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Discrimination and Protection  
of Minorities

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REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND  
PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF  
INDIGENOUS POPULATIONS

CONSIDERATION OF THE EVOLUTION OF STANDARDS CONCERNING  
THE RIGHTS OF INDIGENOUS POPULATIONS

Report of the Secretary-General

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### Introduction

1. In its resolution 1982/34 of 7 May 1982, the Economic and Social Council authorized the Sub-Commission to establish annually a working group on indigenous populations to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission. It further decided that the Working Group should give special attention to the evolution of standards concerning the rights of indigenous populations.
2. Accordingly, appropriate communications requesting such information were addressed by the Secretary-General to Governments and to organizations referred to in the resolution.
3. The present document contains the replies received from Governments up to 15 May 1984. Additional replies, if any, will be included in addenda to this document.

#### INFORMATION COMMUNICATED BY GOVERNMENTS

CYPRUS

[Original: English]

[26 September 1983]

In Cyprus, as a result of the Turkish invasion in 1974 and the subsequent occupation of almost 40 per cent of the island's northern part, the Greek Cypriot population is today facing direct discrimination practices.

Nearly 200,000 Greek Cypriot inhabitants of the part now occupied by the Turkish armed forces were forcefully expelled and became refugees in their own homeland.

Below are some examples of how the right of education and the right of indigenous people to develop their own culture, tradition, language and way of life have been violated.

#### I. The right of education

Education has been seriously affected by the Turkish invasion and occupation. The effects are apparent from the following figures:

##### (a) Elementary education

A total of 171 out of 548 public primary schools were occupied and 25,107 pupils, i.e. 42 per cent of the total school population were displaced. Also 904 teachers out of 2,200 became refugees.

##### (b) Secondary education

Out of 57 secondary school buildings, 22 were occupied (including 3 out of 8 technical schools) and 18,000 students out of 46,000 were displaced.

##### (c) Special education

More than half of the special education institutions were situated in the occupied areas and had to be abandoned.

II. The right of the indigenous people to develop their own culture, tradition, language and way of life

(a) The forceful uprooting from their homes of 200,000 people also deprived them of their right to develop and enjoy their cultural heritage. A tradition of thousands of years was interrupted. In the ancestral homes of the native population, colonizers from Anatolia (Eastern Turkey) are being transferred and settled in an effort radically to change the demographic character of the island. Ancient toponyms are being changed, masterpieces of our ancient, byzantine and folk art are being destroyed.

(b) Libraries

Of the Greek public libraries of Cyprus 33.5 per cent (36 out of 107) are occupied by Turkish forces. These libraries used to serve 107 communities with a total population of 111,225 inhabitants. Another 48 communities with a total population of 40,000 were served by mobile libraries of the Ministry of Education Cultural Service, but these, as well as a vehicle of the mobile library unit donated by UNESCO, carrying about 2,000 books, were seized by the Turkish invasion forces.

(c) Also many art galleries and private art and folk collections are situated in the same area now occupied by the Turkish army and are inaccessible to their owners. Moreover according to reliable information many of them have been looted or destroyed.

Study of the problem of discrimination against indigenous populations

The Constitution of the Republic of Cyprus safeguards the fundamental rights and liberties of the indigenous population. In particular -

(a) Article 6 provides for safeguards against discrimination against any of the two communities or any person as a person or by virtue of being a member of a community;

(b) Article 7 safeguards life and corporal integrity;

(c) Article 8 provides safeguards against torture, or inhuman or degrading punishment or treatment;

(d) Article 9 safeguards the right to a decent existence and social security;

(e) Article 10 provides safeguards against slavery, servitude and forced or compulsory labour;

(f) Article 11 safeguards the right to liberty and security of person;

(g) Article 13 safeguards the right to free movement throughout the territory of the Republic, to reside in any part thereof and to leave its territory either permanently or temporarily;

- (h) Article 14 provides safeguards against banishment or exclusion from the Republic;
- (i) Article 15 safeguards the right to respect for private and family life;
- (j) Article 16 safeguards the inviolability of every person's dwelling house;
- (k) Article 17 safeguards the right to and secrecy of private correspondence;
- (l) Article 18 safeguards the right to freedom of thought, conscience and religion;
- (m) Article 19 safeguards the right to freedom of speech and expression;
- (n) Article 20 safeguards the right to education;
- (o) Article 21 safeguards the right to freedom of assembly and association;
- (p) Article 22 safeguards the right to marry and form a family;
- (q) Article 23 safeguards the right to acquire, possess, enjoy or dispose of movable and immovable property;
- (r) Article 25 safeguards the right to practise any profession or to carry on any occupation, trade or business;
- (s) Article 28 safeguards equality before the law, the administration of justice and equal protection and treatment;
- (t) Article 30 safeguards access to court;
- (u) Article 31 safeguards the right to vote in any election.

However, since the Turkish invasion in 1974, the rights of the indigenous population of Cyprus have been grossly violated by the Turkish occupation forces and 200,000 Greek Cypriots have been expelled from their ancestral homes and homeland. Furthermore, mention should be made of the ethnocide and the destruction of culture as a result of the Turkish invasion and continued occupation of Cyprus by Turkey.

Views and comments on the "Study of the problem of discrimination  
against indigenous populations"

The Ministry of Labour and Social Insurance fully supports the promotion of the protection of the human rights and fundamental freedoms of indigenous populations throughout the world.

As far as Cyprus is concerned, article 28 of the Constitution embodies general principles of non-discrimination on grounds of race, language, ethnic origin, religion etc. In accordance with these principles, the population of Cyprus has equal access to all the services offered by the Ministry of Labour and Social Insurance.

Specifically:

- Every destitute person lawfully residing in Cyprus is entitled to public assistance.
- Every person has the right to practise any profession or to carry on any occupation, trade or business (article 25 of the Constitution). Furthermore, Cypriot legislation and Government policy is in line with the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the ILO Employment Policy Convention, 1964 (No. 122) ratified by Cyprus.
- All training institutions functioning under the Ministry of Labour and Social Insurance offer training opportunities to all persons irrespective of race, colour, descent or national or ethnic origin, provided that the standards set by these institutions regarding admissions are satisfied and met.

The Cyprus Productivity Centre through its regional/international component, the Mediterranean Institute of Management, (M.I.M.), is organizing annually, between September and July, the Post-Graduate Management Diploma Programme, which is open to foreign participation.

To date, this Programme has been attended by 35 foreign participants, coming from Greece, Syria, Kenya, Bulgaria, Ghana, Italy, Sudan, India, Tanzania, Zimbabwe, and Zambia. Of these, 15 were scholars of the Government of Cyprus.

The Government of Cyprus through the Cyprus Productivity Centre, and in co-operation with the United Nations High Commissioner for Refugees, organized a Vocational Training Programme for 42 African refugees which was successfully completed last February.

UNHCR and the Government of Cyprus are currently discussing the implementation of a repetition of the project, starting in September 1983, which will involve another 40 trainees from Namibia and South Africa.

It should be noted that the indigenous population of Greek ethnic origin, that was forcibly expelled from part of the territory of Cyprus by the Turkish military forces in 1974, continues to be deprived of the right to return to its land.

Moreover, in this territory, currently under Turkish military occupation, oppression and discrimination is practised against the isolated indigenous population of Greek ethnic origin.

EL SALVADOR

[Original: Spanish]

[28 November 1983]

INTRODUCTION

Before considering the problem of discrimination against indigenous populations, it will be useful to draw attention to a few historic facts in order to explain the present situation of indigenous communities in El Salvador, especially in regard to the country's economic, political and social development. Some other particular features of the country which have a certain relevance in this context are:

- (a) The territory, which covers an area of approximately 21,040.79 km<sup>2</sup>;
- (b) The population, which is estimated at roughly 4.5 million, with a density of 218 persons per km<sup>2</sup>;
- (c) The development of the infrastructure, which comprises a broad network of roadways, electrification over practically the whole country and an extensive communications and transport system; and
- (d) The race mixture (mestization) phenomenon in El Salvador.

BRIEF SUMMARY OF OUR ECONOMIC AND SOCIAL DEVELOPMENT

Agriculture may be said to have constituted the basis of the national economy ever since the country was colonized, and the nature of agricultural activities has brought about far-reaching changes in the social structure due to the specific nature of successive crops and forms of land use and tenure.

This is the context, therefore, in which an attempt will be made to identify the various periods of economic and social development and to identify their impact on the native inhabitants.

FIRST PERIOD

When the Spaniards arrived, the land was owned communally and the Indians had access to it simply because they belonged to the community, around which extended the cultivable lands yielding predominantly agricultural products.

The absence of precious-metal deposits led the conquistadors to work indigenous plantations for commercial ends, for which indigenous labour was indispensable.

Production usually centred on the common land used by the indigenous inhabitants who, besides yielding up part of their harvest as tribute, had to work some of the time on the Spaniards' estates. Consequently, it is easy to understand the importance which the indigenous inhabitants assumed for the conquistadors; however, the inhabitants were decimated by wars of conquest, new diseases, the collapse of their social structure and debilitating exploitation.

During this period, the main crop was cocoa, and indigenous common land still existed side by side with the Spaniards' private estates.

## SECOND PERIOD

This period may be studied against the background of the importance of the cultivation of indigo, which acquired its greatest economic significance in the second half of the seventeenth century.

Indigo production was based on practices developed in the course of cocoa cultivation. Cocoa and balsam had been cultivated mainly in indigenous communities, but indigo production, according to David Browning, was "a completely Spanish venture". The plantations were laid out in the extensive areas which were freed by the decline in the number of indigenous inhabitants and which the Spanish conqueror claimed for himself. The labour required for processing the product was obtained by the "repartimiento" system, under which a percentage of the men in a community worked the plantations. But owing to the over-exploitation to which the indigenous communities were subjected, their members abandoned the plantations and this resulted in the widespread dispersion of the population to various parts of the territory.

Indigo production was so profitable that the conquistadors appropriated even more common land, and thereby accelerated the disintegration of the indigenous social structure.

In view of the need for labour, indigo was grown near indigenous settlements, and this frequently resulted in mass migrations of the indigenous inhabitants, who were obliged to settle near the plantations.

The role of the indigenous inhabitants during this period was to work on the Spaniards' estates and obtain their livelihood from common lands. The estate owner was lord and master of all: lands, crops, production, profits and even the very lives of the workers.

## THIRD PERIOD

This period was characterized by three important and closely interrelated developments:

- (a) The introduction of coffee growing;
- (b) The suppression of ejidos and common land, which released the indigenous labour force for incorporation in the development of coffee growing; and
- (c) The consolidation of private ownership of common land.

The introduction of coffee growing was due to the emergence of synthetic dyestuffs, which replaced indigo. After that, the system of land use and tenure was entirely restructured at the expense of indigenous common land, thereby radically changing the form of land ownership.

The suppression of ejidos and common land meant the complete loss of social cohesion for the indigenous populations. Lacking any common land on which to grow crops and maintain their families, they were compelled to participate in the new agricultural production process, and become agricultural wage-earners.

## FOURTH PERIOD

It was in this period that conquest and economic development had the most decisive impact on the indigenous population for, as a result of all the processes described in the three previous periods, the economic, social and "political" disintegration of the indigenous communities became clear.

At this stage of development, there were still a few indigenous inhabitants, but they were isolated and scattered. What is more, they had lost their own social cohesion by being incorporated in economic development process.

At this point, the indigenous Salvadorian faced the advances of modern technology and science, whose effects, in a territory as small as ours, were immediately felt.

Thus it was that the development of industry led to the growth of certain towns, migration from rural to urban areas, the diversification of agricultural production, particularly towards cotton and sugar cane, the import of textiles and their subsequent manufacture in the country, at a cost below that of the clothing made by the indigenous population, the construction of a far-flung network of roads, the almost complete electrification of the territory and the development of communications and transport, all of which, combined with the fact that the indigenous populations had lost their own economic and social structure, resulted in the complete disappearance of indigenous communities in El Salvador.

Lastly, a few words must be said about the mestization phenomenon in El Salvador since, in our society, the indigenous community has never been subjected to discrimination or fanatical persecution; in other words, within this economic and social development process, the indigenous population was not exterminated, but merged, with the result that a very high proportion of the Salvadorian people now consists of mestizos. It may therefore be said that there is no group of persons in El Salvador constituting a community which is discriminated against on grounds of race.

#### AGRARIAN REFORM

In view of the nature of our economic and social development, as described above, and the obvious fact that, strictly speaking, there are no indigenous populations in El Salvador, but a population with a high proportion of mestizos, our Government considers it appropriate to refer to the measures it is taking to solve the problems which have arisen in the national development process and more particularly in the agrarian reform process, having regard to the segment of the population directly benefiting therefrom, namely, the rural population.

It is worth emphasizing that there has never been any kind of discrimination against that segment of the population, and certainly not on account of its indigenous origin. But this is not to deny its marginal character within the country's economic, social and political structure which, far from being due to racial reasons, is a direct consequence of the system of land ownership, tenure and use.

Agrarian reform in El Salvador has served to revolutionize that system, to bring about a structural change calculated to improve the economic, social and political conditions of the rural population, by really involving the peasant in the national development process.

As regards the conceptual framework of agrarian reform, article 2 of the Basic Law states:

"For the purposes of the present Law, agrarian reform means the transformation of the country's agrarian structure and the incorporation of its rural population in the national economic, social and political development process, by substituting for the latifundia system a just system of land ownership, tenure and use, based on its equitable distribution, the adequate organization of credit and assistance of every kind for farmers, so that the land may constitute for the man who works it the basis of his economic stability, the foundation of his progressive social well-being and the guarantee of his liberty and dignity."



The agrarian reform model implemented in El Salvador does in fact call for a process of profound and structural change in land tenure and use; this process has been supplemented by further measures, including the Law on the Allocation and transfer of agricultural land to those who actually cultivate it.

One of the preambular paragraphs of that Law states that, as part of the process of comprehensive agrarian reform, the necessary steps must be taken to speed up the elimination of unfair systems of indirect land use, whereby farmers are obliged to pay, in cash or kind, for the right to farm the land.

Article 1 of that same Law states that the purpose of the Law is the acquisition by the State of any landed property not directly farmed by the owners, with a view to its allocation to ordinary tenants or, with a promise of sale, to share-croppers, purchasers by instalment (with the State retaining control until final payment) or to other persons working it directly by payment in cash or kind.

Another important feature of the agrarian reform process is that the lands and other assets acquired by the State are allocated to farming co-operatives, rural community associations and other farm workers' organizations.

The lands and other assets acquired in this way are administered jointly by the State and these organizations so as to ensure that the process is not reversed - thus excluding individual ownership and the concentration of property in a few hands - and that the wealth produced in agriculture is in fact transferred to the reformed sector.

#### OBJECTIVES OF THE PROCESS

##### (a) From the economic standpoint

Agrarian reform constitutes a dynamic programme which plays a key role in the national economy by removing institutional barriers and creating a new order for comprehensive development. This is particularly relevant as the land has been the main source of the Gross National Product, employment, political power and social prestige. Agrarian reform not only removes the obstacles, but also accelerates the development process, and comprises a series of measures leading to substantial changes in the structure of land tenure and use.

The objectives of the agrarian reform programme are as follows:

- (1) To increase production and productivity, at the same time modifying the previous production structure;
- (2) To raise the income levels of rural families and improve income distribution, thereby offering to a large segment of the rural population possibilities of capital formation and savings;
- (3) To modify the occupational structure, by increasing the average number of days actually worked per person and reducing the seasonal nature of agricultural employment, through the opening up of new sources of work.

##### (b) From the social standpoint

The aim is to progress in the direction of and achieve social equality, which means opening up alternative sources of social prestige enabling the peasant to participate and fulfil himself completely as a person, at the economic, spiritual, cultural and human levels.

In this context, the objectives are as follows:

- (1) To improve the material living conditions of the people - direct beneficiaries as well as entire communities - whose basic needs are represented by food and nutrition standards (especially as regards infants), health, quality of clothing and housing standards. It is imperative that social deprivation in these areas should be removed if there is to be any talk of the social benefits of agrarian reform;
  - (2) To raise the levels of education, both of members of agricultural co-operatives and their families and of the population or communities in the reformed sector. These educational aspects must be understood in the widest sense, that is to say, to include literacy campaigns, and formal as well as informal education;
  - (3) To make existing rural workers' associations as well as those being formed aware of the importance of sound organization. Associative forms of production are an essential part of the agrarian reform process, so that their organization must be such that members adapt their attitudes or acquire a new outlook as soon as possible in the interest of solidarity as opposed to traditional individualism.
- (c) From the political standpoint
- (1) To involve the peasants - the direct beneficiaries of agrarian reform as well as communities - in national life, through real and effective participation machinery; and
  - (2) To enlist the support of all social strata, as well as foreign Governments and international organizations, for the agrarian reform process.

#### PRINCIPAL AREAS OF CONCERN

As regards the principal areas of concern noted by the Secretary-General of the United Nations and listed in the Working Group's report (E/CN.4/Sub.2/1982/33), the Government of the Republic of El Salvador, before discussing each one in turn, would like to state in general that there are no problems of racism or racial discrimination in our Republic and that, consequently, its laws do not recognize or establish any differences or restrictions based on the race of its nationals or inhabitants. This principle is recognized in article 150 of our Constitution which states:

"All persons are equal before the law. For the enjoyment of civil rights, no restrictions may be established which are based on differences of nationality, race, sex or religion.

No hereditary offices or privileges are recognized."

The following facts, mentioned above, must also be borne in mind:

- (1) There are no indigenous populations in El Salvador, as they gradually disappeared in the course of the country's economic and social development and as a result of other factors mentioned in the first part of this report;

- (2) The disappearance of these communities was not due to a national or sectoral policy or attitude aimed at the physical destruction of indigenous communities (genocide); and
- (3) This process as a whole has resulted in a population with a high proportion of mestizos.

In view of the foregoing, it is impossible that in El Salvador there should be any problems of discrimination against indigenous populations, and equally impossible that there should be any cases of the physical destruction of indigenous communities (genocide). This is proved by the fact that the legal order of El Salvador does not contain any body of laws aimed at protecting indigenous populations. Nor, on the other hand, does it contain any provision recognizing or establishing differences or restrictions based on the race of its nationals or inhabitants.

On the basis of this general observation, each of the following areas of concern are analysed in detail:

- (a) The right to life, to physical integrity and to security of the indigenous populations.

In this respect, article 2 of our Constitution states that the State is under an obligation to guarantee to the inhabitants of the Republic the enjoyment of liberty, health, culture, economic well-being and social justice.

As may be seen, this obligation of the State is of a general nature and applies to all the inhabitants of the Republic, without distinction on grounds of race, nationality or any other characteristic.

Similarly, article 163 of the Constitution states that all the inhabitants of El Salvador have the right to be protected in the preservation and defence of their life, honour, liberty, work, property and possessions.

It is obvious, from the foregoing legal provisions, that the State of El Salvador, through its Constitution, guarantees the right of its inhabitants to life, physical integrity and security, without distinction on the grounds of the race of the persons inhabiting its territory.

- (b) The right to self-determination.

In this connection it is appropriate to point out that El Salvador is a sovereign State, that its sovereignty resides in the people and that it is limited to what is honest, just and advantageous to society (article 1 of the Constitution).

On the premise of the sovereignty of the Salvadorian State, we shall now demonstrate the existence of the right of its people to self-determination.

Article 152 of the Constitution states that no one is compelled to do what the law does not require or to deprive himself of anything it does not prohibit.

These provisions embody the principle of self-determination, which is developed in other constitutional provisions and laws. In other words, the Salvadorian State, through its legal order, guarantees the right of persons to self-determination; this principle, combined with the provision set out in article 150 of the Constitution that all persons are equal before the law, leads to the inevitable conclusion that the right of all the inhabitants of the Republic of El Salvador to self-determination is recognized within the limits allowed by law, and that any restrictions on the exercise of that right are not based on racial factors.

(c) The right to freedom of religion and traditional religious practices.

In this respect, our Constitution is sufficiently broad, for article 157 guarantees the free exercise of all religions without any restrictions other than those dictated by morals and public policy.

In virtue of this principle, the Salvadorian State recognizes and guarantees the right to freedom of religion and traditional religious practice.

(d) The right to land and to natural resources.

Under article 2 of our Constitution, the State has an obligation to ensure to the inhabitants of the Republic economic well-being and social justice. Title IX of the Constitution, dealing with the economic system, amplifies this principle by stating that the economic system must be based essentially on principles of social justice aimed at ensuring to all the inhabitants of the country a livelihood worthy of a human being; by guaranteeing economic freedom in so far as it is not contrary to the social interest; and by recognizing and guaranteeing private property as a social function.

The State is also under an obligation to promote and protect economic associations, which serve to increase the general wealth through the better use of natural and human resources, and to promote the fair distribution of the benefits derived from their activities; as well as to encourage the development of small holdings, by providing the small farmer with technical assistance, credits or other resources necessary for the better utilization of his lands.

It will be noted that none of these obligations of the State are not subject to any condition based on the race of the persons for whose benefit they are established.

In this connection, it is appropriate to bear in mind the agrarian reform process now under way in our country and described in a separate section of this report.

(e) Civil and political rights.

Article 150 of the Constitution expressly states that as regards the enjoyment of civil rights, no restrictions may be established which are based on differences of nationality, race, sex or religion.

As for political rights, there is no rule in the entire legal order of our Republic which establishes restrictions or differences on racial grounds.

In view of the above, it may be affirmed that there is not a single legal provision in El Salvador which establishes differences or limitations, in the enjoyment and exercise of civil and political rights, on grounds of race.

(f) Right to education.

According to our Constitution, the preservation, promotion and dissemination of culture constitute an obligation and primary aim of the State. Similarly, education is recognized as an essential function of the State, which is required to organize the educational system and to create such institutions and services as are necessary.

Article 198 of the Constitution provides that all the inhabitants of the Republic have the right and duty to receive a basic education that will enable them conscientiously and effectively to fulfil their role as workers, parents and citizens; and article 201 states that no educational establishment may refuse to accept students on account of the marital status of their parents or guardians, or on account of social, racial or political differences.

Consequently, the State of El Salvador, through its legal order, guarantees its inhabitants the right to education, without any discrimination based on race; it also prohibits educational establishments from refusing to accept students for racial reasons.

(g) Other rights.

(i) Right of association. This right is recognized by our Fundamental Law in article 160, which provides that the inhabitants of El Salvador have the right to associate and assemble peacefully, without arms, for any lawful purpose.

(ii) Right to social security and labour protection. Labour and social security are regulated in chapter II of Title XI of the Constitution (social rights), which spells out the following principles:

- (1) Work is a social function; it enjoys the protection of the State and is not regarded as an article of commerce;
- (2) In the same enterprise or establishment and in identical conditions, workers shall receive equal pay for equal work, regardless of their sex, race, creed or nationality;
- (3) Social security is a public or compulsory service;
- (4) Employers, workers and private employees, and employees and workers of autonomous or semi-autonomous government institutions have the right, without distinction as to nationality, sex, race, creed or political belief, to associate freely for the protection of their respective interests, by forming professional associations or trade unions; and
- (5) The rights conferred on workers may not be renounced, and the laws recognizing them are binding on and benefit all the inhabitants of the territory.

(iii) Right to legal assistance and protection in administrative and judicial affairs. These rights are recognized in Title X of the Constitution dealing with individual rights and proclaiming the following principles:

- (1) Every person has the right to address written petitions to the legally-constituted authorities if they are made in a decorous manner, to have such petitions acted upon and to be informed of the results;
- (2) All the inhabitants of El Salvador have the right to be protected in the preservation and defence of their life, honour, liberty, work, property and possessions;
- (3) No person may be deprived of his life, liberty, property or possessions, without having been previously tried and sentenced in accordance with the laws; nor may he be tried twice for the same offence;

- (4) No power, authority or official may issue orders for arrest or imprisonment except in conformity with the law, and such orders must always be in writing;
- (5) Detention for the purpose of investigation shall not last longer than three days and the investigating court shall be bound to inform the prisoner in person of the reason for his detention, to hear his statement, and to order either his release or provisional arrest within the period stated;
- (6) The judicial power alone has the authority to impose penalties. However, the administrative authority may punish violations of the laws, regulations or ordinances by imprisonment of up to 15 days or with a fine;
- (7) No one may be tried except in conformity with laws promulgated prior to the perpetration of the corresponding offence, and by courts previously established by law;
- (8) The same judge may not try the same case in various instances; and
- (9) No power or authority may assume jurisdiction of pending cases or re-open terminated cases.

In the event of the review of a sentence in a criminal case, the State shall compensate, in conformity with the law, the victims of duly proven judicial errors.

(iv) The right to engage in commerce and to maintain economic and trade relations. These rights are regulated by our Constitution in Titles IX and X dealing with the economic system and individual rights, respectively, which include among their provisions the following principles:

- (1) Economic freedom is guaranteed in so far as it is not contrary to the social interest;
- (2) Economic associations designed to increase the national wealth by a better utilization of natural and human resources, and to bring about a fair distribution of the profits derived from their activities shall be promoted and protected;
- (3) The State shall promote the development of rural small holdings and provide the small farmer with technical assistance, credits and other resources necessary for the better utilization of his lands;
- (4) Small-scale trade and industry are the patrimony of native-born Salvadorians and Central Americans;
- (5) Every person has the right freely to dispose of his property in accordance with the law; and
- (6) Freedom to enter into contracts in conformity with the laws is guaranteed.

The rights included in paragraph (g) already elaborated upon, are as follows: (i) Right of association; (ii) Right to social security and labour protection; (iii) Right to legal assistance and protection in administrative and judicial affairs; and (iv) Right to engage in commerce and maintain economic and trade relations. Despite the heterogeneous nature of these rights, the Government of El Salvador wishes to emphasize, after spelling out in each specific case the pertinent constitutional principles, that they all have a common denominator in the sense that our laws are worded in a general manner and usually refer to "the inhabitants of the

Republic", which is a wide and abstract term, inconsistent with any discriminatory grounds or policies. And in those cases where the law establishes differences or restrictions in the enjoyment or exercise of certain rights, such limitations are not based on any racial consideration.

#### PRESERVATION OF INDIGENOUS CULTURES

El Salvador has a number of State bodies whose object is the preservation, promotion and dissemination of indigenous culture. They include:

(a) The Cultural Patrimony Administration, responsible to the Ministry of Education, General Directorate of Culture, Under-Secretary's Department of Culture, Youth and Sports, which has an ethnography department for investigating and studying the culture and traditions of the indigenous populations which inhabited our territory;

(b) The Cultural Extension Programme of the aforementioned Department under which the "National Network of Houses of Culture" project is now being implemented, the idea being to promote folk festivals, fairs and arts and crafts schools aimed at reviving and preserving our culture and native traditions; and

(c) The Salvadorian Tourism Institute, which promotes visits to places of historical interest. Some of the leisure activities it sponsors are aimed at making known, at the national as well as at the international level, the richness of our culture, traditions and native crafts.

Lastly there is the National Association of Salvadorian Indigenous Peoples (ANIS), which is of immense significance in our society. This association, whose objectives are economic and educational, was founded in 1978 and now has approximately 15,000 members. It maintains contacts with the Regional Council of Indigenous Peoples of Central America, Panama and Mexico and the World Council of Indigenous Peoples.

The Association has legal status and runs an agricultural co-operative producing market-garden produce for export. It is financed by the Banco de Fomento Agropecuario and receives advice and technical assistance from the Salvadorian Institute for Co-operative Development (INSAFO-COOP) and the Directorate of Communal Development (DIDECO).

Once again, the above example demonstrates the democratic mission of the State and Government of El Salvador which, within its own limitations, endeavours to preserve, promote and disseminate the culture of the indigenous populations formerly inhabiting our territory, although, as already pointed out in this report, there is no such thing as an indigenous population, stricto sensu, but a population consisting largely of mestizos.

Our Government would also like to place on record the fact that in the Republic of El Salvador there is no policy or attitude of any kind, on the part of its inhabitants or its legally constituted authorities, which could present a problem of discrimination against the indigenous populations, and that there are certainly no cases of the physical destruction of indigenous communities (genocide) or the destruction of indigenous cultures (ethnocide). Nor does our legal order contain any provision authorizing or endorsing this type of conduct, racial discrimination having been generally prohibited.

We must not omit to point out that the Constituent Assembly of El Salvador is at present considering a new draft constitution, which maintains in force existing norms designed to prevent racial discrimination.

FEDERAL REPUBLIC OF GERMANY

[Original: English]

[18 April 1984]

... has the honour to refer to ... Note Pol 504, dated 28 March 1983, 1/ [of the Permanent Mission of the Federal Republic of Germany to the United Nations Office at Geneva].

LESOTHO

[Original: English]

[22 March 1984]

... since the problem of indigenous populations does not exist in Lesotho, the Government of Lesotho is unable to provide the information required by the Working Group on Indigenous Populations.

MEXICO

[Original: Spanish]

[25 April 1984]

... The Government has no further information than that already transmitted to the Centre in Notes 101252 and 101309 of 30 May and 7 June 1983, respectively. 2/

NORWAY

[Original: English]

[18 April 1984]

The Ministry has in previous reports given comprehensive information on the situation of the Sami population - the only indigenous population of Norway. The last such report from the Ministry was dated 5 May 1983, and was in reply to the Secretary-General's note No. G/SO 234 (18-2). 3/ In this report it was mentioned that a Committee on the Legal Rights of the Sami people was appointed in October 1980. The Committee is to clarify inter alia questions relating to land and other natural resources and to the definition of indigenous populations. The work of the Committee has been delayed, but it is expected to present recommendations on the said questions later this year. Until these recommendations are published, the Ministry has no information other than that already given in previous reports.

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1/ In that note, the Government of the Federal Republic of Germany stated that there were no indigenous populations in that country and, consequently, the Government had no information to offer in that connection (see also E/CN.4/Sub.2/AC.4/1983/2, footnote 2).

2/ Those replies were reproduced in document E/CN.4/Sub.2/AC.4/1983/2/Add.1.

3/ That reply was reproduced in document E/CN.4/Sub.2/AC.4/1983/2.



QATAR

[Original: Arabic]

[21 April 1983]

Article 1 of the Amended Constitution of the State of Qatar which, like the constitutions of all States, is the legislative text which takes precedence over all others, stipulates that the religion of the State is Islam and that the Islamic Sharia is the fundamental source of legislation. In keeping with this basic legislative provision, all legislative acts promulgated in the State of Qatar are in accordance with the precepts of the Islamic Sharia. In order to ascertain the legal principle to be followed in any sphere not specifically provided for in positive law, reference must be made to the principles of the Sharia contained in the verses of the Holy Quran and in the practice of the Prophet. The Islamic Sharia confirms the principle laid down by the Prophet to the effect that: "There is no superiority of Arab over non-Arab, of white over black or of brown over white, except in terms of piety". The basic meaning of "piety" in this context is observance of the commandments and prohibitions of God in all human activities so that justice, equality, welfare and prosperity can be achieved for the community.

It is clear, therefore, that the basic legislation in the State of Qatar stipulates that there must be no discrimination between one person and another on grounds of race or colour. From the legal standpoint, this stipulation cannot be regarded as merely a religious or ethical precept, since it is universally recognized that Islam is both a religious faith and a code of conduct for everyday life. Its precepts, derived from the Holy Quran and the practice of the Prophet, are legally binding in the spiritual and all other aspects of life such as personal status, systems of government, financial transactions and criminal justice. Its provisions, together with the penalties for their violation, are applied by the appropriate administrative and judicial means.

The right to work

In accordance with articles 7 (d), (f) and (g) of the Constitution, the State guarantees to each citizen, without exception, the right to work, to equal opportunities, and to the enjoyment of public health services, medical care, social security, social services, education and low-cost housing for persons in need thereof. These rights are guaranteed to all citizens, without discrimination, under the terms of Labour Act No. 3 of 1962; Legislative Act No. 9 of 1963, regulating social security; Legislative Decree No. 3 of 1963, regulating medical treatment abroad; Legislative Decree No. 6 of 1965, regulating medical treatment within the country; and Legislative Act No. 1 of 1974, concerning the establishment of the low-cost housing scheme. Furthermore, all persons enjoy equal pay for equal work.

Trade-union rights

The current absence of trade unions in the country is due to the fact that our projects, companies and institutions are still in the early stages of development, and the prevailing feeling among workers is that there is no need to establish such unions.

Nevertheless, articles 66 and 67 of Labour Act No. 3 of 1962 provide for the establishment of advisory committees to promote co-operation between employers and employees and committees for the settlement of disputes between the two parties. Each of these committees consists of representatives of the workers and representatives of the employers, chosen on a completely equal, free and non-discriminatory basis by each party from among its own members.

The provision by the State of security and protection for the property and person of every individual

This is achieved through the police services, which are responsible for the maintenance of security without discrimination, and through the prohibition of all forms of bodily harm for which various penalties are laid down in the numerous provisions of the Qatar Penal Code (Act No. 14 of 1971), without any racial discrimination or prejudice against either the plaintiff or the defendant.

Participation by the citizens of Qatar in the conduct of public affairs

Citizens participate in the machinery of Government at all levels and have access to public service on a basis of equality between equally qualified persons, in accordance with Civil Service Act No. 9 of 1967.

The exercise of all types of civil rights

These include the right to nationality as stipulated in Nationality Act No. 2 of 1961 and the amendments thereto, and the right to freedom of economic activity and freedom of the press, in accordance with articles 6 (b) and 13 of the Constitution.

Equality before the law

The legislation of Qatar stipulates that all persons are equal before the law without discrimination of any kind. Furthermore, under article 10 of the Constitution:

(a) The provisions of the law shall apply only to acts or events which take place on or after the date on which the said provisions come into effect, and they shall not affect any acts or events which take place prior to that date. However, provision to the contrary may be made in any legislative act, subject to the stipulation contained in the following paragraph.

(b) No act shall be deemed to constitute a criminal offence, and no penalty shall be imposed, unless the law so provides.

(c) The accused, who shall be presumed innocent until proved guilty, shall have the right to a fair hearing at which he shall be entitled to defend himself either in person or through an attorney.

In Qatar, justice is administered by Sharia and secular courts of law. The Sharia courts naturally apply the provisions of the Islamic Sharia which prohibits and condemns racial discrimination. The secular courts of law apply the provisions of the positive law of which, as stipulated in the Constitution, the Islamic Sharia is the principal source. Under Legislative Act No. 13 of 1971 concerning the organization of the secular courts, the (higher and lower) criminal courts are competent to hear all cases involving crimes committed in Qatar in which the

accused is not a Muslim charged with murder, attempted suicide, sexual or moral offences or offences in connection with marriage, adultery and fornication, these being offences listed in sections 19, 22 and 23 of the Qatar Penal Code (Act No. 14 of 1971) in which the Sharia courts have jurisdiction.

The civil courts, which are another type of secular court, are competent to hear all civil and commercial cases and proceedings concerning the personal status of non-Muslims.

The Labour Court was established under the terms of Legislative Act No. 4 of 1962 in order to deal with matters concerning national, foreign and immigrant workers. This Court applies the provisions of Labour Act No. 3 of 1962 in respect of all workers, without discrimination, in accordance with its Code of Procedure (Act No. 5 of 1962).

With regard to political detention, there are no political prisoners in the State of Qatar where freedom of opinion, expression, publication and the press is guaranteed by law. Article 13 of the Amended Provisional Constitution of the State of Qatar stipulates that: "Freedom of publication and the press shall be guaranteed in accordance with the law".

#### Freedom of religion and belief

In the State of Qatar there is no discrimination in this respect since the State derives its legislation from the magnanimous Islamic Sharia. All persons are equal with regard to their rights and duties without distinction on grounds of sex, language, race or religion.

#### Inviolability of the home

Article 12 of the Constitution stipulates that: "The State shall guarantee the inviolability of homes, which shall not be entered without permission except under the circumstances and in the manner prescribed by law".

#### Inviolability of correspondence and communications

The inviolability of correspondence is guaranteed by law.

#### Freedom of movement

Freedom of movement is guaranteed by law to all citizens in the territory of the State. Legislative Act No. 3 of 1963, as amended by Legislative Act No. 8 of 1973, regulates the entry and residence of aliens in Qatar. Under the legislation in force in Qatar, no alien residing in the country may be expelled therefrom unless he has committed a crime or entered the country illegally.

#### Guarantees given to accused persons

Articles 15, 19, 21, 24, 25, 28, 30, 31, 32, 33, 34, 59, 60, 65, 83, 84 and 114 of the Code of Criminal Procedure provide adequate guarantees during the investigation, arrest and trial of persons accused of committing crimes.

The right to education

This right is guaranteed by law. Article 7 of the Constitution stipulates that: "Every citizen shall have the right to education which the State shall endeavour to make compulsory and free at all levels, including the university level".

The right to own property

Article 16 of the Constitution stipulates that: "Individual and collective ownership of property shall be inviolable and such property shall not be expropriated except in the public interest and in accordance with the law".

In conclusion, the State of Qatar is doing its utmost to combat bigotry conducive to racial discrimination and has always advocated mutual understanding, tolerance and friendship among nations and communities. In the field of education, the State schools, which are open to all national and foreign residents, teach principles in accordance with Islamic precepts in which all racial bigotry is considered reprehensible. The private schools, which are authorized to provide instruction in the languages of the various communities, also teach similar principles. The press and information media in Qatar take every opportunity to condemn racism and racial discrimination and to publicize those criminal practices. The media also acquaint the public with the principles of the United Nations, together with its resolutions on human rights and the elimination of racial discrimination, through the articles that they publish and the programmes that they broadcast to commemorate international days.

It need hardly be said that the above-mentioned categorical provisions forbidding all forms of racial discrimination are being applied by the State of Qatar in all its internal affairs. The State is also endeavouring to pursue the same policy in its external relations. To that end, Qatar promulgated Legislative Decree No. 2 of 1967 imposing an economic embargo on Southern Rhodesia, Decree No. 130 of 1973 suspending the export of petroleum from Qatar to South Africa, and Decree No. 140 of 1973 severing all economic, trade and cultural relations with South Africa.

Consequently, there is no discrimination against indigenous populations in the State of Qatar.

SAN MARINO

[Original: Italian]

[9 March 1984]

...[within the territory of the Republic of San Marino, the phenomenon may be considered totally non-existent, because no discrimination of any kind is committed and furthermore there are no population groups which may be considered minorities.

TRINIDAD AND TOBAGO

[Original: English]

[9 March 1984]

... The indigenous Amerindian population of Trinidad and Tobago has long ceased to exist as an identifiable group. As such, the problem of discrimination against it does not arise.

YEMEN ARAB REPUBLIC

[Original: English]

[13 April 1984]

... in relation to the above-mentioned subject, the competent Yemeni authorities wish to affirm that there is no kind of racial discrimination practised against indigenous populations in the Yemen Arab Republic.

1. Introduction

2. Methodology

3. Results and Discussion

4. Conclusion

5. References