular attention to:

the negative effects of the foreign debt and the policies adopted to face it on the full enjoyment of economic, social and cultural rights in developing countries:
measures taken by governments, the private sector and international financial institutions to alleviate such effects in developing countries especially the poorest and heavily indebted countries.

The Special Rapporteur was unable to submit an analytical report to the 1999 session of the Commission as he was only appointed in August 1998. However, the Special Rapporteur reported orally to the Commission that he intends to prepare reports on topics including:

enhancement of the collective approach to the debt problem of developing countries;
promotion of a dialogue between the heads of the specialized agencies, the High Commissioner for Human Rights and the Bretton Woods institutions:

development of a consultative mechanism within the Administrative Committee on Co-ordination for a Systematic Exchange of Information on Debt Issues;
reaffirmation of the importance and its social aspects of economic growth and adjustment processes; encouragement of enhanced initiative for highly indebted poor countries;
broadening participation in consensus building at the national and international levels;
establishment of an inter-agency advisory report for financial discussions;
establishment of an inter-agency advisor)' board for Financial discussions;
the inclusion of children's rights and poverty reduction as conditionalities in debt cancellation and alleviation strategies;
the development of a framework for debt cancellation.

This mechanism does not take up individual cases.

SPECIAL RAPPORTEUR ON THE RIGHT TO EDUCATION

Mandate and working method

The Special Rapporteur's mandate is to:

report on the status throughout the world of the progressive realization of the right to education, including access to primary education and the difficulties encountered in the implementation of this right;

promote assistance to governments in working out and adopting urgent plans of action, wherever they do not exist, to secure the progressive implementation within a reasonable number of years of the principle of compulsory primary education free of charge for all;

take into particular account gender considerations and the elimination of gender discrimination in education;

develop a regular dialogue with relevant UN bodies and make her reports available to the Commission on the Status of Women.

The Special Rapporteur's First report deals with primary education and begins with a brief overview of the work carried out within the UN system to enhance access to primary education. Having examined the different terminology, concepts and approaches, this Special Rapporteur highlighted the increasing recognition of the financial obstacles to access to primary education. The second part of the report presented a scheme for the analysis of governmental human rights obligations. The third part of the report discussed compulsory education and the right and duty of the child and highlighted the question of what the right to education entailed. The Special Rapporteur has stressed the importance of

a gender approach to her mandate, commenting that "[e]limination of gender discrimination cuts across education and human rights as the goal as well as the yardstick, showing that the human rights approach can inform international educational strategies and be successfully translated into practice".

The Special Rapporteur is mandated to take into account information and comments from NGOs, governments and UN bodies and has reported that she has started contacting all relevant actors.

This mechanism does not take up individual cases.

INDEPENDENT EXPERT ON HUMAN RIGHTS AND EXTREME POVERTY

Mandate and working method

At its 1998 session, the Commission decided to appoint for two years an Independent Expert on human rights and extreme poverty. The Independent Expert was mandated to evaluate the relationship between the promotion and protection of human rights and extreme poverty, with particular reference to the obstacles encountered and progress made by women in this regard; make recommendations and proposals relating to the UN Technical Assistance program; and make proposals for a draft declaration on human rights and extreme poverty.

In her report to the Commission, the Independent Expert pointed out that the General Assembly estimated in 1996 that more than 1.3 billion people, the majority of whom are women, live in extreme poverty and the number is increasing. She considered that providing universal access to basic social services and transfers to alleviate income poverty would cost roughly \$80 billion, less than 0.5 per cent of global income: lack of political commitment, not Financial resources, is the real obstacle to poverty eradication.

The Independent Expert's report discussed extreme poverty as a violation of human rights in relation to states' obligations under the Universal Declaration of Human Rights (1948). The International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights (1966), the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the Convention on the Rights of the Child (1989). She looked at UN action to eradicate poverty, through the 1995 World Summit on Social Development and the poverty eradication objectives of the UN Development Programme and the World Bank. Her report discussed action at the national level and governmental integrated poverty eradication strategies.

She reported on action taken by the governments of Albania, Bulgaria, France, Portugal and Yemen action against extreme poverty. She presented outlines of four technical cooperation projects -concerning civil and political rights of the very poor; education in and information on the rights of the very poor; training on economic, social and cultural rights, particularly with regard to the right to food, minimum income and health; and the breaking of prostitute rings. Lastly, she discussed women in extreme poverty.

The Independent Expert made 13 recommendations including the universal ratification of relevant instruments, a minimum guaranteed wage, human rights information and education for the poorest of the poor, access to justice and combating corruption and the impact of armed conflicts. With regard to a draft declaration on human rights and extreme poverty, the Independent Expert recommended a meeting in 1999. She proposed that the draft should call on states to base their anti-poverty policy on the eradication, rather than the reduction, of poverty.

The mechanism docs not take up individual cases.

INDEPENDENT EXPERT ON THE RIGHT TO DEVELOPMENT

Mandate and working method

A Working Group on the right to development, established in 1993, was replaced in 1996 by an intergovernmental working group, appointed for two years, to elaborate a strategy for the implementation and promotion of the right to development. At the end of that period, the Intergovernmental Working Group proposed the appointment of an open-ended working group to meet for five days annually and of an Independent Expert mandated to present to the annual session of the Working Group a study on the current state of progress in the implementation of the right to development.

In his report to the Commission the Independent Expert briefly discussed the relevant articles of the Declaration on the Rights to Development (1986). He outlined the steps he will undertake to produce analytical materials for the Working Group. These include preparing case studies on states which have experienced financial, economic or social turbulence and which have received international financial assistance, and to analyze this material in terms of the achievement of the right to development, he will invite governments, UN agencies and regional and sub-regional economic and social organizations to submit information. In addition, he will ask leading human rights organizations in consultative status with the UN to submit information relevant to the elimination of obstacles to development resulting from failure to observe civil and political rights as well as social and economic rights.

This mechanism does not take up individual cases.

EXPERT TO PREPARE A REVISED VERSION OF THE BASIC PRINCIPLES AND GUIDELINES ON THE RIGHT TO RESTITUTION, COMPENSATION AND REHABILITATION FOR VICTIMS OF GROSS HUMAN RIGHTS VIOLATIONS

Mandate and working method

In 1998 the Commission decided to appoint an Expert to prepare a revised version of the basic principles and guidelines that had been drawn up by Theo van Boven (the Netherlands) as a member of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities.

The Expert's report to the 1999 session of the Commission outlined Mr Van Boven's proposals and compares them with another study prepared by a member of the Sub-Commission, Mr Louis Joinet (France), on the question of impunity of perpetrators of human rights violations and also with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985). In addition, he looked at the provisions for reparation in the Statute of the International Criminal Court (1998).

The Expert emphasized that a large number of complex conceptual and terminological ambiguities must be resolved before his mandate can be completed. The outstanding issues include the clarification of terminology, including the term "gross human rights violations" and the question of a government's financial burden for violations attributable to a prior regime. The Expert recommended that the point of departure for the development of coherent guidelines on the right to reparation must be the victim.

The Expert has been requested to complete his work for the next session of the Commission and to take into account the comments of governments, intergovernmental organizations and NGOs.

This mechanism does not take up individual cases.

D. UN Human Rights Conventions

Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, 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.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

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.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

International Covenant on Civil and Political Rights

Adopted and opened for signature, ratification and accession by
General Assembly resolution 2200A (XXI) of 16 December 1966

entry into force 23 March 1976, in accordance with Article 49

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant 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.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3.
 - (a) No one shall be required to perform forced or compulsory labour;
 - (b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
 - (c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:
 - (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
 - (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2.

(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. 3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of

such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

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 practise their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.
2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.
3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.
2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.
3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.
2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-

General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.
2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.
2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.
2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.
2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.
2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
 - (a) Twelve members shall constitute a quorum;
 - (b) Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:
 - (a) Within one year of the entry into force of the present Covenant for the States Parties concerned;
 - (b) Thereafter whenever the Committee so requests.
2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.
3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1.

(a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information. 7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

(b) If an amicable solution to the matter on tie basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

(c) If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

(d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

Article 43

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

Article 46 .**PART V**

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI**Article 48**

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States

Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes. 3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- (a) Signatures, ratifications and accessions under article 48;
- (b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

Optional Protocol to the International Covenant on Civil and Political Rights

Adopted and opened for signature, ratification and accession by
General Assembly resolution 2200A (XXI) of 16 December 1966

entry into force 23 March 1976, in accordance with Article 9

The States Parties to the present Protocol,

Considering that in order further to achieve the purposes of the International Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as the Committee) to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

Have agreed as follows:

Article 1

A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a Party to the present Protocol.

Article 2

Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

Article 3

The Committee shall consider inadmissible any communication under the present Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

Article 4

1. Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant.

2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.

2. The Committee shall not consider any communication from an individual unless it has ascertained that:

(a) The same matter is not being examined under another procedure of international investigation or settlement;

(b) The individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonably prolonged.

3. The Committee shall hold closed meetings when examining communications under the present Protocol.

4. The Committee shall forward its views to the State Party concerned and to the individual.

Article 6

The Committee shall include in its annual report under article 45 of the Covenant a summary of its activities under the present Protocol.

Article 7

Pending the achievement of the objectives of resolution 1514(XV) adopted by the General Assembly of the United Nations on 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialized agencies.

Article 8

1. The present Protocol is open for signature by any State which has signed the Covenant.

2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Covenant. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State which has ratified or acceded to the Covenant.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 9

1. Subject to the entry into force of the Covenant, the present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or instrument of accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 10

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 11

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment which they have accepted.

Article 12

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General.

2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 before the effective date of denunciation.

Article 13

Irrespective of the notifications made under article 8, paragraph 5, of the present Protocol, the Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

- (a) Signatures, ratifications and accessions under article 8;
- (b) The date of the entry into force of the present Protocol under article 9 and the date of the entry into force of any amendments under article 11;
- (c) Denunciations under article 12.

Article 14

1. The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

**Adopted and proclaimed by General Assembly resolution 44/128 of
15 December 1989**

The States Parties to the present Protocol,

Believing that abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights,

Recalling article 3 of the Universal Declaration of Human Rights, adopted on 10 December 1948, and article 6 of the International Covenant on Civil and Political Rights, adopted on 16 December 1966,

Noting that article 6 of the International Covenant on Civil and Political Rights refers to abolition of the death penalty in terms that strongly suggest that abolition is desirable,

Convinced that all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life,

Desirous to undertake hereby an international commitment to abolish the death penalty,

Have agreed as follows:

Article 1

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.
2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

Article 2

1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.
2. The State Party making such a reservation shall at the time of ratification or accession communicate to the Secretary-General of the United Nations the relevant provisions of its national legislation applicable during wartime.
3. The State Party having made such a reservation shall notify the Secretary-General of the United Nations of any beginning or ending of a state of war applicable to its territory.

Article 3

The States Parties to the present Protocol shall include in the reports they submit to the Human Rights Committee, in accordance with article 40 of the Covenant, information on the measures that they have adopted to give effect to the present Protocol.

Article 4

With respect to the States Parties to the Covenant that have made a declaration under article 41, the competence of the Human Rights Committee to receive and consider communications when a State Party claims that another State Party is not

fulfilling its obligations shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 5

With respect to the States Parties to the first Optional Protocol to the International Covenant on Civil and Political Rights adopted on 16 December 1966, the competence of the Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction shall extend to the provisions of the present Protocol, unless the State Party concerned has made a statement to the contrary at the moment of ratification or accession.

Article 6

1. The provisions of the present Protocol shall apply as additional provisions to the Covenant.
2. Without prejudice to the possibility of a reservation under article 2 of the present Protocol, the right guaranteed in article 1, paragraph 1, of the present Protocol shall not be subject to any derogation under article 4 of the Covenant.

Article 7

1. The present Protocol is open for signature by any State that has signed the Covenant. 2. The present Protocol is subject to ratification by any State that has ratified the Covenant or acceded to it. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified the Covenant or acceded to it.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 8

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

Article 9

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 10

The Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

- (a) Reservations, communications and notifications under article 2 of the present Protocol;
- (b) Statements made under articles 4 or 5 of the present Protocol;

(c) Signatures, ratifications and accessions under article 7 of the present Protocol:

(d) The date of the entry into force of the present Protocol under article 8 thereof.

Article 11

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.

International Covenant on Economic, Social and Cultural Rights

Adopted and opened for signature, ratification and accession

by General Assembly

resolution 2200A (XXI) of 16 December 1966

entry into force 3 January 1976, in accordance with article 27

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any

kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. 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.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 8

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be

protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

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.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2. (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- (a) Signatures, ratifications and accessions under article 26;
- (b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

International Convention on the Elimination of All Forms of Racial Discrimination

Adopted and opened for signature and ratification by General Assembly

resolution 2106 (XX) of 21 December 1965

entry into force 4 January 1969, in accordance with Article 19

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

PART I

Article 1

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.
4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:
 - (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
 - (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
 - (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
 - (d) 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;
 - (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers

between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures 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. 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.

Article 3

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:

- (i) The right to freedom of movement and residence within the border of the State;
 - (ii) The right to leave any country, including one's own, and to return to one's country;
 - (iii) The right to nationality;
 - (iv) The right to marriage and choice of spouse;
 - (v) The right to own property alone as well as in association with others;
 - (vi) The right to inherit;
 - (vii) The right to freedom of thought, conscience and religion;
 - (viii) The right to freedom of opinion and expression;
 - (ix) The right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
- (i) 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, to just and favourable remuneration;
 - (ii) The right to form and join trade unions;
 - (iii) The right to housing;
 - (iv) The right to public health, medical care, social security and social services;
 - (v) The right to education and training;
 - (vi) The right to equal participation in cultural activities;
- (f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

Article 7

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, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

PART II

Article 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from among their nationals, who shall serve in their personal capacity, consideration being given to

equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5.
 - (a) The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee;
 - (b) For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties. (amendment (see General Assembly resolution 47/111 of 16 December 1992); status of ratification)

Article 9

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention:

- (a) within one year after the entry into force of the Convention for the State concerned; and
- (b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually, through the Secretary General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

Article 10

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The secretariat of the Committee shall be provided by the Secretary General of the United Nations.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 11

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.
3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.
4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.
5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1.
 - (a) After the Committee has obtained and collated all the information it deems necessary, the Chairman shall appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention;
 - (b) If the States parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.
2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention.
3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.
5. The secretariat provided in accordance with article 10, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.

6. The States parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.
8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.
2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.
3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.
2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.
3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.
4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.
5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.
6.
 - (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention,

but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications;

- (b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

7.

- (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged;

- (b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.

9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

Article 15

1. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

2.

- (a) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies;

- (b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the Territories mentioned in subparagraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports.

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (a) of this article.

Article 16

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

PART III

Article 17

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1, of the Convention. 2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 20

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.
2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by this Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two thirds of the States Parties to this Convention object to it.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.

Article 21

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary General.

Article 22

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Article 23

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 24

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of this Convention of the following particulars:

- (a) Signatures, ratifications and accessions under articles 17 and 18;
- (b) The date of entry into force of this Convention under article 19;
- (c) Communications and declarations received under articles 14, 20 and 23;
- (d) Denunciations under article 21.

Article 25

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1, of the Convention.

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***Concluding observations of the Committee on the
Elimination of Racial Discrimination : India. 17/09/96.
CERD/C/304/Add.13. (Concluding Observations/Comments)***

Convention Abbreviation: CERD
COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-ninth session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION**

Concluding observations of the Committee on
the Elimination of Racial Discrimination

India 1/

1. At its 1161st, 1162nd and 1163rd meetings, held on 7 and 8 August 1996 (see CERD/C/SR.1161-1163), the Committee on the Elimination of Racial Discrimination considered the tenth to fourteenth periodic reports of India (CERD/C/299/Add.3) and adopted, at its 1182nd meeting, held on 22 August 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation for the opportunity to resume its dialogue with the State party on the basis of its tenth to fourteenth periodic reports. It regrets the brevity of the report, all the more so since 10 years have passed since the previous report was submitted. It also regrets that the report does not provide concrete information on the implementation of the Convention in practice; it furthermore regrets that the report and the delegation claim that the situation of the scheduled castes and scheduled tribes does not fall within the scope of the Convention.

3. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention. Some of the members of the Committee requested that the possibility of making such a declaration be considered.

B. Factors and difficulties impeding the implementation of the Convention

4. It is noted that India is a large multi-ethnic and multicultural society. It is also noted that the extreme poverty of certain groups in the population, the system of castes and the climate of violence in certain parts of the country are among the factors which impede the full implementation of the Convention by the State party.

C. Positive aspects

5. The leading role played by India in the struggle against racial discrimination and apartheid at the international level is welcomed by the Committee. The Committee also acknowledges the far-reaching measures adopted by the Government to combat discrimination against members of scheduled castes and scheduled tribes.

6. The demographic data on the composition of the population and on the representation of various communities in the public service at the central and state level of government provided by the delegation during the meetings are welcomed.

7. The broad functions and powers of the recently established National Commission on Human Rights, as defined by the Protection of Human Rights Act (1993), which include the capacity to inquire into complaints of violations of human rights, to intervene in any proceeding involving allegations of violation of human rights pending before a court, to review constitutional and legal safeguards, to study treaties and other international instruments on human rights, to recommend measures for their effective implementation and to spread human rights literacy among the population, are welcomed by the Committee. It is noted with interest that the Commission encourages the states within the federation to create human rights commissions, as well as tribunals dealing specifically with human rights.

8. The Committee takes note of the plurality of newspapers and the mass media, and their awareness of human rights problems. The Committee holds that they play an important role in the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.

9. Note is also taken of the procedure of public interest litigation adopted by the Supreme Court, which affords the possibility to anyone, and not only to the victims of human rights violations, to seek redress from the court by any means, even by means of a postcard.

10. Articles 15 (i) and 15 (ii) of the Constitution of India, prohibiting all forms of discrimination by the State and its agents, or between individuals, including discrimination based on race and castes, as well as article 153, paragraphs (a) and (b), and article 505 of the Penal Code, which prohibit actions that promote disharmony, hatred, feelings of enmity and ill-will on grounds of race or religion, are found to be mainly in conformity with article 2, paragraph 1, of the Convention.

11. The Committee welcomes the statement in the State party's report to the effect that no organization which promotes and incites racial discrimination can legally exist in India and that the Constitution and the laws in this regard make it clear that the State party will take all necessary measures within the law to prevent activities and propaganda which promote and incite racial discrimination.

12. The lapse of the Terrorist and Disruptive Activities (Prevention) Act (TADA), which applied in parts of the north-eastern part of the country and in Jammu and Kashmir, under which the right to personal security of some members of ethnic and religious minorities living in those areas was often reported to be violated by security forces, is welcomed.

13. The importance accorded by the authorities to education as a means to spread awareness of human rights and literacy among the population and to struggle against all

forms of discrimination, in particular racial discrimination, as well as the activities of the National Commission on Human Rights and the inclusion of human rights in the training of law enforcement officials, are welcomed.

D. Principal subjects of concern

14. Noting the declaration in paragraph 7 of the report, reiterated in the oral presentation, the Committee states that the term "descent" mentioned in article 1 of the Convention does not solely refer to race. The Committee affirms that the situation of the scheduled castes and scheduled tribes falls within the scope of the Convention. It emphasizes its great concern that within the discussion of the report, there was no inclination on the side of the State party to reconsider its position.

15. The Committee is seriously concerned that the Kashmiris, as well as other groups, are frequently treated, on account of their ethnic or national origin, in ways contrary to the basic provisions of the Convention.

16. Clause 19 of the Protection of Human Rights Act prevents the National Commission on Human Rights from directly investigating allegations of abuse involving the armed forces. This is a too broad restriction on its powers and contributes to a climate of impunity for members of the armed forces. Moreover, it is regretted that the Commission is debarred from investigating cases of human rights violation that occurred more than a year before the making of the complaint.

17. The absence of information on the functions, powers and activities of the National Commission on Scheduled Castes and Scheduled Tribes and of the National Commission on Minorities makes it impossible to assess whether these Commissions have a positive impact upon the enjoyment of human rights and fundamental freedoms by members of the groups in question.

18. It is regretted that no information has been provided to the Committee on the effective implementation of the penal provisions referred to in paragraph 10 above. In this regard, concern is expressed at numerous reports of acts of discrimination based on race, colour, descent or national or ethnic origin, although it was stated that no such case has yet been brought before the courts; this leads the Committee to wonder whether individuals are sufficiently informed about their rights.

19. The lack of concrete information on the legal provisions in force to prohibit organizations which incite and promote racial discrimination and hatred, and to punish members of such organizations in accordance with article 4 of the Convention, as well as on their application in practice, including eventual court decisions, is regretted. This is most serious in view of widespread violence against certain minorities actively sponsored by extremist organizations that have not been declared illegal.

20. The lack of information on the text of the Directive Principles of State Policy of the Constitution relating to the promotion of social, economic and cultural rights, and on measures to give them effect, makes any evaluation of the implementation of article 5 of the Convention more difficult.

21. Regrets are expressed that the National Security Act and, in some areas of India, the Public Safety Act, remain in force.

22. It is noted with concern that the denial of the equal enjoyment of political rights, as provided for in article 5 (c) of the Convention, has led to an increase of violence, in particular in Jammu and Kashmir.

23. It is noted that although constitutional provisions and legal texts exist to abolish untouchability and to protect the members of the scheduled castes and tribes, and although social and educational policies have been adopted to improve the situation of members of scheduled castes and tribes and to protect them from abuses, widespread discrimination against them and the relative impunity of those who abuse them point to the limited effect of these measures. The Committee is particularly concerned at reports that people belonging to the scheduled castes and tribes are often prevented from using public wells or from entering cafés or restaurants and that their children are sometimes separated from other children in schools, in violation of article 5 (f) of the Convention.

24. The Committee regrets that certain communities do not enjoy representation in proportion to their size.

25. Although it is noted that the Supreme Court and the high courts have the jurisdiction to award compensation to victims of human rights violations, including in the field of racial discrimination, concern is expressed that there exists no specific statute providing for the right of individuals to seek from the courts just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination, as required by article 6 of the Convention.

E. Suggestions and recommendations

26. The Committee recommends that the State party continue and strengthen its efforts to improve the effectiveness of measures aimed at guaranteeing to all groups of the population, and especially to the members of the scheduled castes and scheduled tribes, the full enjoyment of their civil, cultural, economic, political and social rights, as mentioned in article 5 of the Convention. In this regard, the Committee recommends that the next report to be submitted by the State party contain full and detailed information on the legislative aspects and the concrete implementation of the Directive Principles of the State Policy of the Constitution.

27. The Committee recommends that special measures be taken by the authorities to prevent acts of discrimination towards persons belonging to the scheduled castes and scheduled tribes, and, in cases where such acts have been committed, to conduct thorough investigations, to punish those found responsible and to provide just and adequate reparation to the victims. In this regard, the Committee particularly stresses the importance of the equal enjoyment by members of these groups of the rights to access to health care, education, work and public places and services, including wells, cafés or restaurants.

28. The Committee recommends that clause 19 of the Protection of Human Rights Act be repealed to allow inquiries of alleged abuses committed by members of the armed and security forces to be conducted by the National Commission on Human Rights and that the Commission be enabled to look into complaints of acts of racial discrimination that occurred more than a year before the filing of the complaint.

29. The Committee recommends that the next periodic report of the State party include information on the powers and functions, as well as on their effective implementation, of the National Commission on Scheduled Castes and Scheduled Tribes and of the National Commission on Minorities.

30. The Committee also recommends that the Government provide in its next periodic report information, including the number of complaints lodged and sentences passed, about the implementation in practice of the legal provisions prohibiting acts of racial discrimination and organizations which promote and incite racial discrimination, in accordance with articles 2 and 4 of the Convention.

31. The Committee recommends a continuing campaign to educate the Indian population on human rights, in line with the Constitution of India and with universal human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination. This should be aimed at eliminating the institutionalized thinking of the high-caste and low-caste mentality.

32. The Committee reaffirms that the provisions of article 6 of the Convention are mandatory and that the Government of India should adopt legal provisions making it easier for individuals to seek from the courts just and

adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination, including acts of discrimination based on belonging to a caste or a tribe.

33. The Committee suggests that the State party ensure wide publicity, as far as possible in the official and state languages, to its tenth to fourteenth reports and to the present concluding observations.

34. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States parties.

35. The Committee recommends that the State party's next periodic report, due on 4 January 1998, be a comprehensive report and that it address all the points raised in these concluding observations.

1/ The comments of the Government of India were submitted to the Committee on the Elimination of Racial Discrimination pursuant to article 9, paragraph 2, of the Convention and are reprinted in annex IX to the annual report of the Committee (A/51/18).



**Review of the implementation of CERD : Botswana. 12/08/96.
A/51/18, paras.449-451. (Concluding Observations/Comments)**

**Convention Abbreviation: CERD
COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

Botswana

449. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by Botswana based upon its previous reports (CERD/C/105/Add.1) and their consideration by the Committee (see CERD/C/SR.654, 949 and 952). Although the Committee noted with regret that no report had been submitted to the Committee since 1983, it welcomed the communication received from the State Party, indicating the commitment of the State Party to respect its obligations under the Convention and requesting the assistance of the Centre for Human Rights to prepare and submit a comprehensive periodic report.

450. The Committee decided that a communication should be sent to the Government of Botswana urging that the dialogue with the Committee should be resumed as soon as possible.

451. The Committee suggested that the Government of Botswana avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

Solomon Islands

446. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by the Solomon Islands based upon its previous report (CERD/C/101/Add.1) and its consideration by the Committee (see CERD/C/SR.635, 636, 949 and 952). The Committee noted with regret that no report had been submitted to the Committee since 1983.

447. The Committee regretted that the Solomon Islands had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of the Solomon Islands setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

448. The Committee suggested that the Government of the Solomon Islands avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of preparing and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

Convention Abbreviation: CERD
COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

BURKINA FASO

456. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by Burkina Faso based upon its previous reports (CERD/C/105/Add.5) and its consideration by the Committee (see CERD/C/SR.711, 949 and 952). The Committee noted with regret that no report had been submitted to the Committee since 1984, although it welcomed the submission by the State Party in 1993 of the initial part of its report (see HRI/CORE/1/Add.30).

457. The Committee regretted that Burkina Faso had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Burkina Faso setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

458. The Committee suggested that the Government of Burkina Faso avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

459. The Committee recommends that the next periodic report to be submitted by Burkina Faso provide comprehensive information responding to the concerns expressed by the Committee when it reviewed the situation in the State Party in 1992.

Review of the implementation of CERD : Lao People's Democratic Republic. 12/08/96.

A/51/18, paras.452-455. (Concluding Observations/Comments)

**Convention Abbreviation: CERD
COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

Lao People's Democratic Republic

452. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by the Lao People's Democratic Republic based on that country's previous reports (CERD/C/105/Add.4) and the Committee's consideration thereof (see CERD/C/SR/707, 709, 949 and 952). The Committee noted with regret that no report had been submitted to it since 1984.

453. The Committee regretted that the Lao People's Democratic Republic had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided to send a letter to the Government of the Lao People's Democratic Republic setting out its reporting obligations under the Convention and urging it to resume the dialogue with the Committee as soon as possible.

454. The Committee suggested that the Government of the Lao People's Democratic Republic avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

455. The Committee recommended that the next report from the Lao People's Democratic Republic contain information constituting a detailed response to the concerns expressed by the Committee in 1992 when considering the situation in the country.



**General Recommendation No. 29: Article 1,
paragraph 1 of the Convention (Descent) : . 01/11/2002.
General Recommendation No. 29: Article 1, paragraph 1 of the
Convention (Descent). (General Comments)**

Convention Abbreviation: CERD

General Recommendation XXIX

Article 1, paragraph 1, (Descent)

(Sixty-first session, 2002)

The Committee on the Elimination of Racial Discrimination,

Recalling the terms of the Universal Declaration of Human Rights according to which all human beings are born free and equal in dignity and rights and are entitled to the rights and freedoms therein without distinction of any kind, including race, colour, sex, language, religion, social origin, birth or other status,

Recalling also the terms of the Vienna Declaration and Programme of Action of the World Conference on Human Rights according to which it is the duty of States, regardless of political, economic and cultural system, to promote and protect all human rights and fundamental freedoms,

Reaffirming its general recommendation XXVIII in which the Committee expresses wholehearted support for the Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Reaffirming also the condemnation of discrimination against persons of Asian and African descent and indigenous and other forms of descent in the Durban Declaration and Programme of Action,

Basing its action on the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination which seeks to eliminate discrimination based on race, colour, descent, or national or ethnic origin,

Confirming the consistent view of the Committee that the term "descent" in article 1, paragraph 1, the Convention does not solely refer to "race" and has a meaning and application which complement the other prohibited grounds of discrimination,

Strongly reaffirming that discrimination based on "descent" includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights,

Noting that the existence of such discrimination has become evident from the Committee's examination of reports of a number of States parties to the Convention,

Having organized a thematic discussion on descent-based discrimination and received the contributions of members of the Committee, as well as contributions from some Governments and members of other United Nations bodies, notably experts of the Sub-Commission for the Promotion and Protection of Human Rights,

Having received contributions from a great number of concerned non-governmental organizations and individuals, orally and through written information, providing the Committee with further evidence of the extent and persistence of descent-based discrimination in different regions of the world,

Concluding that fresh efforts need to be made as well as existing efforts intensified at the level of domestic law and practice to eliminate the scourge of descent-based discrimination and empower communities affected by it,

Commending the efforts of those States that have taken measures to eliminate descent-based discrimination and remedy its consequences,

Strongly encouraging those affected States that have yet to recognize and address this phenomenon to take steps to do so,

Recalling the positive spirit in which the dialogues between the Committee and Governments have been conducted on the question of descent-based discrimination and anticipating further such constructive dialogues,

Attaching the highest importance to its ongoing work in combating all forms of descent-based discrimination,

Strongly condemning descent-based discrimination, such as discrimination on the basis of caste and analogous systems of inherited status, as a violation of the Convention,

Recommends that the States parties, as appropriate for their particular circumstances, adopt some or all of the following measures:

I. Measures of a general nature

1. Steps to identify those descent-based communities under their jurisdiction who suffer from discrimination, especially on the basis of caste and analogous systems of inherited status, and whose existence may be recognized on the basis of various factors including some or all of the following: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage outside the community; private and public segregation, including in housing and education, access to public spaces, places of worship and public sources of food and water; limitation of freedom to renounce inherited occupations or degrading or hazardous work; subjection to debt bondage; subjection to dehumanizing discourses referring to pollution or untouchability; and generalized lack of respect for their human dignity and equality;

2. Consider the incorporation of an explicit prohibition of descent-based discrimination in the national constitution;

3. Review and enact or amend legislation in order to outlaw all forms of discrimination based on descent in accordance with the Convention;

4. Resolutely implement legislation and other measures already in force;
5. Formulate and put into action a comprehensive national strategy with the participation of members of affected communities, including special measures in accordance with articles 1 and 2 of the Convention, in order to eliminate discrimination against members of descent-based groups;
6. Adopt special measures in favour of descent-based groups and communities in order to ensure their enjoyment of human rights and fundamental freedoms, in particular concerning access to public functions, employment and education;
7. Establish statutory mechanisms, through the strengthening of existing institutions or the creation of specialized institutions, to promote respect for the equal human rights of members of descent-based communities;
8. Educate the general public on the importance of affirmative action programmes to address the situation of victims of descent-based discrimination;
9. Encourage dialogue between members of descent-based communities and members of other social groups;
10. Conduct periodic surveys on the reality of descent-based discrimination and provide disaggregated information in their reports to the Committee on the geographical distribution and economic and social conditions of descent-based communities, including a gender perspective;

2. Multiple discrimination against women members of descent-based communities

11. Take into account, in all programmes and projects planned and implemented and in measures adopted, the situation of women members of the communities, as victims of multiple discrimination, sexual exploitation and forced prostitution;
12. Take all measures necessary in order to eliminate multiple discrimination including descent-based discrimination against women, particularly in the areas of personal security, employment and education;
13. Provide disaggregated data for the situation of women affected by descent-based discrimination;

3. Segregation

14. Monitor and report on trends which give rise to the segregation of descent-based communities and work for the eradication of the negative consequences resulting from such segregation;
15. Undertake to prevent, prohibit and eliminate practices of segregation directed against members of descent-based communities including in housing, education and employment;
16. Secure for everyone the right of access on an equal and non-discriminatory basis to any place or service intended for use by the general public;

17. Take steps to promote mixed communities in which members of affected communities are integrated with other elements of society and ensure that services to such settlements are accessible on an equal basis for all;

4. Dissemination of hate speech including through the mass media and the Internet

18. Take measures against any dissemination of ideas of caste superiority and inferiority or which attempt to justify violence, hatred or discrimination against descent-based communities;

19. Take strict measures against any incitement to discrimination or violence against the communities, including through the Internet;

20. Take measures to raise awareness among media professionals of the nature and incidence of descent-based discrimination;

5. Administration of justice

21. Take the necessary steps to secure equal access to the justice system for all members of descent-based communities, including by providing legal aid, facilitating of group claims and encouraging non-governmental organizations to defend community rights;

22. Ensure, where relevant, that judicial decisions and official actions take the prohibition of descent-based discrimination fully into account;

23. Ensure the prosecution of persons who commit crimes against members of descent-based communities and the provision of adequate compensation for the victims of such crimes;

24. Encourage the recruitment of members of descent-based communities into the police and other law enforcement agencies;

25. Organize training programmes for public officials and law enforcement agencies with a view to preventing injustices based on prejudice against descent-based communities;

26. Encourage and facilitate constructive dialogue between the police and other law enforcement agencies and members of the communities;

6. Civil and political rights

27. Ensure that authorities at all levels in the country concerned involve members of descent-based communities in decisions which affect them;

28. Take special and concrete measures to guarantee to members of descent-based communities the right to participate in elections, to vote and stand for election on the basis of equal and universal suffrage, and to have due representation in Government and legislative bodies;

29. Promote awareness among members of the communities of the importance of their active participation in public and political life, and eliminate obstacles to such participation;

30. Organize training programmes to improve the political policy-making and public administration skills of public officials and political representatives who belong to descent-based communities;
31. Take steps to identify areas prone to descent-based violence in order to prevent the recurrence of such violence;
32. Take resolute measures to secure rights of marriage for members of descent-based communities who wish to marry outside the community;

7. Economic and social rights

33. Elaborate, adopt and implement plans and programmes of economic and social development on an equal and non-discriminatory basis;
34. Take substantial and effective measures to eradicate poverty among descent-based communities and combat their social exclusion or marginalization;
35. Work with intergovernmental organizations, including international financial institutions, to ensure that development or assistance projects which they support take into account the economic and social situation of members of descent-based communities;
36. Take special measures to promote the employment of members of affected communities in the public and private sectors;
37. Develop or refine legislation and practice specifically prohibiting all discriminatory practices based on descent in employment and the labour market;
38. Take measures against public bodies, private companies and other associations that investigate the descent background of applicants for employment;
39. Take measures against discriminatory practices of local authorities or private owners with regard to residence and access to adequate housing for members of affected communities;
40. Ensure equal access to health care and social security services for members of descent-based communities;
41. Involve affected communities in designing and implementing health programmes and projects;
42. Take measures to address the special vulnerability of children of descent-based communities to exploitative child labour;
43. Take resolute measures to eliminate debt bondage and degrading conditions of labour associated with descent-based discrimination;

8. Right to education

44. Ensure that public and private education systems include children of all communities and do not exclude any children on the basis of descent;

45. Reduce school drop-out rates for children of all communities, in particular for children of affected communities, with special attention to the situation of girls;

46. Combat discrimination by public or private bodies and any harassment of students who are members of descent-based communities;

47. Take necessary measures in cooperation with civil society to educate the population as a whole in a spirit of non-discrimination and respect for the communities subject to descent-based discrimination;

48. Review all language in textbooks which conveys stereotyped or demeaning images, references, names or opinions concerning descent-based communities and replace it by images, references, names and opinions which convey the message of the inherent dignity of all human beings and their equality of human rights.



Discrimination based on work and descent

Sub-Commission on Human Rights resolution 2000/4

The Sub-Commission on the Promotion and Protection of Human Rights,

Affirming that, as declared in article 2 of the Universal Declaration of Human Rights, everyone is entitled to all the rights and freedoms set forth in the Declaration, 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,

Aware that discrimination based on work and descent has historically been a feature of societies in different regions of the world and has affected a significant proportion overall of the world's population,

Acknowledging the constitutional, legislative and administrative measures taken by relevant Governments to abolish practices of discrimination based on work and descent,

Concerned, however, at the persistence of discrimination based on work and descent in such societies,

1. Declares that discrimination based on work and descent is a form of discrimination prohibited by international human rights law;
2. Requests Governments concerned to ensure that all necessary constitutional, legislative and administrative measures, including appropriate forms of affirmative action, are in place to prohibit and redress discrimination on the basis of work and descent, and that such measures are respected and implemented by all State authorities at all levels;
3. Urges Governments concerned to ensure that appropriate legal penalties and sanctions, including criminal sanctions, are prescribed for and applied to all persons or entities within the jurisdiction of the Governments concerned who may be found to have engaged in practices of discrimination on the basis of work and descent;
4. Decides to entrust Mr. Rajendra Kalidas Wimala Goonesekere with the task of preparing, without financial implications, a working paper on the topic of discrimination based on work and descent, in order:
 - (a) To identify communities in which discrimination based on work and descent continues to be experienced in practice;

(b) To examine existing constitutional, legislative and administrative measures for the abolition of such discrimination; and

(c) To make any further concrete recommendations and proposals for the effective elimination of such discrimination as may be appropriate in the light of such examination;

5. Decides to continue consideration of this question at its fifty-third session under the same agenda item.

17th meeting

11 August 2000

[Adopted without a vote.]

Convention on the Elimination of All Forms of Discrimination against Women

Adopted and opened for signature, ratification and accession by General Assembly
resolution 34/180 of 18 December 1979

entry into force 3 September 1981, in accordance with article 27(1)

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
 - (c) To benefit directly from social security programmes;

- (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - (a) The same right to enter into marriage;
 - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - (c) The same rights and responsibilities during marriage and at its dissolution;
 - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
 - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the

Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
 - (a) Within one year after the entry into force for the State concerned;
 - (b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. (amendment, status of ratification)

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

Article 23

PART VI

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of

the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.
3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

Declaration on the Elimination of Discrimination against Women

Proclaimed by General Assembly resolution 2263(XXII) of 7 November 1967

The General Assembly,

Considering that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women, Considering that the Universal Declaration of Human Rights asserts the principle of non-discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein without distinction of any kind, including any distinction as to sex,

Taking into account the resolutions, declarations, conventions and recommendations of the United Nations and the specialized agencies designed to eliminate all forms of discrimination and to promote equal rights for men and women,

Concerned that, despite the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other instruments of the United Nations and the specialized agencies and despite the progress made in the matter of equality of rights, there continues to exist considerable discrimination against women,

Considering that discrimination against women is incompatible with human dignity and with the welfare of the family and of society, prevents their participation, on equal terms with men, in the political, social, economic and cultural life of their countries and is an obstacle to the full development of the potentialities of women in the service of their countries and of humanity,

Bearing in mind the great contribution made by women to social, political, economic and cultural life and the part they play in the family and particularly in the rearing of children,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women as well as men in all fields,

Considering that it is necessary to ensure the universal recognition in law and in fact of the principle of equality of men and women,

Solemnly proclaims this Declaration:

Article 1

Discrimination against women, denying or limiting as it does their equality of rights with men, is fundamentally unjust and constitutes an offence against human dignity.

Article 2

All appropriate measures shall be taken to abolish existing laws, customs, regulations and practices which are discriminatory against women, and to establish adequate legal protection for equal rights of men and women, in particular:

- (a) The principle of equality of rights shall be embodied in the constitution or otherwise guaranteed by law;
- (b) The international instruments of the United Nations and the specialized agencies relating to the elimination of discrimination against women shall be ratified or acceded to and fully implemented as soon as practicable.

Article 3

All appropriate measures shall be taken to educate public opinion and to direct national aspirations towards the eradication of prejudice and the abolition of customary and all other practices which are based on the idea of the inferiority of women.

Article 4

All appropriate measures shall be taken to ensure to women on equal terms with men, without any discrimination:

- (a) The right to vote in all elections and be eligible for election to all publicly elected bodies;
- (b) The right to vote in all public referenda;
- (c) The right to hold public office and to exercise all public functions.

Such rights shall be guaranteed by legislation.

Article 5

Women shall have the same rights as men to acquire, change or retain their nationality. Marriage to an alien shall not automatically affect the nationality of the wife either by rendering her stateless or by forcing upon her the nationality of her husband.

Article 6

1. Without prejudice to the safeguarding of the unity and the harmony of the family, which remains the basic unit of any society, all appropriate measures, particularly legislative measures, shall be taken to ensure to women, married or unmarried, equal rights with men in the field of civil law, and in particular:

- (a) The right to acquire, administer, enjoy, dispose of and inherit property, including property acquired during marriage;
- (b) The right to equality in legal capacity and the exercise thereof;
- (c) The same rights as men with regard to the law on the movement of persons.

2. All appropriate measures shall be taken to ensure the principle of equality of status of the husband and wife, and in particular:

- (a) Women shall have the same right as men to free choice of a spouse and to enter into marriage only with their free and full consent;
- (b) Women shall have equal rights with men during marriage and at its dissolution. In all cases the interest of the children shall be paramount;
- (c) Parents shall have equal rights and duties in matters relating to their children. In all cases the interest of the children shall be paramount.

3. Child marriage and the betrothal of young girls before puberty shall be prohibited, and effective action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Article 7

All provisions of penal codes which constitute discrimination against women shall be repealed.

Article 8

All appropriate measures, including legislation, shall be taken to combat all forms of traffic in women and exploitation of prostitution of women.

Article 9

All appropriate measures shall be taken to ensure to girls and women, married or unmarried, equal rights with men in education at all levels, and in particular:

- (a) Equal conditions of access to, and study in, educational institutions of all types, including universities and vocational, technical and professional schools;
- (b) The same choice of curricula, the same examinations, teaching staff with qualifications of the same standard, and school premises and equipment of the same quality, whether the institutions are co-educational or not;
- (c) Equal opportunities to benefit from scholarships and other study grants;
- (d) Equal opportunities for access to programmes of continuing education, including adult literacy programmes;
- (e) Access to educational information to help in ensuring the health and well-being of families.

Article 10

1. All appropriate measures shall be taken to ensure to women, married or unmarried, equal rights with men in the field of economic and social life, and in particular:

- (a) The right, without discrimination on grounds of marital status or any other grounds, to receive vocational training, to work, to free choice of profession and employment, and to professional and vocational advancement;
- (b) The right to equal remuneration with men and to equality of treatment in respect of work of equal value;
- (c) The right to leave with pay, retirement privileges and provision for security in respect of unemployment, sickness, old age or other incapacity to work;
- (d) The right to receive family allowances on equal terms with men.

2. In order to prevent discrimination against women on account of marriage or maternity and to ensure their effective right to work, measures shall be taken to prevent their dismissal in the event of marriage or maternity and to provide paid maternity leave, with the guarantee of returning to former employment, and to provide the necessary social services, including child-care facilities.

3. Measures taken to protect women in certain types of work, for reasons inherent in their physical nature, shall not be regarded as discriminatory.

Article 11

1. The principle of equality of rights of men and women demands implementation in all States in accordance with the principles of the Charter of the United Nations and of the Universal Declaration of Human Rights.

2. Governments, non-governmental organizations and individuals are urged, therefore, to do all in their power to promote the implementation of the principles contained in this Declaration.

Optional Protocol to the Convention on the Elimination of Discrimination against Women

Adopted by General Assembly resolution A/54/4 on 6 October 1999
and opened for signature on 10 December 1999, Human Rights Day

entry into force 22 December 2000

The States Parties to the present Protocol,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Also noting that the Universal Declaration of Human Rights Resolution 217 A (III). proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Recalling that the International Covenants on Human Rights Resolution 2200 A (XXI), annex. and other international human rights instruments prohibit discrimination on the basis of sex,

Also recalling the Convention on the Elimination of All Forms of Discrimination against Women⁴ ("the Convention"), in which the States Parties thereto condemn discrimination against women in all its forms and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women,

Reaffirming their determination to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms and to take effective action to prevent violations of these rights and freedoms,

Have agreed as follows:

Article 1

A State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Elimination of Discrimination against Women ("the Committee") to receive and consider communications submitted in accordance with article 2.

Article 2

Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

Article 3

Communications shall be in writing and shall not be anonymous. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

Article 4

1. The Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted unless the application of such remedies is unreasonably prolonged or unlikely to bring effective relief.
2. The Committee shall declare a communication inadmissible where:
 - (a) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;

- (b) It is incompatible with the provisions of the Convention;
- (c) It is manifestly ill-founded or not sufficiently substantiated;
- (d) It is an abuse of the right to submit a communication;
- (e) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

Article 5

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.
2. Where the Committee exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the communication.

Article 6

1. Unless the Committee considers a communication inadmissible without reference to the State Party concerned, and provided that the individual or individuals consent to the disclosure of their identity to that State Party, the Committee shall bring any communication submitted to it under the present Protocol confidentially to the attention of the State Party concerned.
2. Within six months, the receiving State Party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been provided by that State Party.

Article 7

1. The Committee shall consider communications received under the present Protocol in the light of all information made available to it by or on behalf of individuals or groups of individuals and by the State Party concerned, provided that this information is transmitted to the parties concerned.
2. The Committee shall hold closed meetings when examining communications under the present Protocol.
3. After examining a communication, the Committee shall transmit its views on the communication, together with its recommendations, if any, to the parties concerned.
4. The State Party shall give due consideration to the views of the Committee, together with its recommendations, if any, and shall submit to the Committee, within six months, a written response, including information on any action taken in the light of the views and recommendations of the Committee.
5. The Committee may invite the State Party to submit further information about any measures the State Party has taken in response to its views or recommendations, if any, including as deemed appropriate by the Committee, in the State Party's subsequent reports under article 18 of the Convention.

Article 8

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned.

2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.
3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.
4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.
5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

Article 9

1. The Committee may invite the State Party concerned to include in its report under article 18 of the Convention details of any measures taken in response to an inquiry conducted under article 8 of the present Protocol.
2. The Committee may, if necessary, after the end of the period of six months referred to in article 8.4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

Article 10

1. Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 8 and 9.
2. Any State Party having made a declaration in accordance with paragraph 1 of the present article may, at any time, withdraw this declaration by notification to the Secretary-General.

Article 11

A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.

Article 12

The Committee shall include in its annual report under article 21 of the Convention a summary of its activities under the present Protocol.

Article 13

Each State Party undertakes to make widely known and to give publicity to the Convention and the present Protocol and to facilitate access to information about the views and recommendations of the Committee, in particular, on matters involving that State Party.

Article 14

The Committee shall develop its own rules of procedure to be followed when exercising the functions conferred on it by the present Protocol.

Article 15

1. The present Protocol shall be open for signature by any State that has signed, ratified or acceded to the Convention.

2. The present Protocol shall be subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 16

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

Article 17

No reservations to the present Protocol shall be permitted.

Article 18

1. Any State Party may propose an amendment to the present Protocol and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify her or him whether they favour a conference of States Parties for the purpose of considering and voting on the proposal. In the event that at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments that they have accepted.

Article 19

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of receipt of the notification by the Secretary-General.
2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 or any inquiry initiated under article 8 before the effective date of denunciation.

Article 20

The Secretary-General of the United Nations shall inform all States of:

- (a) Signatures, ratifications and accessions under the present Protocol;
- (b) The date of entry into force of the present Protocol and of any amendment under article 18;
- (c) Any denunciation under article 19.

Article 21

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 25 of the Convention.

Convention on the Rights of the Child

Adopted and opened for signature, ratification
and accession by General Assembly

resolution 44/25 of 20 November 1989

entry into force 2 September 1990, in accordance with article 49

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, 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,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, '

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement

and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin; (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her

parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child. 3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

- (d) To ensure appropriate pre-natal and post-natal health care for mothers;
- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
- (f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

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

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the

right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
 - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) To be presumed innocent until proven guilty according to law;
 - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
 - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings. 3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

- (a) Within two years of the entry into force of the Convention for the State Party concerned;
- (b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts

Adopted and opened for signature, ratification and
accession by General Assembly resolution

A/RES/54/263 of 25 May 2000

entered into force on 12 February 2002

The States Parties to the present Protocol,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child,

Reaffirming that the rights of children require special protection, and calling for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,

Disturbed by the harmful and widespread impact of armed conflict on children and the long-term consequences it has for durable peace, security and development,

Condemning the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places that generally have a significant presence of children, such as schools and hospitals,

Noting the adoption of the Rome Statute of the International Criminal Court, in particular, the inclusion therein as a war crime, of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts,

Considering therefore that to strengthen further the implementation of rights recognized in the Convention on the Rights of the Child there is a need to increase the protection of children from involvement in armed conflict,

Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier,

Convinced that an optional protocol to the Convention that raises the age of possible recruitment of persons into armed forces and their participation in hostilities will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Noting that the twenty-sixth International Conference of the Red Cross and Red Crescent in December 1995 recommended, inter alia, that parties to conflict take every feasible step to ensure that children below the age of 18 years do not take part in hostilities,

Welcoming the unanimous adoption, in June 1999, of International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which prohibits, inter alia, forced or compulsory recruitment of children for use in armed conflict,

Condemning with the gravest concern the recruitment, training and use within and across national borders of children in hostilities by armed groups distinct from the armed forces of a State, and recognizing the responsibility of those who recruit, train and use children in this regard,

Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law,

Stressing that the present Protocol is without prejudice to the purposes and principles contained in the Charter of the United Nations, including Article 51, and relevant norms of humanitarian law,

Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflicts and foreign occupation,

Recognizing the special needs of those children who are particularly vulnerable to recruitment or use in hostilities contrary to the present Protocol owing to their economic or social status or gender,

Mindful of the necessity of taking into consideration the economic, social and political root causes of the involvement of children in armed conflicts,

Convinced of the need to strengthen international cooperation in the implementation of the present Protocol, as well as the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflict,

Encouraging the participation of the community and, in particular, children and child victims in the dissemination of informational and educational programmes concerning the implementation of the Protocol,

Have agreed as follows:

Article 1

States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

Article 2

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Article 3

1. States Parties shall raise the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.

2. Each State Party shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.

3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:

(a) Such recruitment is genuinely voluntary;

(b) Such recruitment is carried out with the informed consent of the person's parents or legal guardians;

(c) Such persons are fully informed of the duties involved in such military service;

(d) Such persons provide reliable proof of age prior to acceptance into national military service.

4. Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all

States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.

5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

Article 4

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.

2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.

3. The application of the present article shall not affect the legal status of any party to an armed conflict.

Article 5

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

Article 6

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction.

2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.

3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.

Article 7

1. States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with the States Parties concerned and the relevant international organizations.

2. States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

Article 8

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol, including the measures taken to implement the provisions on participation and recruitment.

2. Following the submission of the comprehensive report, each State Party shall include in the reports it submits to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 9

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification and is open to accession by any State. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. The Secretary-General, in his capacity as depositary of the Convention and the Protocol, shall inform all States Parties to the Convention and all States that have signed the Convention of each instrument of declaration pursuant to article 3.

Article 10

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 11

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General. If, however, on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 12

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 13

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Adopted and opened for signature, ratification and accession by General Assembly resolution

A/RES/54/263 of 25 May 2000

entered into force on 18 January 2002

The States Parties to the present Protocol,

Considering that, in order further to achieve the purposes of the Convention on the Rights of the Child and the implementation of its provisions, especially articles 1, 11, 21, 32, 33, 34, 35 and 36, it would be appropriate to extend the measures that States Parties should undertake in order to guarantee the protection of the child from the sale of children, child prostitution and child pornography,

Considering also that the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development,

Gravely concerned at the significant and increasing international traffic in children for the purpose of the sale of children, child prostitution and child pornography,

Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography,

Recognizing that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation and that girl children are disproportionately represented among the sexually exploited,

Concerned about the growing availability of child pornography on the Internet and other evolving technologies, and recalling the International Conference on Combating Child Pornography on the Internet, held in Vienna in 1999, in particular its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry,

Believing that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children,

Believing also that efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and believing further in the importance of strengthening global partnership among all actors and of improving law enforcement at the national level,

Noting the provisions of international legal instruments relevant to the protection of children, including the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists for the promotion and protection of the rights of the child,

Recognizing the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the Declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996, and the other relevant decisions and recommendations of pertinent international bodies,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Have agreed as follows:

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2

For the purposes of the present Protocol:

(a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;

(b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;

(c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

(a) In the context of sale of children as defined in article 2:

(i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

- a. Sexual exploitation of the child;
- b. Transfer of organs of the child for profit;
- c. Engagement of the child in forced labour;

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.

3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.

4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative.

5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Article 4

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.

2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:

(a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;

(b) When the victim is a national of that State.

3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.

4. The present Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 5

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.

2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.

3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.

5. If an extradition request is made with respect to an offence described in article 3, paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

Article 6

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 7

States Parties shall, subject to the provisions of their national law:

(a) Take measures to provide for the seizure and confiscation, as appropriate, of:

(i) Goods, such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;

(ii) Proceeds derived from such offences;

(b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a) (i) and (ii);

(c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Article 8

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:

(a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;

(b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;

(c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;

(d) Providing appropriate support services to child victims throughout the legal process;

(e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;

(f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.

2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.

3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.

4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.

5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.

6. Nothing in the present article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

Article 9

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices.

2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.

3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.

4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

Article 10

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.

2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.

3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

Article 11

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

- (a) The law of a State Party;
- (b) International law in force for that State.

Article 12

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child

providing comprehensive information on the measures it has taken to implement the provisions of the Protocol.

2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the present Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 13

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification and is open to accession by any State that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 14

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 15

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any offence that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 16

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 17

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

CONVENTION AGAINST TORTURE

and Other Cruel, Inhuman or Degrading Treatment or Punishment

The States Parties to this Convention, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person, Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975 (resolution 3452 (XXX)),

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

Part I

Article 1

1. For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:
 1. When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
 2. When the alleged offender is a national of that State;
 3. When the victim was a national of that State if that State considers it appropriate.
2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is

present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in Paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present, shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, to the representative of the State where he usually resides.
4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said State and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found, shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.
2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.
3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested state.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with civil proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined by its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other person to compensation which may exist under national law.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13

shall apply with the substitution for references to torture or references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibit cruel, inhuman or degrading treatment or punishment or which relate to extradition or expulsion.

Part II

Article 17

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of 10 experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and are willing to serve on the Committee against Torture.
3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if re-nominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the

first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3.

6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.
7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 18

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter-alia, that
 1. Six members shall constitute a quorum;
 2. Decisions of the Committee shall be made by a majority vote of the members present.
3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.
4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
5. The State Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement of the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 above.

Article 19

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of this Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken, and such other reports as the Committee may request.

2. The Secretary-General shall transmit the reports to all States Parties.
3. [Each report shall be considered by the Committee which may make such comments or suggestions on the report as it considers appropriate, and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
4. The Committee may, at its discretion, decide to include any comments or suggestions made by it in accordance with paragraph 3, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1.]

Article 20

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practiced in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations which may have been submitted by the State Party concerned as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
3. If an inquiry is made in accordance with paragraph 2, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
4. After examining the findings of its member or members submitted in accordance with paragraph 2, the Committee shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

Article 21

1. A State Party to this Convention may at any time declare under this article 3 that it recognizes the competence of the Committee to receive and consider

communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, references to domestic procedures and remedies taken, pending, or available in the matter.
2. If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Committee and to the other State.
3. The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
4. The Committee shall hold closed meetings when examining communications under this article.
5. Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in the present Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission.
6. In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information.

7. The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing.
8. The Committee shall, within 12 months after the date of receipt of notice under subparagraph (b), submit a report.
 1. If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached.
 2. If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1. of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 22

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party to the Convention which has not made such a declaration.
2. The Committee shall consider inadmissible any communication under this article which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.
3. Subject to the provisions of paragraph 2, the Committee shall bring any communication submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State

shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.
5. The Committee shall not consider any communication from an individual under this article unless it has ascertained that:
 1. The same matter has not been, and is not being examined under another procedure of international investigation or settlement;
 2. The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
6. The Committee shall hold closed meetings when examining communications under this article.
7. The Committee shall forward its views to the State Party concerned and to the individual.
8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit parties thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 23

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph 1 (e), shall be entitled to the facilities, privileges and immunities of experts on missions for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

Part III

Article 25

1. This Convention is open for signature by all States.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 27

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.
2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 29

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to this Convention with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the State Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.
3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

Article 30

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other States Parties shall not be bound by the preceding paragraph with respect to any State Party having made such a reservation.
3. Any State Party having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 31

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective. Nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 32

The Secretary-General of the United Nations shall inform all members of the United Nations and all States which have signed this Convention or acceded to it, or the following particulars:

1. Signatures, ratifications and accessions under articles 25 and 26;
2. The date of entry into force of this Convention under article 27, and the date of the entry into force of any amendments under article 29;
3. Denunciations under article 31.

Article 33

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

On February 4, 1985, the Convention was opened for signature at United Nations Headquarters in New York. At that time, representatives of the following countries signed it: Afghanistan, Argentina, Belgium, Bolivia, Costa Rica, Denmark, Dominican Republic, Finland, France, Greece, Iceland, Italy, Netherlands, Norway, Portugal, Senegal, Spain, Sweden, Switzerland and Uruguay. Subsequently, signatures were received from Venezuela on February 15, from Luxembourg and Panama on February 22, from Austria on March 14, and from the United Kingdom on March 15, 1985.

OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Adopted on 18 December 2002 at the fifty-seventh session of the General Assembly of the United Nations by resolution A/RES/57/199.

Protocol is available for signature, ratification and accession as from 4 February 2003 (i.e. the date upon which the original of the Protocol was established) at United Nations Headquarters in New York.

PREAMBLE

The States Parties to the present Protocol,

Reaffirming that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights,

Convinced that further measures are necessary to achieve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention) and to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling that articles 2 and 16 of the Convention oblige each State Party to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction,

Recognizing that States have the primary responsibility for implementing those articles, that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures,

Recalling that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures,

Recalling also that the World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention,

Have agreed as follows:

PART I

General principles

Article 1

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their

liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Article 2

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.

2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.

3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.

4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

Article 3

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

Article 4

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.

2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

PART II

Subcommittee on Prevention

Article 5

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification of or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.

2. The members of the Subcommittee on Prevention shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.

3. In the composition of the Subcommittee on Prevention due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.

4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.

5. No two members of the Subcommittee on Prevention may be nationals of the same State.

6. The members of the Subcommittee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee on Prevention efficiently.

Article 6

1. Each State Party may nominate, in accordance with paragraph 2 of the present article, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.

2. (a) The nominees shall have the nationality of a State Party to the present Protocol;

(b) At least one of the two candidates shall have the nationality of the nominating State Party;

(c) No more than two nationals of a State Party shall be nominated;

(d) Before a State Party nominates a national of another State Party, it shall seek and obtain the consent of that State Party.

3. At least five months before the date of the meeting of the States Parties during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list, in alphabetical order, of all persons thus nominated, indicating the States Parties that have nominated them.

Article 7

1. The members of the Subcommittee on Prevention shall be elected in the following manner:

(a) Primary consideration shall be given to the fulfilment of the requirements and criteria of article 5 of the present Protocol;

(b) The initial election shall be held no later than six months after the entry into force of the present Protocol;

(c) The States Parties shall elect the members of the Subcommittee on Prevention by secret ballot;

(d) Elections of the members of the Subcommittee on Prevention shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee on Prevention shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.

2. If during the election process two nationals of a State Party have become eligible to serve as members of the Subcommittee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Subcommittee on Prevention. Where nationals have received the same number of votes, the following procedure applies:

(a) Where only one has been nominated by the State Party of which he or she is a national, that national shall serve as the member of the Subcommittee on Prevention;

(b) Where both candidates have been nominated by the State Party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become the member;

(c) Where neither candidate has been nominated by the State Party of which he or she is a national, a separate vote by secret ballot shall be held to determine which candidate shall be the member.

Article 8

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

Article 9

The members of the Subcommittee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected at the first election shall expire at the end of two years; immediately after the first election the names of those members shall be chosen by lot by the Chairman of the meeting referred to in article 7, paragraph 1 (d).

Article 10

1. The Subcommittee on Prevention shall elect its officers for a term of two years. They may be re-elected.

2. The Subcommittee on Prevention shall establish its own rules of procedure. These rules shall provide, inter alia, that:

(a) Half the members plus one shall constitute a quorum;

(b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;

(c) The Subcommittee on Prevention shall meet in camera.

3. The Secretary-General of the United Nations shall convene the initial meeting of the Subcommittee on Prevention. After its initial meeting, the Subcommittee on Prevention shall meet at such times as shall be provided by its rules of procedure. The Subcommittee on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

PART III

Mandate of the Subcommittee on Prevention

Article 11

The Subcommittee on Prevention shall:

(a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(b) In regard to the national preventive mechanisms:

(i) Advise and assist States Parties, when necessary, in their establishment;

(ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;

(iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

(c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

Article 12

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

(a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;

(b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;

(d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

Article 13

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.

2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.

3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.

4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

Article 14

1. In order to enable the Subcommittee on Prevention to fulfil its mandate, the States Parties to the present Protocol undertake to grant it:

(a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;

(e) The liberty to choose the places it wants to visit and the persons it wants to interview.

2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

Article 15

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

Article 16

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.

2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the recommendations of the Subcommittee on Prevention, the Committee against Torture may, at the request of the Subcommittee on Prevention, decide, by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee on Prevention.

PART IV

National preventive mechanisms

Article 17

Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.

2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.

3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.

4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

Article 19

The national preventive mechanisms shall be granted at a minimum the power:

(a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;

(b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;

(c) To submit proposals and observations concerning existing or draft legislation.

Article 20

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

(a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;

(e) The liberty to choose the places they want to visit and the persons they want to interview;

(f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

Article 21

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

PART V

Declaration

Article 24

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations under either part III or part IV of the present Protocol.
2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

PART VI

Financial provisions

Article 25

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.
2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee on Prevention under the present Protocol.

Article 26

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms.
2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

PART VII

Final provisions

Article 27

1. The present Protocol is open for signature by any State that has signed the Convention.
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 28

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

Article 29

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 30

No reservations shall be made to the present Protocol.

Article 31

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

Article 32

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 33

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date on which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date on which the denunciation becomes effective.

3. Following the date on which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

Article 34

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

Article 35

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

Article 36

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

- (a) Respect the laws and regulations of the visited State;
- (b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

Article 37

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

(General Assembly resolution 53/144 of 9 December 1998)

PREAMBLE

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfill, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex,

language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfill this obligation according to the Charter of the United Nations,

Acknowledging the important role of international cooperation for and the valuable work of individuals, groups and associations in contributing to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity, and from refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible and interdependent and interrelated, and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of these rights and freedoms,

Stressing that the primary responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for, and foster knowledge of, human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia* by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political as well as other fields and the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all these rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in this Declaration are effectively guaranteed.

Article 3

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed, and within which all activities referred to in this Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations nor as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how these rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge of all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to these matters.

Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles, and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of one's country and in the conduct of public affairs.
2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs, criticism and proposals for improving their functioning and to draw attention to any aspect of their work which may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in this Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of violation of these rights.
2. To this end, everyone whose rights or freedoms are allegedly violated, has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law, and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms; as well as enforcement of the eventual decision and award; all without undue delay.
3. To the same end, everyone has the right, individually and in association with others, *inter alia*:
 - (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms by petitions or other appropriate means to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials, to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10

No one shall participate, by act or failure to act where required, in violating human rights and fundamental freedoms, and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in this Declaration.

In this connection, everyone is entitled, individually and in association with others, to be effectively protected under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States which result in violations of human rights and fundamental freedoms as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms, through peaceful means, in accordance with article 3 of this Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the State's periodic reports to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institutions.

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education, and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to further strengthen, *inter alia*, understanding, tolerance, peace and friendly relations among nations and amongst all racial and religious groups, bearing in mind the various backgrounds of societies and communities, in which they carry out their activities.

Article 17

In the exercise of the rights and freedoms referred to in this Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community in which alone the free and full development of his or her personality is possible.

2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.

3. Likewise, they have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in this Declaration.

Article 20

Nor shall anything in the present Declaration be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.

INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

Preamble

The States Parties to the present Convention,

Taking into account the principles embodied in the basic instruments of the United Nations concerning human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

Taking into account also the principles and standards set forth in the relevant instruments elaborated within the framework of the International Labour Organisation, especially the Convention concerning Migration for Employment (No. 97), the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143), the Recommendation concerning Migration for Employment (No. 86), the Recommendation concerning Migrant Workers (No. 151), the Convention concerning Forced or Compulsory Labour (No. 29) and the Convention concerning Abolition of Forced Labour (No. 105),

Reaffirming the importance of the principles contained in the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization,

Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading treatment or Punishment, the Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Code of Conduct for Law Enforcement Officials, and the Slavery Conventions,

Recalling that one of the objectives of the International Labour Organisation, as stated in its Constitution, is the protection of the interests of workers when employed in countries other than their own, and bearing in mind the expertise and experience of that organization in matters related to migrant workers and members of their families,

Recognizing the importance of the work done in connection with migrant workers and members of their families in various organs of the United Nations, in particular in the Commission on Human Rights and the Commission for Social Development, and in the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, as well as in other international organizations,

Recognizing also the progress made by certain States on a regional or bilateral basis towards the protection of the rights of migrant workers and members of their families, as well as the importance and usefulness of bilateral and multilateral agreements in this field,

Realizing the importance and extent of the migration phenomenon, which involves millions of people and affects a large number of States in the international community,

Aware of the impact of the flows of migrant workers on States and people concerned, and desiring to establish norms which may contribute to the harmonization of the attitudes of States through the acceptance of basic principles concerning the treatment of migrant workers and members of their families,

Considering the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment,

Convinced that the rights of migrant workers and members of their families have not been sufficiently recognized everywhere and therefore require appropriate international protection,

Taking into account the fact that migration is often the cause of serious problems for the members of the families of migrant workers as well as for the workers themselves, in particular because of the scattering of the family,

Bearing in mind that the human problems involved in migration are even more serious in the case of irregular migration and convinced therefore that appropriate action should be encouraged in order to prevent and eliminate clandestine movements and trafficking in migrant workers, while at the same time assuring the protection of their fundamental human rights,

Considering that workers who are non-documented or in an irregular situation are frequently employed under less favourable conditions of work than other workers and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition,

Considering also that recourse to the employment of migrant workers who are in an irregular situation will be discouraged if the fundamental human rights of all migrant workers are more widely recognized and, moreover, that granting certain additional rights to migrant workers and members of their families in a regular situation will encourage all migrants and employers to respect and comply with the laws and procedures established by the States concerned,

Convinced, therefore, of the need to bring about the international protection of the rights of all migrant workers and members of their families, reaffirming and establishing basic norms in a comprehensive convention which could be applied universally,

Have agreed as follows:

PART - I

Scope and definitions

Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

Article 2

For the purposes of the present Convention:

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

2. (a) The term "frontier worker" refers to a migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week;

(b) The term "seasonal worker" refers to a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year;

(c) The term "seafarer", which includes a fisherman, refers to a migrant worker employed on board a vessel registered in a State of which he or she is not a national;

(d) The term "worker on an offshore installation" refers to a migrant worker employed on an offshore installation that is under the jurisdiction of a State of which he or she is not a national;

(e) The term "itinerant worker" refers to a migrant worker who, having his or her habitual residence in one State, has to travel to another State or States for short periods, owing to the nature of his or her occupation;

(f) The term "project-tied worker" refers to a migrant worker admitted to a State of employment for a defined period to work solely on a specific project being carried out in that State by his or her employer;

(g) The term "specified-employment worker" refers to a migrant worker:

- i. Who has been sent by his or her employer for a restricted and defined period of time to a State of employment to undertake a specific assignment or duty; or
- ii. Who engages for a restricted and defined period of time in work that requires professional, commercial, technical or other highly specialized skill; or
- iii. Who, upon the request of his or her employer in the State of employment, engages for a restricted and defined period of time in work whose nature is transitory or brief;

and who is required to depart from the State of employment either at the expiration of his or her authorized period of stay, or earlier if he or she no longer undertakes that specific assignment or duty or engages in that work;

(h) The term "self-employed worker" refers to a migrant worker who is engaged in a remunerated activity otherwise than under a contract of employment and who earns his or her living through this activity normally working alone or together with members of his or her family, and to any other migrant worker recognized as self-employed by applicable legislation of the State of employment or bilateral or multilateral agreements.

Article 3

The present Convention shall not apply to:

(a) Persons sent or employed by international organizations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;

(b) Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;

(c) Persons taking up residence in a State different from their State of origin as investors;

(d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;

(e) Students and trainees;

(f) Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment.

Article 4

For the purposes of the present Convention the term "members of the family" refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned.

Article 5

For the purposes of the present Convention, migrant workers and members of their families:

(a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;

(b) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.

Article 6

For the purposes of the present Convention:

(a) The term "State of origin" means the State of which the person concerned is a national;

(b) The term "State of employment" means a State where the migrant worker is to be engaged, is engaged or has been engaged in a remunerated activity, as the case may be;

(c) The term "State of transit" means any State through which the person concerned passes on any journey to the State of employment or from the State of employment to the State of origin or the State of habitual residence.

PART - II

Non-discrimination with respect to rights

Article 7

States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

PART III

Human rights of all migrant workers and members of their families

Article 8

1. Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.

2. Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin.

Article 9

The right to life of migrant workers and members of their families shall be protected by law.

Article 10

No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 11

1. No migrant worker or member of his or her family shall be held in slavery or servitude.

2. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.

3. Paragraph 2 of the present article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.

4. For the purpose of the present article the term "forced or compulsory labour" shall not include:

- a) Any work or service not referred to in paragraph 3 of the present article normally required of a person who is under detention in consequence of a lawful order of a court or of a person during conditional release from such detention;
- b) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
- c) Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.

Article 12

1. Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.

2. Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.

3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

4. States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 13

1. Migrant workers and members of their families shall have the right to hold opinions without interference.

2. Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice.

3. The exercise of the right provided for in paragraph 2 of the present article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- a) For respect of the rights or reputation of others;
- b) For the protection of the national security of the States concerned or of public order (*ordre public*) or of public health or morals;
- c) For the purpose of preventing any propaganda for war;
- d) For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Article 14

No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or other communications, or to unlawful attacks on his or her honour and reputation. Each migrant worker and member of his or her family shall have the right to the protection of the law against such interference or attacks.

Article 15

No migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the person concerned shall have the right to fair and adequate compensation.

Article 16

1. Migrant workers and members of their families shall have the right to liberty and security of person.

2. Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.

3. Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedures established by law.

4. Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.

5. Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.

6. Migrant workers and members of their families who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for the execution of the judgement.

7. When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner:

a) The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of that State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefor;

b) The person concerned shall have the right to communicate with the said authorities. Any communication by the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;

c) The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.

8. Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.

9. Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.

Article 17

1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

2. Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to

separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. Any migrant worker or member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration, shall be held, in so far as practicable, separately from convicted persons or persons detained pending trial.

4. During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.

5. During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.

6. Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children.

7. Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.

8. If a migrant worker or a member of his or her family is detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising therefrom.

Article 18

1. Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.

3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:

- a) To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;
- b) To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;
- c) To be tried without undue delay;
- d) To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal

assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;

- e) To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;
- f) To have the free assistance of an interpreter if they cannot understand or speak the language used in court;
- g) Not to be compelled to testify against themselves or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.

6. When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.

7. No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.

Article 19

1. No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence under national or international law at the time when the criminal offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when it was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.

2. Humanitarian considerations related to the status of a migrant worker, in particular with respect to his or her right of residence or work, should be taken into account in imposing a sentence for a criminal offence committed by a migrant worker or a member of his or her family.

Article 20

1. No migrant worker or member of his or her family shall be imprisoned merely on the ground of failure to fulfill a contractual obligation.

2. No migrant worker or member of his or her family shall be deprived of his or her authorization of residence or work permit or expelled merely on the ground of failure to fulfill

an obligation arising out of a work contract unless fulfillment of that obligation constitutes a condition for such authorization or permit.

Article 21

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family.

Article 22

1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.

2. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.

3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.

4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.

5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.

6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.

7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.

8. In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.

9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

Article 23

Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right.

Article 24

Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.

Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:

- a) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by this term;
- b) Other terms of employment, that is to say, minimum age of employment, restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.

2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.

3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of any such irregularity.

Article 26

1. States Parties recognize the right of migrant workers and members of their families:

- a) To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;
- b) To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;
- c) To seek the aid and assistance of any trade union and of any such association as aforesaid.

2. No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order (*ordre public*) or the protection of the rights and freedoms of others.

Article 27

1. With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfill the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.

2. Where the applicable legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances.

Article 28

Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment.

Article 29

Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.

Article 30

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

Article 31

1. States Parties shall ensure respect for the cultural identity of migrant workers and members of their families and shall not prevent them from maintaining their cultural links with their State of origin.

2. States Parties may take appropriate measures to assist and encourage efforts in this respect.

Article 32

Upon the termination of their stay in the State of employment, migrant workers and members of their families shall have the right to transfer their earnings and savings and, in

accordance with the applicable legislation of the States concerned, their personal effects and belongings.

Article 33

1. Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning:

- a) Their rights arising out of the present Convention;
- b) The conditions of their admission, their rights and obligations under the law and practice of the State concerned and such other matters as will enable them to comply with administrative or other formalities in that State.

2. States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, they shall co-operate with other States concerned.

3. Such adequate information shall be provided upon request to migrant workers and members of their families, free of charge, and, as far as possible, in a language they are able to understand.

Article 34

Nothing in the present part of the Convention shall have the effect of relieving migrant workers and the members of their families from either the obligation to comply with the laws and regulations of any State of transit and the State of employment or the obligation to respect the cultural identity of the inhabitants of such States.

Article 35

Nothing in the present part of the Convention shall be interpreted as implying the regularization of the situation of migrant workers or members of their families who are non-documented or in an irregular situation or any right to such regularization of their situation, nor shall it prejudice the measures intended to ensure sound and equitable conditions for international migration as provided in part VI of the present Convention.

PART - IV

Other rights of migrant workers and members of their families who are documented or in a regular situation

Article 36

Migrant workers and members of their families who are documented or in a regular situation in the State of employment shall enjoy the rights set forth in the present part of the Convention in addition to those set forth in part III.

Article 37

Before their departure, or at the latest at the time of their admission to the State of employment, migrant workers and members of their families shall have the right to be fully informed by the State of origin or the State of employment, as appropriate, of all conditions applicable to their admission and particularly those concerning their stay and the remunerated activities in which they may engage as well as of the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions.

Article 38

1. States of employment shall make every effort to authorize migrant workers and members of their families to be temporarily absent without effect upon their authorization to stay or to work, as the case may be. In doing so, States of employment shall take into account the special needs and obligations of migrant workers and members of their families, in particular in their States of origin.

2. Migrant workers and members of their families shall have the right to be fully informed of the terms on which such temporary absences are authorized.

Article 39

1. Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.

2. The rights mentioned in paragraph 1 of the present article shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 40

1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.

2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (*ordre public*) or the protection of the rights and freedoms of others.

Article 41

1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.

2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

Article 42

1. States Parties shall consider the establishment of procedures or institutions through which account may be taken, both in States of origin and in States of employment, of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and members of their families to have their freely chosen representatives in those institutions.

2. States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.

3. Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.

Article 43

1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:

- a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;
- b) Access to vocational guidance and placement services;
- c) Access to vocational training and retraining facilities and institutions;
- d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents;
- e) Access to social and health services, provided that the requirements for participation in the respective schemes are met;
- f) Access to co-operatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;
- g) Access to and participation in cultural life.

2. States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.

3. States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them. Subject to article 70 of the present Convention, a State of employment may make the establishment of such facilities subject to the requirements generally applied in that State concerning their installation.

Article 44

1. States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.

2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.

3. States of employment, on humanitarian grounds, shall favourably consider granting equal treatment, as set forth in paragraph 2 of the present article, to other family members of migrant workers.

Article 45

1. Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:

- a) Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;
- b) Access to vocational guidance and training institutions and services, provided that requirements for participation are met;
- c) Access to social and health services, provided that requirements for participation in the respective schemes are met;
- d) Access to and participation in cultural life.

2. States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.

3. States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.

4. States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

Article 46

Migrant workers and members of their families shall, subject to the applicable legislation of the States concerned, as well as relevant international agreements and the obligations of the States concerned arising out of their participation in customs unions, enjoy exemption from import and export duties and taxes in respect of their personal and household effects as well as the equipment necessary to engage in the remunerated activity for which they were admitted to the State of employment:

- a) Upon departure from the State of origin or State of habitual residence;
- b) Upon initial admission to the State of employment;
- c) Upon final departure from the State of employment;
- d) Upon final return to the State of origin or State of habitual residence.

Article 47

1. Migrant workers shall have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State. Such transfers shall be made in conformity with procedures established by applicable legislation of the State concerned and in conformity with applicable international agreements.
2. States concerned shall take appropriate measures to facilitate such transfers.

Article 48

1. Without prejudice to applicable double taxation agreements, migrant workers and members of their families shall, in the matter of earnings in the State of employment:
 - a) Not be liable to taxes, duties or charges of any description higher or more onerous than those imposed on nationals in similar circumstances;
 - b) Be entitled to deductions or exemptions from taxes of any description and to any tax allowances applicable to nationals in similar circumstances, including tax allowances for dependent members of their families.
2. States Parties shall endeavour to adopt appropriate measures to avoid double taxation of the earnings and savings of migrant workers and members of their families.

Article 49

1. Where separate authorizations to reside and to engage in employment are required by national legislation, the States of employment shall issue to migrant workers authorization of residence for at least the same period of time as their authorization to engage in remunerated activity.
2. Migrant workers who in the State of employment are allowed freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permits or similar authorizations.
3. In order to allow migrant workers referred to in paragraph 2 of the present article sufficient time to find alternative remunerated activities, the authorization of residence shall not be withdrawn at least for a period corresponding to that during which they may be entitled to unemployment benefits.

Article 50

1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time they have already resided in that State.

2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.

3. The provisions of paragraphs 1 and 2 of the present article may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by bilateral and multilateral treaties applicable to that State.

Article 51

Migrant workers who in the State of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permit, except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. Such migrant workers shall have the right to seek alternative employment, participation in public work schemes and retraining during the remaining period of their authorization to work, subject to such conditions and limitations as are specified in the authorization to work.

Article 52

1. Migrant workers in the State of employment shall have the right freely to choose their remunerated activity, subject to the following restrictions or conditions.

2. For any migrant worker a State of employment may:

- a) Restrict access to limited categories of employment, functions, services or activities where this is necessary in the interests of this State and provided for by national legislation;
- b) Restrict free choice of remunerated activity in accordance with its legislation concerning recognition of occupational qualifications acquired outside its territory. However, States Parties concerned shall endeavour to provide for recognition of such qualifications.

3. For migrant workers whose permission to work is limited in time, a State of employment may also:

- a) Make the right freely to choose their remunerated activities subject to the condition that the migrant worker has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed two years;
- b) Limit access by a migrant worker to remunerated activities in pursuance of a policy of granting priority to its nationals or to persons who are assimilated to them for these purposes by virtue of legislation or bilateral or multilateral agreements. Any such limitation shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed five years.

4. States of employment shall prescribe the conditions under which a migrant worker who has been admitted to take up employment may be authorized to engage in work on his or her own account. Account shall be taken of the period during which the worker has already been lawfully in the State of employment.

Article 53

1. Members of a migrant worker's family who have themselves an authorization of residence or admission that is without limit of time or is automatically renewable shall be permitted freely to choose their remunerated activity under the same conditions as are applicable to the said migrant worker in accordance with article 52 of the present Convention.

2. With respect to members of a migrant worker's family who are not permitted freely to choose their remunerated activity, States Parties shall consider favourably granting them priority in obtaining permission to engage in a remunerated activity over other workers who seek admission to the State of employment, subject to applicable bilateral and multilateral agreements.

Article 54

1. Without prejudice to the terms of their authorization of residence or their permission to work and the rights provided for in articles 25 and 27 of the present Convention, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of:

- a) Protection against dismissal;
- b) Unemployment benefits;
- c) Access to public work schemes intended to combat unemployment;
- d) Access to alternative employment in the event of loss of work or termination of other remunerated activity, subject to article 52 of the present Convention.

2. If a migrant worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment, on terms provided for in article 18, paragraph 1, of the present Convention.

Article 55

Migrant workers who have been granted permission to engage in a remunerated activity, subject to the conditions attached to such permission, shall be entitled to equality of treatment with nationals of the State of employment in the exercise of that remunerated activity.

Article 56

1. Migrant workers and members of their families referred to in the present part of the Convention may not be expelled from a State of employment, except for reasons defined in the national legislation of that State, and subject to the safeguards established in part III.

2. Expulsion shall not be resorted to for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorization of residence and the work permit.

3. In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment.

PART - V

Provisions applicable to particular categories of migrant workers and members of their families

Article 57

The particular categories of migrant workers and members of their families specified in the present part of the Convention who are documented or in a regular situation shall enjoy the rights set forth in part III and, except as modified below, the rights set forth in part IV.

Article 58

1. Frontier workers, as defined in article 2, paragraph 2 (a), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment, taking into account that they do not have their habitual residence in that State.

2. States of employment shall consider favourably granting frontier workers the right freely to choose their remunerated activity after a specified period of time. The granting of that right shall not affect their status as frontier workers.

Article 59

1. Seasonal workers, as defined in article 2, paragraph 2 (b), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status in that State as seasonal workers, taking into account the fact that they are present in that State for only part of the year.

2. The State of employment shall, subject to paragraph 1 of the present article, consider granting seasonal workers who have been employed in its territory for a significant period of time the possibility of taking up other remunerated activities and giving them priority over other workers who seek admission to that State, subject to applicable bilateral and multilateral agreements.

Article 60

Itinerant workers, as defined in article 2, paragraph 2 (e), of the present Convention, shall be entitled to the rights provided for in part IV that can be granted to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status as itinerant workers in that State.

Article 61

1. Project-tied workers, as defined in article 2, paragraph 2 (f), of the present Convention, and members of their families shall be entitled to the rights provided for in part IV except the provisions of article 43, paragraphs 1 (b) and (c), article 43, paragraph 1 (d), as it pertains to social housing schemes, article 45, paragraph 1 (b), and articles 52 to 55.

2. If a project-tied worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State which has jurisdiction over that employer, on terms provided for in article 18, paragraph 1, of the present Convention.

3. Subject to bilateral or multilateral agreements in force for them, the States parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their engagement in the project. States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.

4. Without prejudice to the provisions of article 47 of the present Convention and to relevant bilateral or multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or habitual residence.

Article 62

1. Specified-employment workers as defined in article 2, paragraph 2 (g), of the present Convention, shall be entitled to the rights provided for in part IV, except the provisions of article 43, paragraphs 1 (b) and (c), article 43, paragraph 1 (d), as it pertains to social housing schemes, article 52, and article 54, paragraph 1 (d).

2. Members of the families of specified-employment workers shall be entitled to the rights relating to family members of migrant workers provided for in part IV of the present Convention, except the provisions of article 53.

Article 63

1. Self-employed workers, as defined in article 2, paragraph 2 (h), of the present Convention, shall be entitled to the rights provided for in part IV with the exception of those rights which are exclusively applicable to workers having a contract of employment.

2. Without prejudice to articles 52 and 79 of the present Convention, the termination of the economic activity of the self-employed workers shall not in itself imply the withdrawal of the authorization for them or for the members of their families to stay or to engage in a remunerated activity in the State of employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted.

PART - VI

Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

Article 64

1. Without prejudice to article 79 of the present Convention, the States Parties concerned shall as appropriate consult and co-operate with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.

2. In this respect, due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.

Article 65

1. States Parties shall maintain appropriate services to deal with questions concerning international migration of workers and members of their families. Their functions shall include, *inter alia*:

- a) The formulation and implementation of policies regarding such migration;
- b) An exchange of information, consultation and co-operation with the competent authorities of other States Parties involved in such migration;
- c) The provision of appropriate information, particularly to employers, workers and their organizations on policies, laws and regulations relating to migration and employment, on agreements concluded with other States concerning migration and on other relevant matters;
- d) The provision of information and appropriate assistance to migrant workers and members of their families regarding requisite authorizations and formalities and arrangements for departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations.

2. States Parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families.

Article 66

1. Subject to paragraph 2 of the present article, the right to undertake operations with a view to the recruitment of workers for employment in another State shall be restricted to:

- a) Public services or bodies of the State in which such operations take place;
- b) Public services or bodies of the State of employment on the basis of agreement between the States concerned;
- c) A body established by virtue of a bilateral or multilateral agreement.

2. Subject to any authorization, approval and supervision by the public authorities of the States Parties concerned as may be established pursuant to the legislation and

practice of those States, agencies, prospective employers or persons acting on their behalf may also be permitted to undertake the said operations.

Article 67

1. States Parties concerned shall co-operate as appropriate in the adoption of measures regarding the orderly return of migrant workers and members of their families to the State of origin when they decide to return or their authorization of residence or employment expires or when they are in the State of employment in an irregular situation.

2. Concerning migrant workers and members of their families in a regular situation, States Parties concerned shall co-operate as appropriate, on terms agreed upon by those States, with a view to promoting adequate economic conditions for their resettlement and to facilitating their durable social and cultural reintegration in the State of origin.

Article 68

1. States Parties, including States of transit, shall collaborate with a view to preventing and eliminating illegal or clandestine movements and employment of migrant workers in an irregular situation. The measures to be taken to this end within the jurisdiction of each State concerned shall include:

- a) Appropriate measures against the dissemination of misleading information relating to emigration and immigration;
- b) Measures to detect and eradicate illegal or clandestine movements of migrant workers and members of their families and to impose effective sanctions on persons, groups or entities which organize, operate or assist in organizing or operating such movements;
- c) Measures to impose effective sanctions on persons, groups or entities which use violence, threats or intimidation against migrant workers or members of their families in an irregular situation.

2. States of employment shall take all adequate and effective measures to eliminate employment in their territory of migrant workers in an irregular situation, including, whenever appropriate, sanctions on employers of such workers. The rights of migrant workers vis-a-vis their employer arising from employment shall not be impaired by these measures.

Article 69

1. States Parties shall, when there are migrant workers and members of their families within their territory in an irregular situation, take appropriate measures to ensure that such a situation does not persist.

2. Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of the circumstances of their entry, the duration of their stay in the States of employment and other relevant considerations, in particular those relating to their family situation.

Article 70

States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

Article 71

1. States Parties shall facilitate, whenever necessary, the repatriation to the State of origin of the bodies of deceased migrant workers or members of their families.

2. As regards compensation matters relating to the death of a migrant worker or a member of his or her family, States Parties shall, as appropriate, provide assistance to the persons concerned with a view to the prompt settlement of such matters. Settlement of these matters shall be carried out on the basis of applicable national law in accordance with the provisions of the present Convention and any relevant bilateral or multilateral agreements.

PART VII

Application of the Convention

Article 72

1. (a) For the purpose of reviewing the application of the present Convention, there shall be established a Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereinafter referred to as "the Committee");
- b) The Committee shall consist, at the time of entry into force of the present Convention, of ten and, after the entry into force of the Convention for the forty-first State Party, of fourteen experts of high moral standing, impartiality and recognized competence in the field covered by the Convention.

2. (a) Members of the Committee shall be elected by secret ballot by the States Parties from a list of persons nominated by the States Parties, due consideration being given to equitable geographical distribution, including both States of origin and States of employment, and to the representation of the principal legal systems. Each State Party may nominate one person from among its own nationals;

(b) Members shall be elected and shall serve in their personal capacity.

3. The initial election shall be held no later than six months after the date of the entry into force of the present Convention and subsequent elections every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to all States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties that have nominated them, and shall

submit it to the States Parties not later than one month before the date of the corresponding election, together with the curricula vitae of the persons thus nominated.

4. Elections of members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the States Parties present and voting.

5. (a) The members of the Committee shall serve for a term of four years. However, the terms of five of the members elected in the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting of States Parties;

(b) The election of the four additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of the present article, following the entry into force of the Convention for the forty-first State Party. The term of two of the additional members elected on this occasion shall expire at the end of two years; the names of these members shall be chosen by lot by the Chairman of the meeting of States Parties;

(c) The members of the Committee shall be eligible for re-election if re-nominated.

6. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party that nominated the expert shall appoint another expert from among its own nationals for the remaining part of the term. The new appointment is subject to the approval of the Committee.

7. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.

8. The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.

9. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 73

1. States Parties undertake to submit to the Secretary-General of the United Nations for consideration by the Committee a report on the legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the present Convention:

a) Within one year after the entry into force of the Convention for the State Party concerned;

b) Thereafter every five years and whenever the Committee so requests.

2. Reports prepared under the present article shall also indicate factors and difficulties, if any, affecting the implementation of the Convention and shall include

information on the characteristics of migration flows in which the State Party concerned is involved.

3. The Committee shall decide any further guidelines applicable to the content of the reports.

4. States Parties shall make their reports widely available to the public in their own countries.

Article 74

1. The Committee shall examine the reports submitted by each State Party and shall transmit such comments as it may consider appropriate to the State Party concerned. This State Party may submit to the Committee observations on any comment made by the Committee in accordance with the present article. The Committee may request supplementary information from States Parties when considering these reports.

2. The Secretary-General of the United Nations shall, in due time before the opening of each regular session of the Committee, transmit to the Director-General of the International Labour Office copies of the reports submitted by States Parties concerned and information relevant to the consideration of these reports, in order to enable the Office to assist the Committee with the expertise the Office may provide regarding those matters dealt with by the present Convention that fall within the sphere of competence of the International Labour Organisation. The Committee shall consider in its deliberations such comments and materials as the Office may provide.

3. The Secretary-General of the United Nations may also, after consultation with the Committee, transmit to other specialized agencies as well as to intergovernmental organizations, copies of such parts of these reports as may fall within their competence.

4. The Committee may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies to submit, for consideration by the Committee, written information on such matters dealt with in the present Convention as fall within the scope of their activities.

5. The International Labour Office shall be invited by the Committee to appoint representatives to participate, in a consultative capacity, in the meetings of the Committee.

6. The Committee may invite representatives of other specialized agencies and organs of the United Nations, as well as of intergovernmental organizations, to be present and to be heard in its meetings whenever matters falling within their field of competence are considered.

7. The Committee shall present an annual report to the General Assembly of the United Nations on the implementation of the present Convention, containing its own considerations and recommendations, based, in particular, on the examination of the reports and any observations presented by States Parties.

8. The Secretary-General of the United Nations shall transmit the annual reports of the Committee to the States Parties to the present Convention, the Economic and Social Council, the Commission on Human Rights of the United Nations, the Director-General of the International Labour Office and other relevant organizations.

Article 75

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The Committee shall normally meet annually.
4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 76

1. A State Party to the present Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Convention. Communications under this article may be received and considered only if submitted by a State Party that has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

- a) If a State Party to the present Convention considers that another State Party is not fulfilling its obligations under the present Convention, it may, by written communication, bring the matter to the attention of that State Party. The State Party may also inform the Committee of the matter. Within three months after the receipt of the communication the receiving State shall afford the State that sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
- b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
- c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged;
- d) Subject to the provisions of subparagraph (c) of the present paragraph, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the present Convention;
- e) The Committee shall hold closed meetings when examining communications under the present article;
- f) In any matter referred to it in accordance with subparagraph (b) of the present paragraph, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

- g) The States Parties concerned, referred to in subparagraph (b) of the present paragraph, shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;
- h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b) of the present paragraph, submit a report, as follows:
 - i) If a solution within the terms of subparagraph (d) of the present paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
 - j) If a solution within the terms of subparagraph (d) is not reached, the Committee shall, in its report, set forth the relevant facts concerning the issue between the States Parties concerned. The written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. The Committee may also communicate only to the States Parties concerned any views that it may consider relevant to the issue between them.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of the present article shall come into force when ten States Parties to the present Convention have made a declaration under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by any State Party shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 77

1. A State Party to the present Convention may at any time declare under the present article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party. No communication shall be received by the Committee if it concerns a State Party that has not made such a declaration.

2. The Committee shall consider inadmissible any communication under the present article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the present Convention.

3. The Committee shall not consider any communications from an individual under the present article unless it has ascertained that:

- a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

b) The individual has exhausted all available domestic remedies; this shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to that individual.

4. Subject to the provisions of paragraph 2 of the present article, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to the present Convention that has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

5. The Committee shall consider communications received under the present article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

6. The Committee shall hold closed meetings when examining communications under the present article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of the present article shall come into force when ten States Parties to the present Convention have made declarations under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by or on behalf of an individual shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 78

The provisions of article 76 of the present Convention shall be applied without prejudice to any procedures for settling disputes or complaints in the field covered by the present Convention laid down in the constituent instruments of, or in conventions adopted by, the United Nations and the specialized agencies and shall not prevent the States Parties from having recourse to any procedures for settling a dispute in accordance with international agreements in force between them.

PART - VIII

General provisions

Article 79

Nothing in the present Convention shall affect the right of each State Party to establish the criteria governing admission of migrant workers and members of their families. Concerning other matters related to their legal situation and treatment as migrant workers and members of their families, States Parties shall be subject to the limitations set forth in the present Convention.

Article 80

Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention.

Article 81

1. Nothing in the present Convention shall affect more favourable rights or freedoms granted to migrant workers and members of their families by virtue of:

- a) The law or practice of a State Party; or
- b) Any bilateral or multilateral treaty in force for the State Party concerned.

2. Nothing in the present Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act that would impair any of the rights and freedoms as set forth in the present Convention.

Article 82

The rights of migrant workers and members of their families provided for in the present Convention may not be renounced. It shall not be permissible to exert any form of pressure upon migrant workers and members of their families with a view to their relinquishing or foregoing any of the said rights. It shall not be possible to derogate by contract from rights recognized in the present Convention. States Parties shall take appropriate measures to ensure that these principles are respected.

Article 83

Each State Party to the present Convention undertakes:

- a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- b) To ensure that any persons seeking such a remedy shall have his or her claim reviewed and decided by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 84

Each State Party undertakes to adopt the legislative and other measures that are necessary to implement the provisions of the present Convention.

PART - IX

Final provisions

Article 85

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 86

1. The present Convention shall be open for signature by all States. It is subject to ratification.

2. The present Convention shall be open to accession by any State.

3. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 87

1. The present Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the present Convention after its entry into force, the Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of its own instrument of ratification or accession.

Article 88

A State ratifying or acceding to the present Convention may not exclude the application of any Part of it, or, without prejudice to article 3, exclude any particular category of migrant workers from its application.

Article 89

1. Any State Party may denounce the present Convention, not earlier than five years after the Convention has entered into force for the State concerned, by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of the receipt of the notification by the Secretary-General of the United Nations.

3. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

4. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 90

1. After five years from the entry into force of the Convention a request for the revision of the Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting shall be submitted to the General Assembly for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Convention and any earlier amendment that they have accepted.

Article 91

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of signature, ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 92

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention that is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by that paragraph with respect to any State Party that has made such a declaration.

3. Any State Party that has made a declaration in accordance with paragraph 2 of the present article may at any time withdraw that declaration by notification to the Secretary-General of the United Nations.

Article 93

1. The present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

E. Human Rights Education

INTERNATIONAL PLAN OF ACTION FOR THE UNITED NATIONS DECADE FOR HUMAN RIGHTS EDUCATION

1995 - 2004

I. Normative basis and definition

1. The United Nations Decade for Human Rights Education shall be based upon the provisions of the international human rights instruments, with particular reference to those provisions addressing human rights education, including article 26 of the Universal Declaration of Human Rights, article 13 of the International Covenant on Economic, Social and Cultural Rights, article 29 of the Convention on the Rights of the Child, article 10 of the Convention on the Elimination of All Forms of Discrimination against Women, article 7 of the Convention on the Elimination of All Forms of Racial Discrimination, paragraphs 33 and 34 of the Vienna Declaration and paragraphs 78 to 82 of its Programme of Action.

2. In accordance with those provisions, and for the purposes of the Decade, human rights education shall be defined as training, dissemination and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the moulding of attitudes and directed to:

- (a) The strengthening of respect for human rights and fundamental freedoms;
- (b) The full development of the human personality and the sense of its dignity;
- (c) The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups;
- (d) The enabling of all persons to participate effectively in a free society;
- (e) The furtherance of the activities of the United Nations for the maintenance of peace.

II. General guiding principles

3. The United Nations Decade for Human Rights Education shall be guided by the definition and normative basis set out in part I of the present Plan of Action and shall further be directed towards creating the broadest possible awareness and understanding of all of the norms, concepts and values enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and in other relevant international human rights instruments. The Decade is placed within the context of action of States and others to

eradicate illiteracy and understands education to be a constant factor in the multidimensional life of individuals and of society of which human rights are an integral part.

4. A comprehensive approach to education for human rights, including civil, cultural, economic, political and social rights and recognising the indivisibility and interdependence of all rights, as defined by the United Nations, shall be adopted for all activities under the Decade.

5. Education for the purpose of the Decade shall be conceived to include the equal participation of women and men of all age groups and all sectors of society, both in formal learning through schools and vocational and professional training, as well as in non-formal learning through institutions of civil society, the family and the mass media.

6. In order to enhance their effectiveness, human rights education efforts for the Decade shall be shaped in such a way as to be relevant to the daily lives of learners, and shall seek to engage learners in a dialogue about the ways and means of transforming human rights from the expression of abstract norms to the reality of their social, economic, cultural and political conditions.

7. In recognition of the interdependence and mutually reinforcing nature of democracy, development and human rights, human rights education under the Decade shall seek to further effective democratic participation in the political, economic, social and cultural spheres, and shall be utilised as a means of promoting economic and social progress and people-centred sustainable development.

8. Human rights education under the Decade shall combat and be free of gender bias, racial and other stereotypes.

9. Human rights education under the Decade shall seek both to impart skills and knowledge to learners and to affect positively their attitudes and behaviour, consistent with all other principles set forth in the present Plan of Action and in the international human rights instruments upon which it is based.

III. Objectives

10. The objectives of the Decade shall include:

- a. The assessment of needs and the formulation of effective strategies for the furtherance of human rights education at all school levels in vocational training and formal as well as non-formal learning.
- b. The building and strengthening of programmes and capacities for human rights education at the international, regional, national and local levels;
- c. The co-ordinated development of human rights education materials;
- d. The strengthening of the role and capacity of the mass media in the furtherance of human rights education;

- e. The global dissemination of the Universal Declaration of Human Rights in the maximum possible number of languages and in other forms appropriate for various levels of literacy and for the disabled.

IV. Principal actors

11. Governments should play an active role in the implementation of the programme of the Decade through the development of national plans of action for human rights education, the introduction or strengthening of national human rights curricula in their formal educational systems, the conducting of national information campaigns on human rights and the opening of public access to human rights resource, information and training centres, as well as through enhanced donor support for relevant voluntary funds and international and national human rights education programmes.

12. National human rights institutions, such as human rights commissions, offices of the ombudsman and human rights research and training institutes should play a central role in the development, co-ordination and implementation of human rights education programmes at the national level.

13. The active engagement of national non-governmental organisations, grass-roots organisations, professional associations and interested individuals shall be encouraged to assist in the realisation of the goals of the Decade. To that end, national organisations should be given the full support of international programmes, Governments and others to assist them in their human rights educational activities, both through technical assistance and training and through financial support to aid them in strengthening their role in civil society.

14. The United Nations High Commissioner for Human Rights is the highest official of the United Nations dealing with human rights matters and is specifically responsible for co-ordinating relevant United Nations education and public information programmes in the field of human rights, in keeping with General Assembly resolution 48/141 of 20 December 1993.

15. The United Nations High Commissioner for Human Rights, in consultation with the United Nations Educational, Scientific and Cultural Organisation (UNESCO), shall continue to provide Governments, on request, with human rights education, training, information, fellowships and advisory services programmes. The Office of the High Commissioner for Human Rights should continue to place emphasis, in this regard, on the training of teachers, police, prison officials, lawyers, judges, government officials, the media, the military, non-governmental organisations, electoral officials and the general public. The Office should also continue to provide human rights training to international civil servants, development officers and peacekeepers.

16. United Nations human rights treaty monitoring bodies, the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and all other United Nations human rights bodies and programmes shall, in the course of their mandated functions during the Decade, encourage the furtherance of human rights education, including through appropriate recommendations to States, to the High Commissioner for Human Rights and to others involved in human rights education.

17. UNESCO, by reason of its long experience in education, educational methodology and human rights and through its network of UNESCO schools, clubs, human rights chairs and national commissions, shall play a central role in the design, implementation and evaluation of projects under the Plan of Action. Accordingly, UNESCO will be called upon to co-operate closely with the Office of the High Commissioner for Human Rights in the implementation of the Plan.

18. Similarly, other United Nations specialised agencies, units of the Secretariat and programmes involved in human rights educational activities, including the United Nations Children's Fund (UNICEF), the International Labour Organisation (ILO), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Programme (UNDP), the United Nations Volunteers (UNV), the United Nations Environment Programme (UNEP), the United Nations Centre for Human Settlements (Habitat), the Centre for Social Development and Humanitarian Affairs, the United Nations University (UNU) and various United Nations institutes engaged in research and training shall be encouraged to work with the High Commissioner for Human Rights in order that existing capacities for human rights education may be fully co-ordinated and mobilised towards the objectives of the Decade.

19. Other international organisations, including intergovernmental and non-governmental organisations active in the field of human rights, shall be encouraged to continue and enhance their activities in the area of human rights education and to avail themselves of the co-ordination of the High Commissioner for Human Rights for the purposes of the Decade.

V. Target Groups

20. Activities carried out under the Decade shall be designed to bring the objectives of the Decade to as wide an audience as possible, through both formal and non-formal education and, to this end, should encourage an approach that is designed to build permanent capacity, including through the training of trainers.

21. The general public shall be the subject of far-reaching human rights information efforts designed to inform them of their rights and responsibilities under the international human rights instruments.

22. Human rights education initiatives taken under the Decade shall include the use of audio-visual and multimedia materials, with a view to the effective delivery of human rights education to people at all levels of literacy and education and to persons with disabilities.

23. Special emphasis shall be given in human rights education activities under the Decade to the human rights of women, children, the aged, minorities, refugees, indigenous peoples, persons in extreme poverty, persons with HIV infection or AIDS and other vulnerable groups.

24. Special attention shall be given to the training of the police, prison officials, lawyers, judges, teachers and curriculum developers, the armed forces, international civil servants, development officers and peacekeepers, non-governmental organisations, the media, government officials, parliamentarians and other groups that are in a particular position to effect the realisation of human rights.

25. Schools, universities, professional and vocations training programmes and institutions should be encouraged and assisted in developing human rights curricula and corresponding teaching and resource materials, with the help of Governments and international donors and programmes, for incorporation into formal education at the early childhood, primary, secondary, post-secondary and adult education levels.

26. Appropriate institutions of civil society, including non-governmental organisations, workers' and employers' organisations, labour unions, the mass media, religious organisations, community organisations, the family independent information, resource and training centres and others, for the purpose of incorporating human rights education into non-formal programmes, should be encouraged and assisted in developing and delivering such non-formal programmes, with the help of Governments and international donors and programmes.

VI. Structure for co-ordination and implementation

27. The United Nations High Commissioner for Human Rights will promote and co-ordinate the implementation of the present Plan of Action. The High Commissioner shall consult with the United Nations human rights treaty-monitoring and Charter-based human rights bodies regarding the Plan of Action and consider ways of supporting any recommendations made by those bodies in the area of human rights education. The High Commissioner will also consult closely with Governments, regional organisations, national institutions, specialised agencies, non-governmental organisations and grass-roots and professional associations, and will prepare an annual report on the progress made at all levels based on information supplied by those sources.

28. In recognition of the fact that action at the national and local levels is crucial to the effective promotion of human rights education, as is an effective international co-ordination structure, the Plan of Action envisages that:

- (a) National focal points for human rights education should be designated in each State, according to national conditions. Such focal points may consist of specially constituted committees including representatives of relevant government agencies, non-governmental organisations, the private sector and educators; or alternatively, existing appropriate structures or organisations, such as ombudsman offices, national human rights commissions or national human rights training and research institutes may be designated to perform this function;
- (b) Each national focal point should be charged with identifying national human rights education needs, developing a national plan of action, raising funds, co-ordinating with regional and international bodies involved in implementing the objectives of the Decade and reporting to the High Commissioner for Human Rights on needs, proposals and progress made towards the realisation of the goals of the Decade;
- (c) Each national focal point shall also serve as a conduit for the channelling of international and regional input, information and support to the local and grass-roots levels in their respective countries;
- (d) Each State shall be encouraged to establish a national human rights resource and training centre capable of engaging in research, training of trainers, preparation, collection, translation and dissemination of human rights materials, and organisation of conferences, workshops and courses, or, where such centres already exist, to work towards their strengthening;
- (e) International programmes and activities, including those of the United Nations and other international agencies, donor Governments and intergovernmental and non-governmental organisations should provide stimulus and support to national and local efforts in advancing the objectives of the Decade.

VII. Conclusion of the Decade

29. The year 2004 shall mark the final year of the United Nations Decade for Human Rights Education. That year shall, accordingly, be set as the target date for achievement of generalised human rights education programmes through the implementation of State action plans. It shall also be the target date for the completion of a comprehensive collection of human rights education materials and their broad distribution throughout all Member States. By the conclusion of the Decade, effective national capacities for the delivery of human rights education should be secured worldwide.

GUIDELINES FOR NATIONAL PLAN OF ACTION FOR HUMAN RIGHTS EDUCATION

I. Introduction

A. DEFINITION OF HUMAN RIGHTS EDUCATION

References to the concept of education in and for human rights appear in a number of international human rights instruments, including the Universal Declaration of Human Rights (art.26), the International Covenant of Economic, Social and Cultural Rights (art.13), the Convention of the Rights of the Child (art.29) and, most recently, the Vienna Declaration and Programme of Action (sect.D, paras 78-82). Taken together, these instruments provide a clear definition of the concept of human rights education as agreed by the international community.

In accordance with those provisions, and for the purposes of the Decade, human rights education may be defined as training, dissemination and information efforts aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the moulding of attitudes, which are directed towards:

- (a) The strengthening of respect for human rights and fundamental freedoms;
- (b) The full development of the human personality and its inherent dignity;
- (c) The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups;
- (d) The enabling of all persons to participate effectively in a free society;
- (e) The furtherance of the activities of the United Nations for the maintenance of peace (see A/51/506/Add.1, appendix, para.2).

B. WHY HUMAN RIGHTS EDUCATION?

There is growing consensus that education in and for human rights is essential and can contribute to both the reduction of human rights violations and the building of free, just and peaceful societies. Human rights education is also increasingly recognised as an effective strategy to prevent human rights abuses.

Human Rights are promoted through three dimensions of education campaigns:

- (a) Knowledge: provision of information about human rights and mechanisms for their protection;
- (b) Values, beliefs and attitudes: promotion of a human rights culture through the development of values, beliefs and attitudes which uphold human rights;
- (c) Action: encouragement to take action to defend human rights and prevent human rights abuses.

C. WHY NATIONAL PLANS OF ACTION FOR HUMAN RIGHTS EDUCATION?

National plans serve to:

- (a) Establish or strengthen national and local human rights institutions and organisations;
- (b) Initiate steps towards national programmes for the promotion and protection of human rights, as recommended by the World Conference on Human Rights;
- (c) Prevent human rights violations that result in ruinous human, social, cultural, environmental and economic costs;
- (d) Identify those persons in society who are presently deprived of their full human rights and ensure that effective steps are taken to redress their situation;
- (e) Enable a comprehensive response to rapid social and economic changes that might otherwise result in chaos and dislocation;
- (f) Promote diversity of sources, approaches, methodologies and institutions in the field of human rights education;
- (g) Enhance opportunities for co-operation in human rights education activities among government agencies, non-governmental organisations, professional groups and other institutions of civil society;
- (h) Emphasise the role of human rights in national development;
- (i) Help Governments meet their prior commitments to human rights education under international instruments and programmes, including the Vienna Declaration and Programme of Action (1993) and the United Nations Decade for Human Rights Education (1995-2004).

D. WHY GUIDELINES FOR NATIONAL PLANS OF ACTION?

The Guidelines are intended to:

- (a) Promote a common understanding of the purposes and content of human rights education and the Decade;
- (b) Highlight minimum standards for human rights education;
- (c) Identify processes/steps needed to design, implement, evaluate and redesign a national plan for human rights education;
- (d) Draw attention to the human, financial and technical resources needed to adopt a national approach to human rights education;

- (e) Encourage effective interaction between national and international human rights institutions and organisations—and promote the implementation of international human rights standard at the national level;
- (f) Provide mechanisms for setting reasonable human rights education goals and measuring their achievement.

II. Principles governing a national plan of action for human rights education

A. GENERAL PRINCIPLES

Education in and for human rights is a fundamental human right. Governments should develop national plans that:

- (a) Promote respect for and protection of all human rights through educational activities for all members of society;
- (b) Promote the interdependence, indivisibility and universality of human rights, including civil, cultural, economic, political and social rights and the right to development;
- (c) Integrate women's rights as human rights into all aspects of the national plan;
- (d) Recognise the importance of human rights education for democracy, sustainable development, the rule of law, the environment and peace;
- (e) Recognise the role of human rights education as a strategy for the prevention of human rights violations;
- (f) Encourage analysis of chronic and emerging human rights problems, which would lead to solutions consistent with human rights standards;
- (g) Foster knowledge of and skills for using global, regional, national and local human rights instruments and mechanisms for the protection of human rights;
- (h) Empower communities and individuals to identify their human rights needs and to ensure that they are met;
- (i) Develop pedagogies that include knowledge, critical analysis and skills for action furthering human rights;
- (j) Promote research and the development of educational materials to sustain these general principles;
- (k) Foster learning environments free from want and fear that encourage participation, enjoyment of human rights and the full development of the human personality.

B. ORGANISATIONAL AND OPERATIONAL PRINCIPLES

All procedures and practices for the elaboration, implementation and evaluation of the national plan should guarantee (a) the pluralistic representation of society (including NGOs); (b) transparency of operation; (c) public accountability; and (d) democratic participation.

All government authorities should respect the independence and autonomy of the various organisations in the implementation of the national plan.

C. PRINCIPLES FOR EDUCATIONAL ACTIVITIES

All educational activities conducted under the national plan must foster:

- (a) Respect for and appreciation of differences and opposition to discrimination on the basis of race, national or ethnic origin, gender, religion, age, social, physical or mental condition, language, sexual orientation, etc.;
- (b) Non-discriminatory language and conduct;
- (c) Respect for and appreciation of diversity of opinion;
- (d) Participatory teaching and learning;
- (e) "Translation" of human rights norms into the conduct of daily life;
- (f) Professional training of trainers;
- (g) Development and strengthening of national capacities and expertise for the effective implementation of the plan.

III. Steps towards a national plan of action for human rights education

A. STEP 1: ESTABLISHING A NATIONAL COMMITTEE FOR HUMAN RIGHTS EDUCATION

Establishment

A national committee should be established in each country, according to national conditions and should include representatives of appropriate government agencies and non-governmental organisations with experience in human rights and human rights education or with the potential to develop such programmes (see below).

POTENTIAL MEMBERSHIP

The members of the national committee should include institutions, organisations and individuals that intend to work in accordance with the purposes and principles of the United Nations, including the principles on which the Decade is based. A sample list might include, *inter alia*:

Representatives of national/local bodies, such as:

- government representatives (which would then liaise with relevant ministries);

- the national commission for UNESCO and other similar national agencies (in Europe, for instance, the Information and Documentation Centres on the Council of Europe);
- independent human rights national institutions (human rights commissions and/or ombudsmen);
- national human rights resource and training centres;
- national/local human rights groups/organisations, including, for example, national committees for UNICEF, and other community-based organisations, including women's and social justice groups;
- national chapters of international human rights non-governmental organisations, including, for example, national United Nations associations;
- parliamentary representatives (primarily from the education, human rights and development committees);
- key representatives of civil society, including trade and professional unions;
- representatives of the judiciary;
- the business community;
- teacher's associations/unions;
- cultural/social and community leaders;
- youth organisations;
- minority groups;
- educators and university scholars;
- media representatives.

Observers may, as appropriate, be invited, such as national representatives/ offices of international agencies present in the country, including, *inter alia*:

- the United Nations resident Co-ordinator (who often is the United Nations Development Programme resident representative);
- the United Nations information centre or service;
- the United Nations High Commissioner for Refugees (UNHCR) national delegation;
- the OHCHR field presence;
- the office of regional intergovernmental organisations (Organisation of African Unity, Organisation of American States, Council of Europe, the Commonwealth, the Agency for the French -speaking community: ACCT, etc.)

The initiative for forming the national committee should be taken by the appropriate branch or agency of the Government. In this respect, the Government should respond to relevant initiatives from a national human rights commission, a similar national institution or non-governmental organisation.

The selection of a temporary liaison officer or convener could be the first step in establishing a national committee. At this stage, it is important that efforts be made to ensure that the committee comprise at least all institutions and organisations already significantly active in the area of human rights education. The Government should notify OHCHR when the national committee is convened.

Functions

The committee should be directly responsible for the development of the national plan, including the (a) commissioning/conduct of the baseline study (step 2); (b) formulation of a comprehensive national plan of action, including identifying objectives, strategies, programmes and financing (steps 3 and 4); (c) facilitation of the implementation of the national plan (step 5); and (d) the periodic evaluation, review and follow-up of programmes and the achievements of national goals (step 6).

With regard to the international level, the committee should remain in contact with regional and international bodies involved in implementing the objectives of the Decade and channel international and regional inputs, information and support to the local and grass-roots levels. The committee should also report periodically to OHCHR on needs, proposals and progress made towards the realisation of the goals of the Decade, so that this information can be included in the High Commissioner's reports on the implementation of the United Nations Plan of Action for the Decade and can constitute a basis for further action.

Methods of work

The committee should elect a co-ordinator, who may be guided by a small representative advisory board. A secretariat could be established, eventually within one of the member organisations of the committee.

The committee should operate on the basis of a free exchange of views and information, in an atmosphere of trust and collaborative interest in seeing that a comprehensive, intersectoral and multidisciplinary strategy for human rights education can be put in place in the particular country.

Procedures for decision-making, as well as for requesting, receiving, reviewing and discussing the contributions of concerned individuals, groups and organisations should be developed at an early stage.

Time-frame

A national committee should, whenever called for, be established, preferably at the beginning of 1998, the year of the fiftieth anniversary of the Universal Declaration of Human Rights. It should function at least for the period of the Decade (1995-2004).

Purpose

B. STEP 2: CONDUCTING A BASELINE STUDY

If it has not already been undertaken, a baseline study or needs assessment will be a critical aid in determining the more pressing local and national needs.

Accordingly, once the committee is constituted, one of its early activities should be to conduct or commission a systematic study on the state of human rights education in the country, including the areas where human rights challenges are most daunting, the available level of support and the extent to which the basic elements of a national strategy are already in place. This inquiry and any subsequent activities will require that the committee have a clear understanding of what constitutes human rights education.

Content

The study might deal with present activities, needs and human and institutional resources for human rights education, including such basic issues as:

- (a) Existing programmes for human rights education (for the general public, formal schooling sectors and specific groups);
- (b) Existing curricula for human rights and democracy issues at all levels of education;
- (c) Current activities of governmental and non-governmental agencies active in human rights education;
- (d) Existence of legal norms concerning the promotion of human rights and their implementation;
- (e) Availability of key human rights documents in national and local languages as well as in simplified form;
- (f) Availability of other materials, both textual and other, for use in human rights education and their accessibility;
- (g) Overall level of organisational and financial support for human rights education, including institutions and individuals most likely to assist in this area;
- (h) Existence of national development plans and other relevant national plans of action already defined (general human rights plans of action or those for women, children, minorities or indigenous peoples);

- (i) Obstacles to human rights education that should be overcome;
- (j) An overall needs assessment for human rights education, including identification of human rights problems in the country and consequently emerging priority groups in need of human rights education.

The study might also include (a) knowledge of human rights among the general population, as well as potential target groups; (b) social, political and economic conditions relevant to human rights education; (c) human rights educational access for marginalised groups; and (d) treatment of human rights issues by the mass media (including television, radio, newspapers and popular magazines).

Methods

As the basis for the development of the national plan of action, the baseline study must be seen as legitimate, credible and objective. This question of legitimacy extends to the organisation(s) commissioned to conduct the study, as well as to the data collection methods themselves.

The study can be undertaken through the distribution of questionnaires (A questionnaire developed by OHCHR to conduct a survey of human rights programmes, materials and organisations at the national level is available and may be requested from OHCHR), interviews and the collection/review of materials. Information can also be obtained through the canvassing of existing groups, many of whom may already be on the national committee. A bottom-up approach for the assessment of needs should be encouraged, i.e. a participatory approach at the grass-roots level. Local seminars and workshops among basic educators in the rural areas, for example, or the participation of representatives of NGOs working in those areas could be a means of assessing needs as widely as possible.

Also, the study should review State reports to the United Nations treaty bodies on the implementation of human rights education provisions of international instruments (relevant United Nations treaty bodies include the Committee on Economic, Social and Cultural Rights, the Human Rights Committee, the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee against Torture) as well as the observations and recommendations made by those bodies in this regard. National reports elaborated in accordance with other international or regional monitoring procedures should also be reviewed.

The study should make recommendations on high-priority groups in need of human rights education, propose programme areas to address gaps in programme coverage and put forward suggestions for improving the human rights education activities of existing groups.

The study must be made public and be widely disseminated and could include a useful annex of addresses of all national and local institutes and governmental and non-governmental agencies dealing with human rights education that may be contacted and may provide materials for further development of programmes (inspiration for the content and methods of the baseline study was taken from the Italian example, as reported in A/51/506, para 44(e) and the Tunisian example, as reported in E/CN.4/1997/46, para.23 (g).

C. STEP 3: SETTING PRIORITIES AND IDENTIFYING GROUPS IN NEED

Priorities in human rights education will need to be established for the short, medium, and long term on the basis of the findings of the baseline study. These priorities might be set on the basis of the most pressing needs (for example, among groups that are clearly in need of human rights education) and on the basis of opportunity (for example, if certain groups or institutions have requested assistance in setting up human rights education programmes).

Groups in need of human rights education may include:

- (a) Administration of justice officials: (i) law enforcement personnel, including police; (ii) prison officials; and (iii) judges and prosecutors;
- (b) Other government and legislative officials: (i) members of the legislature; (ii) public officials involved in drafting legislation, developing and implementing policy; (iii) the military and other security forces; and (iv) immigration and border officials;
- (c) Key professional groups: (i) teachers and curriculum developers; (ii) social workers; (iii) the medical profession; (iv) the media and journalists; and (v) the legal profession;
- (d) Organisations and groups: (i) women's organisations; (ii) indigenous peoples; (iii) minority groups; (iv) trade unions; (v) development agencies; (vi) the business community; (vii) workers' and employers' organisations; (viii) community leaders; (ix) groups with a special interest in social justice issues; and (x) religious leaders;
- (e) Schooling sectors: (i) children; (ii) youth; and (iii) professional trainees;
- (f) Others: (i) refugees and displaced persons; (ii) the rural and urban poor, especially women; (iii) migrant workers; (iv) other vulnerable groups, such as people with HIV/AIDS infection, disabled persons, persons living in extreme poverty, the aged; (v) prisoners and others in detention; and (vi) the general public.

D. STEP 4 : DEVELOPING THE NATIONAL PLAN

Components

In response to the needs identified in the baseline study and to the national context, a national plan of action should include a comprehensive set of objectives, strategies and programmes for human rights education and evaluation mechanisms.

Accordingly, the plan of action should include the following components:

- (a) An affirmation of the overall goals or objectives for human rights education in the country (on the basis of a clear definition of human rights education, as set out in international instruments);
- (b) Strategies for reaching the general public, formal schooling sectors and special target groups;
- (c) Programmes for the realisation of these strategies, comprising specific activities;
- (d) Short-, medium- and long-term steps for carrying out the Plan;
- (e) Realistic identified results to be achieved and criteria for monitoring/evaluating;
- (f) Special opportunities for human rights education;
- (g) The role of the National Committee in the implementation of the Plan;
- (h) Mechanism for individuals and groups to contact the Committee and become part of the national human rights education effort;
- (i) Contact information for key local human rights education organisations.

(An example of a comprehensive Plan of Action for Human Rights Education which has already been developed is the Philippine case, as reported in E/CN.4/1997/46. The Philippine Plan of Action, forwarded to OHCHR by the Philippine Commission on Human Rights, includes clear objectives, target audience (organised and unorganised elements of society), strategies (trainers' training, organisation of networks, integration of human rights in all educational curricula, utilisation of village-level officials to reach out to the community level, promotional campaigns including artistic and cultural activities, development of monitoring and evaluation systems, etc.) and programmes, including the creation of a human rights training, documentation and research centre (the Human Rights Academy). In the elaboration of the Plan, and in view of its implementation, the Commission has entered into a number of formal agreements with other national partners for human rights education, to define in detail specific areas of responsibility. These partners include: the Department of Interior and Local Government, the Liga NG MGA

Barangay (an organisation of barangay captains or village chiefs), the Department of Justice, the Department of National Defence, the Department of Education, Culture and Sports, the Commission on Higher Education and Amnesty International/Philippine Section (E/CN.4/1997/46, para. 23 (f)).

Objectives

The objectives of the national plan should be consistent with the principles outlined in section II above.

Strategies

A comprehensive national strategy for human rights education should include (a) general public awareness campaign; (b) the infusion of human rights themes into all levels of formal schooling; and (c) an educational effort adapted to specific groups in need of human rights education.

The national plan of action should constitute an integral part of the national development plan and complement other relevant national plans of action already defined (general human rights plans of action or those relating to women, children, minorities, indigenous peoples, etc.).

Programmes

The national plan of action should include a national specific framework for implementing and monitoring human rights education programmes. With regard to existing programmes for human rights education, the plan could indicate how those programmes should be strengthened or reformulated. Also, the plan should aim at strengthening local programmes and capacities.

The following types of activities and approaches could constitute courses of action in support of the attainment of national strategy goals:

- (a) *Networking support*: building practical relationships/networks among individuals, groups and institutions; promotion of meetings and collaboration; and identification and sharing of useful resources and experiences among those conducting human rights education. A general principle for the involvement of organisations is that their complementarily should be promoted;
- (b) *Institutional/organisational support*: identification, support and, if necessary, establishment of individual institutions or agencies, as well as coalitions of such organisations, to promote and co-ordinate human rights education training, materials' development and other means of education. This course of action should include the establishment (or strengthening) of a publicly accessible national human rights resource and training centre to support the work of the national

committee (see A/51/506/Add.1, appendix, para.61). The centre should be able to offer technical assistance (for example, in the form of publications, training materials and a roster of national trainers, experts and institutions) to those interested in implementing human rights education programmes. Where such a centre already exists, its work should be evaluated. In the absence of an established centre or where an existing centre is not effective for the purposes of the Decade, one could be set up, on the basis of national requirements, for instance within the framework of a university or a national institution (such as a human rights commission or an ombudsman's office). A new organisation might also be established by the committee in cases where there is no obvious vehicle for the delivery of human rights education programming;

- (c) *Integration of human rights education into all levels of formal education:* after a thorough revision of existing programmes and curricula, key human rights themes and topics should be included in professional and technical training programmes and in professional codes of conduct or operating procedures, as well as at the pre-school and primary, secondary, university and other institutions of high learning levels of education;
- (d) *Education of groups in need:* development and maintenance of comprehensive training programmes for the various groups in need of human rights education, including vulnerable groups, groups which are more likely to affect human rights advocacy, and influential persons/groups in the society in order to promote awareness of sectorally-based human rights challenges and actions to enhance human rights practices;
- (e) *Public awareness campaign:* the undertaking of activities to increase public and professional access to and awareness of international human rights standards, of local, national and international mechanisms of protection and of human rights conditions locally, nationally and internationally, through the mass media, informal education techniques and existing agencies and non-governmental networks;
- (f) *Production and revision of materials:* development of national language/simplified versions of key international human rights documents and human rights training materials, for all levels of literacy and for persons with disabilities; and revision of educational materials to bring their content in line with international human rights standards;
- (g) *Research and evaluation:* facilitation of research into and evaluation of human rights education programming in order to further its improvement and share experiences of best practices;

(h) *Legislative reform*: promoting reform in relevant public policy sectors, including review of existing and proposed legislation and elaborating new legislation (for instance, the incorporation of human rights in the educational curricula at all levels of the formal educational system could probably entail legislative or policy action, such as changes in licensing requirements for teachers).

Resources

A financial strategy for the national plan should be developed. Funding could be raised at the local, regional, national and international levels. Consideration could be given to the establishment of a national fund.

The development of a national plan of action should be linked to a corresponding policy declaration and the freeing up of resources to help realise programme goals. In this regard, the committee should make as much use as possible of institutional, human and financial resources already available, according to national conditions, by re-orientating available resources for national programmes. Additional resources could be sought from the private sector and donor agencies.

Once the plan has been elaborated through a process of broad consultation an immediate task of the Committee should be to identify organisations and approaches likely to promote its realisation. Partnerships with and between human rights groups and university faculties, trades unions, government agencies and other non-governmental organisations should be established.

E. STEP 5: IMPLEMENTING THE NATIONAL PLAN

Effective implementation is essential for the credibility of the national plan. The plan should bear in mind the possibility of a variety of inputs into federal systems of government and the relevance of the regional and local levels.

Implementation is linked to a number of measures including responsive policies, law, mechanisms and resources (human, financial, information and technological), and may vary from country to country. However, in each country implementation should be based on the principles covered in section II above.

F. STEP 6: REVIEWING AND REVISING THE NATIONAL PLAN

The plan should be reviewed periodically and revised as necessary to ensure effective responses to the needs identified by the baseline study. It is recommended that periodic reviews, through the participation of independent evaluators, be organised by the committee, the first to take place one year after the initiation of the plan of action, and thereafter at intervals. These reviews would ideally involve self-evaluation and independent evaluations.

They would be a learning tool for understanding the strengths and weaknesses in the design and implementation of existing programming, and for making revisions as necessary with effective follow-up.

Conditions vary greatly within countries regarding data, as well as the human and financial resources available for evaluation. Moreover, the methods chosen must be appropriate to local cultures. But it is always possible to build an evaluation component into educational activities, especially at the time they are taking place. Evaluating comprehension can be very different from evaluating attitudinal change or skills development. The more participatory the methodology used for human rights education, the more effective is likely to be evaluation.

Clearly, each national programme will need to devise its own plans for evaluation. What follows is intended to be purely suggestive of some of the issues and questions involved.

National evaluations should examine at least three areas: (a) the national plan of action; (b) programme implementation; and (c) the functioning of the national committee.

National Plan of Action

Are the objectives contained in the national plan of action being met:

- (a) In terms of programme coverage? *Data source:* contract objectives in the National Plan with current human rights education programming;
- (b) In terms of programme effectiveness (within the sectors of public awareness; education at the primary, secondary, university and professional/technical educational levels; education of groups in need)? *Possible indicators:* see "Programme implementation" below.

Have there been any developments in the human rights or human rights education fields, either locally, nationally or internationally, that would affect elements of the national plan of action, including the need to focus more or less on certain groups, or new opportunities for human rights education programming? *Data sources:* recent human rights reports, new national legislation or court decisions, new relationships with potential human rights education deliverers or collaborators, new communication technologies, local/national/regional international events that highlighted the need for human rights education.

Programme Implementation

For the various programming sectors (e.g. public awareness campaigns etc.), how are the programmes meeting the criteria of comprehensiveness (including non-discriminatory and affirmative action measures)? Are the programmes having maximum outreach towards target

audiences and/or a core group, which in turn, has leadership, visibility and motivation to influence others in their respective sectors?

(a) *First set of indicators*: outreach mechanisms and numbers reached:

(i) Public outreach: print readership, television viewers, radio listeners (including articles, programming and advertising campaigns), use of visuals such as posters and artistic programmes;

(ii) Outreach to key leadership in relation to the national plan of action, including possibly the media, educational authorities, governmental officials, social justice groups, trainers and others;

(iii) Sector-specific outreach: (1) written: readership of professional newspapers and magazines, dissemination of special information brochures, educational materials used in awareness and training; (2) oral: participants in awareness and educational/ training activities; and (3) other: dissemination of visual materials such as posters, videos;

(b) *Second set of indicators*: contrast numbers reached with total numbers desired;

(c) *Third set of indicators*: projection of further outreach based on future programming, relationship with key agencies.

For the various sectors of programming, are the programmes effective for educating learners in the knowledge/understanding, attitudes/values and skills/behaviour necessary to support national respect for and protection of human rights? *Possible data sources*: (a) pre- and post-surveys of programme participants on their knowledge of and attitudes towards human rights and related issues, including relevance to everyday life (if it is not feasible to survey all participants, a random sampling of those with exposure to human rights education, including use of control groups, could be done); (b) individual and focus group interviews with participants concerning their knowledge of and attitudes towards human rights, evaluation of the rights education programming in which they participated and any plans for application of human rights principles; and (c) longitudinal data collection on impact including follow-up surveys and interviews on above topics.

For the various programming sectors, are the programmes sustainable?

(a) Can the human rights education programme strategies be sustained either through the direct continuation of programming and/or through the expertise catalysed by the original programme? (An example of the first are training activities conducted directly by staff; an example of the second would be training activities conducted by those originally trained by staff);

- (b) Has human rights education expertise been expanded? *Possible indicators:* future programme plans (including outreach numbers and techniques, funding sources), cadre of human rights education specialists that can be drawn upon for future programming, local spin-off programming, networking and coalitions with other groups;
- (c) Have the programmes been institutionalised? *Possible indicators:* insertion of human rights in all teaching institutions' curricula and the establishment and functioning of a national human rights resource and training centre.

National Committee

How timely and effective has the national committee been in developing the national plan of action (including commissioning the baseline study and formulating national objectives, strategies and programme priorities)? *Data sources:* interviews with key members of the Committee. Comparison between time-frame set (if available) and time-frame met.

How successful has the committee been in facilitating co-operative behaviour between government agencies, intergovernmental organisations, non-governmental organisations, professional associations, individuals and other civil society groups? *Data sources:* interviews with members of the national committee, leadership of co-operating agencies and leadership of non-co-operating agencies.

How successful has the committee been in generating political and financial support for carrying out the national plan of action? *Indicators:* organisational representation from governmental and non-governmental organisations on the national committee itself; support and endorsement by key agencies for implementation of human rights education programming; funds or support in kind contributed from government sources, donor agencies and co-operating intergovernmental agencies and NGOs.



RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[On the report of the Third Committee (A/49/610/Add.2)]
49/184. United Nations Decade for Human Rights Education

The General Assembly,

Guided by the fundamental and universal principles enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights,¹

Reaffirming article 26 of the Universal Declaration of Human Rights, according to which “education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms”,

Recalling the provisions of other international human rights instruments, such as those of article 13 of the International Covenant on Economic, Social and Cultural Rights² and article 28 of the Convention on the Rights of the Child³ that reflect the aims of the aforementioned article,

Taking into account Commission on Human Rights resolution 1993/56 of 9 March 1993⁴ in which the Commission recommended that knowledge of human rights, both in its theoretical dimension and in its practical application, should be established as a priority in education policies,

Considering Commission on Human Rights resolution 1993/51 of 4 March 1993⁵ in which the Commission encouraged the United Nations High Commissioner for Human Rights to include among his specific objectives a plan of action for the United Nations decade for human rights education and invited the Secretary -General to submit to the General Assembly at its forty ninth -session, through the Economic and Social Council, a plan of action for a decade for human rights education,

Convinced that human rights education should involve more than the provision of information and should constitute a comprehensive life-long process by which people at all levels in development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect in all societies,

Convinced also that human rights education contributes to a concept of development consistent with the dignity of women and men of all ages that takes into account the diverse segments of society such as children, indigenous peoples, minorities and disabled persons,

Taking into account the efforts to promote human rights education made by educators and non-governmental organisations in all parts of the world, as well as by intergovernmental organisations, including the United Nations Educational, Scientific and Cultural Organisation, the International Labour Organisation and the United Nations Children’s Fund,

Convinced that each woman, man and child, to realise their full human potential, must be made aware of all their human rights - civil, cultural, economic, political and social,

Believing that human rights education constitutes an important vehicle for the elimination of gender - based discrimination and ensuring equal opportunities through the promotion and protection of the human rights of women,

Considering the World Plan of Action on Education for Human Rights and Democracy⁶ adopted by International Congress on Education for Human Rights and Democracy convened by the United Nations Educational, Scientific and Cultural Organisation at Montreal from 8 to 11 March 1993, according to which education for human rights and democracy is itself a human right and a prerequisite for the realisation of human rights, democracy and social justice,

Recalling that it is the responsibility of the United Nations High Commissioner for Human Rights to co-ordinate relevant United Nations education and public information programmes in the field of human rights⁷,

Taking note of the report of the United Nations High Commissioner for Human Rights⁸ in paragraph 94 of which he declared that human rights education is essential for the encouragement of harmonious inter-community relations, for mutual tolerance and understanding and finally for peace,

Aware of the experience in human rights education of United Nations peace-building operations, including the United Nations Observer Mission in El Salvador and the United Nations Transitional Authority in Cambodia,

Bearing in mind the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993⁹ in particular section II, paragraphs 78 to 82 thereof,

1. Takes note with appreciation of the report of the Secretary-General¹⁰ on human rights education, submitted in accordance with the request contained in General Assembly resolution 48/127 of 20 December 1993;
2. Proclaims the ten-year period beginning on 1 January 1995 the United Nations Decade for Human Rights Education;
3. Welcomes the Plan of Action for the United Nations Decade for Human Rights Education, 1995-2005, as contained in the report of the Secretary-General¹¹ and invites Governments to submit comments, with a view to supplementing the Plan of Action;
4. Invites the Secretary-General to submit proposals, taking into account the views expressed by Governments, for the purpose indicated in paragraph 3;

5. Appeals to all Governments to contribute to the implementation of the Plan of Action and to step up their efforts to eradicate illiteracy and to direct education towards the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms;
6. Urges governmental and non-governmental educational agencies to intensify their efforts to establish and implement programmes of human rights education, as recommended in the Plan of Action, in particular by preparing and implementing national plans for human rights education;
7. Requests the United Nations High Commissioner for Human Rights to co-ordinate the implementation of the Plan of Action;
8. Requests the Centre for Human Rights of the Secretariat and the Commission on Human Rights, in corporation with Member States, human rights treaty-monitoring bodies, other appropriate bodies and competent non-governmental organisations to support efforts of the United Nations High Commissioner for Human Rights to co-ordinate the Plan of Action;
9. Requests the Secretary-General to consider establishing a voluntary fund for human rights education, with special provision for the support of the human rights education activities of non-governmental organisations, to be administered by the Centre for Human Rights;
10. Invites the specialised agencies and United Nations programmes to contribute, within their respective spheres of competence, to the implementation of the Plan of Action;
11. Requests the Secretary-General to bring the present resolution to the attention of all members of the international community and to intergovernmental and non-governmental organisations concerned with human rights and education;
12. Calls upon international, regional and national non-governmental organisations, in particular those concerned with women, labour, development and the environment, as well as all other social justice groups, human rights advocates, educators, religious organisations and the media, to increase their involvement in formal and non-formal education in human rights and to cooperate with the Centre for Human Rights in implementing the United Nations Decade for Human Rights Education;

13. Requests the existing human rights monitoring bodies to place emphasis on the implementation by Member States of their international obligation to promote human rights education;
14. Decides to consider this matter at its fiftieth session under the item entitled "Human Rights Questions".

94th Plenary meeting
23 December 1994.

1. Resolution 217 A (III)
2. See resolution 2200 A (XXI), annex.
3. Resolution 44/25, annex.
4. See *Official Records of the Economic and Social Council, 1993, Supplement No.3 (E/1993/23), chap.II sect.A.*
5. *Ibid.*, 1994, supplement No.4 and corrigendum (E/1994/24 and Corr.1), chap. II sect. A.
6. See A/CONF.157/PC/42/Add.6.
7. See resolution 48/141, para 4 (e).
8. A/49/36.
9. A/CONF.157/24 (Part I), chap.III.
10. A/49/261-E/1994/110 and Add.1.
11. A/49/261-E/1994/110/Add.1, annex.

F. Address List

National Human Rights Institutions

1. NATIONAL HUMAN RIGHTS COMMISSION

Present Chairperson : *Justice Dr. A.S.Anand*

Address : Sardar Patel Bhavan, Sansad Marg,
New Delhi-110001.

Phone No : 011-23340891 &
011-23748110(Madad)

Fax No : 011 – 23340016, 23366537, 23344113

Mobile : 919810298900 (after office hours)

E.Mail : nhrc@ren.nic.in

Website : www.nhrc.nic.in

2. NATIONAL COMMISSION FOR WOMEN

Chairperson : *Dr. Poornima Advani*

Address : 4, Deendayal Upadhayay Marg,
New Delhi – 110 002.

Phone No : 011 – 23237166, 23236988

Fax No : 011 – 23236154

Complaints Cell : 011- 23222369

E-mail : member_secretary@ncw-india.org

Website : www.ncw-india.org

3. NATIONAL SC/ST COMMISSION

Chairperson : *Dr. Vijay Shankar Shasthri*

Address : National SC/ST Commission,
5th Block, Lok Nayak Bhavan, Khan Market
New Delhi – 110 003.

Phone No : 011 – 24620969

Fax No : 011 – 24625378

E-mail : dir-admin@ncscst.nic.in

Website : www.ncscst.nic.in

4. NATIONAL COMMISSION FOR MINORITIES

Chairperson : *Justice Mohamed Shamim*

Address : 5th Floor, Lok Nayak Bhavan, Khan Market,
New Delhi.

Phone No : 011 – 24690592

Fax No : 011 – 24693302

State Level Human Rights Institutions- I Tamilnadu

State Human Rights Commission

35, Thiru. Vi. Ka. Salai,
Rayapettai,
Chennai – 600 014.
Phone : 91 - 44 - 28217890 to 95

Dr. Annamma Philip,

Chairperson,
State Commission for Minorities
124, Sri Thiyagarayar Salai,
Teinampet ,
Chennai – 600 018.
Phone : 91 - 44 - 2434235

Dr. V. Vasanthi Devi,

Chairperson,
State Commission for Women
100, Anna Salai,
Guindy,
Chennai – 600 032.
Phone : 91 - 44 – 22200375 ,
Fax : 91 - 44 - 22352751

Ms. Kannagi Pakkiyanathan, IAS ,

Director,
National SC/ST Commission – Tamil Nadu
Sastiri Bhavan,
II Floor ,
35, Haddows Road,
Chennai – 600 006.
Phone : 91-44-28312851, 28271546,
Fax : 91-44-28276430

State Level Human Rights Campaigns

1. **Campaign Against Sex Selective Abortion,**
11, Kamala II Street, Chinna Chokkikulam, Madurai - 625 002.
Phone: 0452-2530486, 2524762
2. **Campaign for the Relief and Rehabilitation of Victims of STF Atrocities in Tamilnadu and Karnataka**
 - a. **C/o SICHREM,** Anjappa Complex, 35, Hennur Main Road,
St.Thomas Town Post, Bangalore - 560 084.
 - b. **C/o People's Watch-Tamilnadu,**
6, Vallabhai Road, Chokkikulam, Madurai-625 002. Ph: 0452-2531874,
2539520 Fax : 0452-2531874 E-Mail: info@pwttn.org Web : www.pwttn.org
3. **National Campaign on Dalit Human Rights; (NCDHR)**
38, 4th Street,
Besant Nagar,
Chennai – 90.
herbind@md4.vsnl.net.in
maharajen@yahoo.com
Ph: 044-24670630 (O) 044-24913007 ®
- National Campaign on Dalit Human Rights; (NCDHR)**
34/15, East Patel Nagar, First Floor
New Delhi - 110 008, INDIA
Phone: +91 - 11 - 30966234,
E-mail: info@dalits.org
4. **Tamil Nadu Environmental Council (TNEC),**
98-A, Kooturavu Nagar, Dindigul - 624 005. Phone: 0451-2431090
5. **Women Movement Against Poverty and Violence – TN,**
SWATE Complex, Veerarakkiam, K.R.Puram, Karur - 639 114.
Phone : 04324-2350950, 2350618
6. **Coastal Action Network,** 546, Selva Praba Complex,
Public Office Rd, Vellipalayam, Nagapattinam 611 001.
Phone : 04365-248674, Fax: 04365-248907
7. **Campaign Against Child Labour,**
8/40, 1st Street, Rayar Thoppu, Sri Ramapuram, Sri Rangam, Trichy - 620 006.
Phone : 0431-2432803
Fax : 0431-2432521
8. **Initiatives : Women in Development (IWID),**
2107, 13th Main Road, Anna Nagar,
Chennai 600 040
Phone: +91 (44) 6222856
E.Mail: iwid@vsnl.net

HUMAN RIGHTS ORGANISATIONS IN TAMILNADU

<p>1. Human Rights Foundation (HRF), No.10, Thomas Nagar, Little Mount, Saidapet, Chennai - 600 015. Phone : 044-2353503 Fax : 044-2355905</p>	<p>2. SOCO Trust, Justice Bagawathi Bhavan, Lake View Road, K.K.Nagar, Madurai - 625 020. Phone : 0452-2583962</p>
<p>4. People's Union for Civil Liberties (PUCL), Husain House, 7, Kondi Chetty Street, Chennai 600 001, Tamilnadu, India Phone: 044 - 25392459 / 044 - 25392464 & 044 - 25245412 E.Mail: rights@vsnl.com</p>	<p>4. People's Watch-Tamilnadu, 6, Vallabhai Road, Chokkikulam, Madurai-625 002.Ph: 0452-2531874, 2539520 Fax : 0452-2531874 E-Mail: info@pwtn.org Web : www.pwtn.org</p>

International Human Rights Institutions

Human Rights Watch,
350 Fifth Avenue, 34th floor
New York, NY 10118-3299 USA
Tel: 1-(212) 290-4700, Fax: 1-(212) 736-1300
E-Mail: hrwnyc@hrw.org
Website: www.hrw.org

Asian Human Rights Commission (AHRC)
19/F, Go-Up Commercial Building,
998 Canton Road, Kowloon,
Hongkong, SAR, China
Tel : +(852) – 2698-6339
Fax : +(852) – 2698-6367
Email : ahrchk@ahrchk.org
Website : www.ahrchk.net

International Commission of Jurists (ICJ)
81A, avenue de Chatelaine
P.O. Box 216
CH 1219 Chatelaine - Geneva
Tel: (+41 -22) 979 38 00
Fax: (+41-22) 979 38 01
E-Mail: info@icj.org
Website: www.icj-cij.org

International Federation of Human Rights (FIDH)
17 Passage de la Main d'Or
75011 Paris FRANCE
Tel : (33) 1 43 55 25 18
Fax : (33) 1 43 55 18 80
E-Mail: observatoire@iprolink.ch
Website: www.fidh.org

International Service for Human Rights
1, rue de Varrembe
PO Box 16, CH-1211 Geneva 20
Tel : (41 22) 733 51 23
Fax: (41 22) 733 008 26
Email : c.sidoti@ishr-sidh.ch
Website : www.ishr.ch

Amnesty International,
99-199, Rosebery Avenue, London
EC1R 4RE, United Kingdom
Phone : +44 20 7814 6200
Fax : +44 20 7833 1510
E-Mail : amnesty@amnesty.org
Web : www.amnesty.uk.org

World Organization Against Torture (OMCT), PO Box 21,
8, rue du Vieux-Billard, CH-1211 Geneva
8, Switzerland
Phone: + 41 22 809 4939
Fax: + 41 22 809 4929
Email : omct@omct.org
Web site : www.omct.org

International Committee of the Red Cross (ICRC)
19 avenue de la Paix
CH 1202 Geneva
Tel: ++ 41 (22) 734 60 01
Fax: ++ 41 (22) 733 20 57
Email : webmaster.gva@icrc.org
Web site : www.icrc.org

Association for the Prevention of Torture (APT),
Route de Ferney 10
PO. Box 2267
CH-1211 Geneva 2, Switzerland
Phone : (4122) 919 21 70
Fax : (4122) 919 21 80
E.mail: apt@apt.ch
Website: www.apt.ch

International Instruments and Mechanisms for the Fight against Torture (IRCT)
Borgergade 13 P.O. Box 9049
DK-1022 Copenhagen K, Denmark
Telephone: +45 33 76 06 00
Fax: +45 33 76 05 00
Email: irct@irct.org
Website: www.irct.org

International Dalit Solidarity Network

Nørregade 13
DK-1165 København K
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(Rikke Nöhrind, Coordinator)

E-mail: rn@idsn.org

Maia T. Ingvardson, Programme Officer

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Commonwealth Human Rights Initiative,

B-117, Second Floor, Sarvodaya Enclave
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Tel: +91-11-2685-0523, 2652-8152,
2686-4678

Fax: +91-11-2686-4688

E-mail: chrill@nda.vsnl.net.in

Website: www.humanrightsinitiative.org

Maastricht Centre for Human Rights

University of Limburg

PO Box 616

NL - 6200 MD Maastricht

THE NETHERLANDS

Tel: (31 43) 88 32 33

Fax: (31 43) 25 78 18

Human Rights First

333 Seventh Avenue,

13th Floor, New York, NY 10001-5004

Tel: (212) 845 5200, Fax: (212) 845 5299

Email: communications@humanrightsfirst.org

Website: www.humanrightsfirst.org

South Asia Forum for Human Rights

GPO Box: 12855, Kathmandu, Nepal

Tel: 977-1-5541026; Fax: 977-1-5527852

Email: south@safhr.org

Website: www.safhr.org

Danish Centre for Human Rights

Studivestraede 38, DK - 1455 Copenhagen
DENMARK

Tel: (45) 33 91 12 99

Fax: (45) 33 91 02 99

Email : dchr/mw@eo.wn.apc.org

Web site : N/A

South Asia Human Rights**Documentation Centre**

Executive Director - Mr. Ravi NAIR

B-6/6, Safdarjung Enclave Extension

New Delhi 110029, India

Tel/Fax: + 91-11- 2619 1120, 2619 2717
& 2619 2706

Email: hrdc_online@hotmail.com

Website: www.hrdc.net/sahrdc

**Asia Pacific Forum on Women, Law
and Development (APWLD)**

PO Box 12224

50770 Kuala Lumpur

MALAYSIA

Tel: (60 3) 255 0648/9

Fax: (60 3) 254 1371

Asian Women's Rights Council,

PO Box 1013, Citimall,

Up Diliman, Quezon City,

Philippines

Tel: (63 2) 924 6406

Fax: (63 2) 924 6381

Minority Rights Group International

54 Commercial Street

London E1 6LT, UK

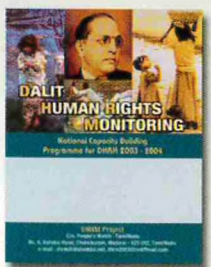
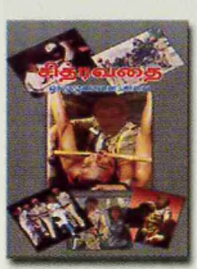
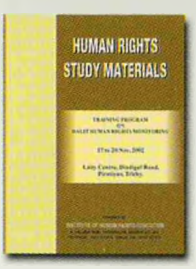
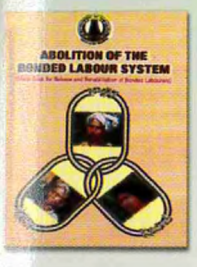
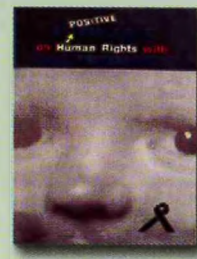
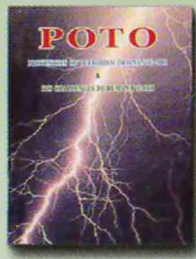
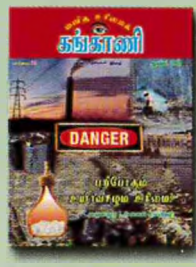
Telephone: +44 (0)20 7422 4200

Fax: +44 (0)20 422 4201


E-mail: minority.rights@mrgmail.org

Website: www.minorityrights.org

OUR PUBLICATIONS



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People's Watch - Tamilnadu

People's Watch-Tamilnadu(PW-TN) was formally constituted in 1995 and set in motion on 10th December, 1995 to promote a network engaged in Monitoring of Human Rights Violations, Documentation, Research and Training. It functions as of now as a programme unit of CPSC, a non-profit, non governmental organisation. The programs of this initiative are closely guided by experts in the Human Rights field from different parts of the world, including Asia and a few from different parts of India.

People's Watch-Tamilnadu, is committed to ensure state accountability leading to policy changes and for promoting a culture of Human Rights through strategic intervention and education.

Monitoring activities have been expanded into Legal Intervention, Campaigning and Networking. In addition, a Rehabilitation Centre for Torture Victims was also started recently, as a new initiative of PW-TN to rehabilitate with multi disciplinary approach.

An Institute of Human Rights Education (IHRE) was inaugurated to cover school and college students, professionals, elected representatives and movements of marginalised sections of people.

Institute of Human Rights Education

Inspired by the UN Decade for Human Rights Education (1995-2004), and motivated by the National Plan of Action of the Govt. of India, People's Watch-Tamilnadu (PW-TN), a pioneer organisation In human rights started on 10th Dec. 1995 in Madurai (India), launched its Human Rights Education and Training Program for people's movements and trade unions, law students, NGOs and professionals in 1996, and for school students in 1997-98.

Encouraged by the impact created by this program and interested in expanding its scope, PW-TN set up the Institute of Human Rights Education (IHRE) in 2000 as one of its units, the others being Human Rights Monitoring, Legal Intervention, Advocacy & Campaign & Networking, Rehabilitation Centre for Torture Victims, Research, Documentation & Publications.

Our Achievements: Education & Training Program

1. Human Rights Education in Schools

Phase	Period	District	School	Class	Students	Teachers
I	1 year (1997-1998)	1	9	9 th	1,756	90
II	2 years (1998-2000)	10	122	8 th , 9 th	21,320	315
III	3 years (1999-2002)	29	238	7 th , 8 th , 9 th	33,785	730
IV	3 years (2002-2005)	29	258	6 th	25,819	492
V	3 years (2002-2005)	10	134	6 th	14,330	251
VI	3 years (2002-2005)	11	155	6 th	12,650	333
Total		---	916	---	1,09,660	2211

2. HR Education in Colleges

On an experimental basis, Lady Doak College in Madurai has been imparting human rights education for students since 1999-2000.

3. HR Training for Others

As on date, the reach out of our human rights training to others include: Dalit, Tribal and Women's Movements, Consumer Protection Movement, trade unions, students of law, professionals (lawyers, police, NGOs) and others.

Syllabus Modules, Training Schedules, Resource Documents

Three syllabus modules have so far been prepared by us for use in schools: Introduction to Human Rights, Child Rights and Women's Rights. Teachers undergo two types of training - General Orientation to Human Rights and Method of Using Syllabus Modules - and attend Review Meetings during the course of the academic year. Training Schedules have been structured and are in use for other trainees. Resource Documents prepared by us serve as reading materials for teachers, professionals and others

Educational & Training Perspectives

With Human Rights as our fundamental horizon, our educational and training efforts, syllabus modules and resource materials span through:

- Local, national and international human rights contexts: Social trends & issues, etc.
- National, regional and international perspectives: Indian Constitution and legislations, Regional and UN Charters, Conventions and Declarations
- National and international human rights protective mechanisms: structures, roles and functions, tasks and responsibilities
- Micro and macro level strategic intervention skills of monitoring, documentation, campaign, different forms and levels of advocacy and lobbying.