

Distr.
GENERAL

E/CN.4/Sub.2/1993/34/Add.2
16 July 1993

ENGLISH
Original: ARABIC/ENGLISH/FRENCH/
SPANISH/RUSSIAN

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fifth session
Item 17 of the provisional agenda

PROTECTION OF MINORITIES

Possible ways and means of facilitating the peaceful and
constructive solution of problems involving minorities

Final report submitted by Mr. Asbjørn Eide

Addendum 2

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Introduction

1. The present document contains the replies received from the Governments of Colombia, Jordan and Ukraine to the questionnaire on minorities transmitted to Governments, specialized agencies and non-governmental organizations.
2. The Government of Colombia submitted a third and more detailed reply integrating its previous replies which were reflected in the first and second progress reports.
3. Replies had also been received from the Consultative Council of Jewish Organizations, Human Rights Advocates, International Catholic Migration Commission and Movement against Racism and for the Friendship among Peoples.

I. REPLIES SUBMITTED BY GOVERNMENTS

COLOMBIA

[Original: Spanish]
[29 January 1993]

1. Rights of minorities and of groups

Colombia has not until now experienced large flows of immigrants from abroad, so that it has no national minority groups coming from other countries.

In Colombia there are over 80 indigenous ethnic groups, black communities located mostly on the Pacific coast as well as native communities living in the island territory of San Andrés y Providencia. In view of this ethnic diversity, the State has taken steps to preserve the various cultures. Pursuant to that general principle, the Constitution has enshrined the rights mentioned below in the general context of the principles of recognition and non-discrimination contained in articles 7 and 70 of that Constitution.

The Colombian State recognizes and protects the ethnic and cultural diversity of the Colombian nation (art. 7) and likewise recognizes the equality and dignity of all the cultures which coexist in the country (art. 70), as a means of protecting the rights of minorities and of groups.

Rights recognized

1. Communication

The general rule is the official language of Colombia is Spanish, although the Constitution recognizes the languages and dialects of the ethnic groups as official in their territories; this is very important in order to simplify the legal proceedings, petitions and administrative formalities initiated by indigenous persons for which, interpreters and translators are needed so that they can be understood.

In order to implement this right of communication, the Constitution prescribes that the teaching imparted to communities with their own linguistic traditions must be bilingual.

2. Cultural rights

Members of ethnic groups shall have the right to training that respects and develops their cultural identity. Thus, the education given to indigenous children must serve to strengthen their own culture and at the same time enable them to be acquainted with the other cultures existing in the nation. Article 70 strengthens this recognition by stating that culture in its different guises is the basis of nationality.

3. Nationality

Indigenous persons who live in frontier areas have been singled out in particular by article 96 of the Constitution which lays down: "The following

are nationals: ... (c) indigenous peoples who share frontier territories in conformity with the principle of reciprocity, according to international treaties".

This article is of great significance because it recognizes the various forms of indigenous life, many of which do not pay any regard to frontiers in social and economic activities, and it simplifies movement from one country to another without requiring special documents. The application of this principle requires an agreement with neighbouring countries by means of international treaties (art. 96 of the Constitution).

4. Freedom of conscience

The guaranteeing of freedom of conscience enables indigenous communities and ethnic groups to maintain their own system of beliefs without being compelled to adopt other religious practices different from their own.

At the same time, efforts are being made to prevent the traditional indigenous beliefs and rites which form part of the Colombian nationality from being forgotten and lost. Freedom of conscience is supplemented by the freedom of worship and acceptance of all religions as equal and free (arts. 18 and 19 of the Constitution).

5. Natural resources

All decisions relating to projects for the exploitation of natural resources in indigenous territories shall be made with the participation of representatives of the respective communities in order to avoid impairing the cultural, social and economic integrity of the indigenous peoples.

Accordingly, if such projects cause harm to the economic, social and cultural life of the communities they may request that the projects should be suspended or modified (art. 330 of the Constitution). The functions of the indigenous councils in the administration of the territorial entities (ETI) shall include that of monitoring the conservation of the natural resources existing on the territories.

6. Right to property

The protection of the indigenous territories at the legislative level was raised to constitutional status with article 329 the Constitution which lays down that Indian community land constitutes collective and inalienable property vested in the community and cannot be sold, seized or forfeited with the passage of time.

The communal lands of the indigenous groups have been established and the property of the black communities has been recognized over their ancestral possessions (transitional arts. 63 and 65); this means that henceforth the black communities and the indigenous peoples may have community title deeds to their lands.

7. Right to autonomy

The possibility of establishing indigenous territorial entities (entidades territoriales indígenas (ETI) has broadened the autonomy of the indigenous communities and the road is now clear for self-government since those entities will be endowed with specific functions, with their own resources and with transfers from the State (arts. 286 and 287 of the Constitution). All the foregoing will be the subject of legislation pursuant to the appropriate constitutional provisions. The ETIs will be governed by councils designated by the community in accordance with its customs and shall have functions relating to lands, population, development planning, public investment, natural resources, public order, etc.

8. Right to their own jurisdiction

The new Constitution specifies that any conflicts arising and any offences or misdemeanours committed by indigenous persons within their territory are to be tried and punished by their own authorities in accordance with the customs they observe; this is specified by article 246 of the Constitution which establishes that the authorities of the indigenous localities may exercise judicial functions in their territory; for this purpose, the Special Indigenous Jurisdiction has been established. The law shall specify the form that coordination will take between that special jurisdiction and the national judicial system.

9. Right to political representation

The indigenous population has the right to a minimum of two seats in the Senate of the Republic, on the basis of the special indigenous constituency (art. 171 of the Constitution). At the same time, a special constituency has been set up to ensure the allocation of up to five seats in the House of Representatives to ethnic groups, political minorities and Colombians resident abroad.

10. Right to receive financial resources

The Congress shall establish the Indian community land, which shall be considered as municipalities for the purposes of transfers of resources from the State.

When established, the Indigenous Territorial Entities, shall have various sources of financing; article 287 accordingly specifies that, by virtue of their autonomy, the territorial entities shall be entitled, inter alia, to administer resources and to levy the necessary taxes to perform their functions. In addition, article 330, paragraph 4, specifies that one of the functions of the indigenous councils is that of collecting and distributing resources.

2. Conditions for acquiring nationality

In conformity with article 25 of the International Covenant on Civil and Political Rights, articles 40, 98 and 99 of the Constitution contain

provisions on nationality, which is defined as the status that enables persons to take part in the political life of the country through existing democratic machinery.

Article 98 lays down that nationality rights are exercised from the age of 18 years. On reaching this age, Colombians have the right to participate in the shaping, exercise and control of political power (art. 40), in the exercise of which they may elect and be elected, form political movements, revoke the mandate of those who have been elected, initiate legislation, bring suits in defence of their rights and those of democratic institutions and perform political duties which involve the exercise of authority or jurisdiction (art. 98).

Nationality is established by means of citizenship papers which are issued free of charge by a routine process whereby the person concerned must submit a copy of his birth certificate, as a means of verifying his age, produce recent photographs and be fingerprinted.

3. Rights and legal status of settled non-citizens (persons with the right of permanent residence or the right of residence for an indefinite period) and in particular their political rights such as the right to vote, the right to set up political parties and to join such parties, economic and social rights and the right to return to their country of residence after working abroad

The following are the constitutional provisions which refer to the rights of aliens on Colombian territory, and deal with residents and other situations of temporary sojourn.

"Article 100. Aliens shall enjoy in Colombia the same civil rights as those granted to Colombians. Nevertheless, the law may, on grounds of public order, make certain civil rights subject to special conditions for aliens, or deny them altogether.

Similarly, aliens shall enjoy in the territory of the Republic, the guarantees granted to nationals, except for the limitations established by the Constitution or the law.

Political rights shall be reserved for nationals, but the law may grant to aliens resident in Colombia the right to vote in elections and popular consultations of a municipal or local character."

For aliens resident in Colombia, the Constitution envisages the possibility that the law may grant them the right to vote for local government elections, which are closely connected with the daily concerns of the population.

For reasons of sovereignty and equity, aliens may not be entitled to exercise political rights of major importance or significance, especially on issues that shape the destiny of the Colombian nation.

An alien expelled from Colombian territory may file the following remedies through the governmental channels:

(a) An application for reversal or amendment to the same official who took the decision;

(b) An appeal to the immediate administrative superior of the officer who took the decision, for the same purposes;

(c) A complaint; this remedy is filed when the appeal is rejected.

The right of movement which is recognized to Colombian nationals, as well as other more important freedoms, is extended to aliens who are legally on our territory.

JORDAN

[Original: Arabic]
[5 May 1993]

(i) The numerous minorities living in Jordan include, in particular, Circassians, Kurds, Armenians, Pakistanis, Afghans and Turkomans, all of whom have been integrated in Jordanian society and have acquired Jordanian citizenship. They enjoy all the rights of Jordanian citizens and some of them have occupied the highest posts, including that of Prime Minister, and have been appointed to head numerous ministries and government departments. Jordan is possibly one of the few countries in which minorities enjoy their full rights on an equal footing with other citizens. Moreover, these minorities are settled and have become part of Jordanian society. Some of them have retained their particularities, expressed through the formation of cultural, sports and social leagues, clubs and associations which constitute one aspect of the balanced Jordanian national fabric that reflects Jordan's radiant contemporary image.

(ii) There is no discrimination between these minorities and other social groups. The State institutions are open to them all, without exception.

(iii) There is no discrimination whatsoever.

(iv) No restrictions are placed on the right of minorities to establish their own clubs, institutions and associations to preserve their particularity.

(v) These minorities have the right to be taught in their own language in their institutions and associations.

(vi) The minorities participate freely in the social planning and development process, including the aspect that concerns them, and benefit from overall development policies since they are regarded as an integral part of Jordanian society. Like all other sections of society, they benefit from the outcome of planning and development activities and the social progress and prosperity that results therefrom in all fields.

(vii) Most of the minorities enjoy a high standard of living and their mortality rates are no higher than the general average in the Kingdom.

(viii) Jordanian law carefully safeguards their right to participate in the legislative authority through the allocation of a specific number of parliamentary seats in order to secure their right to representation without competition and to an extent commensurate with their numbers in relation to the total population.

(ix) Being integrated in Jordanian society, the minorities benefit from all the reform and development programmes formulated for citizens.

(x) The minorities in Jordan do not live in isolation. As already indicated, they have been integrated in Jordanian society and, in their daily lives, are in constant contact with other social groups in spite of their retention of their own customs and traditions. In fact, their particularities have become part of the Jordanian heritage in which all social groups are represented. During national celebrations, the folklore of minorities is presented as one of the manifold aspects of Jordanian folklore.

(xi) In short, all inhabitants of the Kingdom, including the minorities, enjoy their full human rights and none of its domestic laws, regulations, customs and traditions in any way prevent minorities from enjoying the same rights as other Jordanian citizens.

Note: The difference between settled resident minorities and transient minorities is that the first category enjoys citizenship whereas the second category is treated as alien in accordance with international law while nevertheless enjoying the right to reside and work in the Kingdom in accordance with the law and the principle of reciprocity.

UKRAINE

[Original: Russian]

[28 April 1993]

(i) There are representatives of 110 nationalities living in the territory of Ukraine. According to census data (1989), the most numerous are Ukrainians (72.7%), Russians (22.1%), Jews (0.9%), Belarusians (0.9%), Moldovans (0.6%), Bulgarians (0.5%), Poles (0.4%), Hungarians (0.3%), Romanians (0.3%), Greeks (0.2%) and Tatars (0.2%).

(ii) An Act concerning national minorities in Ukraine was passed on 25 June 1992.

The national minorities include groups of citizens of Ukraine who are not Ukrainians by nationality and who manifest a sense of national identity and common values.

The State guarantees all national minorities the rights to national cultural autonomy: use of their mother tongue, study of their mother tongue in State educational institutions or through national cultural societies, development of national cultural traditions, use of national symbols, profession of their own religion, satisfaction of their needs in regards to

literature, art and the media, creation of national cultural and educational institutions and any other activity which does not contravene the legislation in force.

Citizens of Ukraine who are members of national minorities have the right to be elected or appointed, as the case may be, on an equal footing to any position in the organs of legislative, executive or judicial power, local or regional government, in the army, in enterprises and in institutions or organizations.

There is a standing commission on ethnic relations in the Verkhovna Rada (Supreme Council).

The Committee on Nationalities under the Cabinet of Ministers of Ukraine is the central organ of State executive power concerned with relations between nationalities.

A council of representatives of public associations of national minorities of Ukraine acts as a consultative body within the Ministry.

Special allocations are made in the State budget for the development of the national minorities.

(iii) In Ukraine there are no national territorial formations. Ukraine includes the Republic of Crimea. This is an autonomous territorial, but not national, formation.

(iv) Two types of national cultural and educational institutions may be distinguished: those established by the State and those set up by the national minorities themselves.

In State schools there are classes providing tuition in the languages of the national minorities; in places where they are most heavily concentrated, these are whole schools.

Books, newspapers and magazines are published in the languages of the national minorities. Ukraine has about 200 public national cultural organizations.

There are theatres which hold performances in the languages of the national minorities: Russian drama theatres, in Kiev and other cities, a Hebrew studio in Kiev and a Tatar drama theatre in Simferopol.

(v) The freedom and possibility to receive education partly in one's own language is provided for in the Act concerning national minorities in Ukraine and guaranteed by the State.

Since the 1990/91 school year the trend has been for more pupils to study in Ukrainian and fewer in Russian. This is connected with the fact that conditions have been created for the renaissance of national self-awareness and national culture, and that Ukrainian has acquired the status of State language. The rights of the Russian minority, however, are not infringed. In addition to these two languages, instruction is provided

in schools and classes using other national languages. The Republic has 219 schools teaching in Moldovan, Romanian, Hungarian and Polish. Hebrew, Slovak, Czech, Romany and Turkish have recently begun to be studied for the first time in Ukraine. About 1,000 optional study groups have been formed in which some 16,500 pupils learn Bulgarian, Gagauz, Crimean Tatar, modern Greek, Polish and Hungarian. A primary school has opened in Kiev with Hebrew as language of instruction. A Hebrew faculty has opened in the Kiev Pedagogical University and a Jewish actors workshop has been set up in the Theatrical Institute. An international Solomon University has opened in Kiev.

(vi) The national minorities can influence development policies only in accordance with the general principles of popular representation, as indicated in the reply to question (ii).

(vii) There are no disparities in standards of living between representatives of the country's main nationality and the national minorities.

The second part of question (vii) and questions (viii), (ix), (x) and (xi) are not relevant to Ukraine.

(xii) The Act on national minorities in Ukraine embodies the right of citizens of Ukraine who are members of national minorities or national social associations freely to establish and maintain contacts with persons of their nationality or social associations outside Ukraine, receive assistance from them to meet their linguistic, cultural and spiritual needs and take part in the activities of non-governmental organizations.

(xiii) Any form of direct or indirect restriction of citizens' rights and freedoms on account of nationality is forbidden and punishable by law.

II. REPLIES FROM NON-GOVERNMENTAL ORGANIZATIONS

CONSULTATIVE COUNCIL OF JEWISH ORGANIZATIONS

[Original: French]
[21 December 1992]

The Consultative Council of Jewish Organizations (CCJO) attached to its reply a resolution adopted by the Comité Central de l'Alliance Israélite Universelle, a French association which is an integral part of CCJO. The relevant parts of the reply and resolution are reproduced below.

"... the CCJO advocates the establishment of an international criminal court, entrusted with trying individuals alleged to be guilty of crimes against humanity, war crimes or crimes against peace.

Founded following the Second World War and endeavouring to understand after so many years the consequences of the genocide of the European Jews, CCJO attaches the greatest importance to the establishment of a mechanism which would cause even dictators to hesitate, since they would thus have to answer for their deeds before international justice"

Resolution adopted by the Comité Central de l'Alliance
Israélite Universelle on 15 December 1992

"The Alliance Israélite Universelle,

... Aware of the problem raised by the existence of cultural, linguistic, national or religious minorities in most countries of Europe and in particular central and eastern Europe,

Also aware of the low level of the international resources which are brought into play to ensure their protection and free development,

Suggests that, in an appropriate international framework, the community of nations should develop ways and means of ensuring harmonious relations between States and national minorities, through mediation and arbitration,

In that regard, the Alliance Israélite Universelle welcomes hopefully the Franco-German project for establishing, within the Conference on Security and Cooperation in Europe, a forum capable of forestalling conflicts and, if necessary, of arbitrating them."

HUMAN RIGHTS ADVOCATES

[Original: English]
[27 March 1993]

The major part of the reply of Human Rights Advocates was focused on the analysis of the second progress report submitted by the Special Rapporteur.* In addition, Human Rights Advocates stated:

"New approach to self-determination claims of minorities or peoples

The international community must consider self-determination claims with a new approach and shy away from alarmist opinions such as: self-determination threatens the new world order; or what if all 5,000 or so ethnic groups in the world claim self-determination? It is clear that the international community can no longer keep the lid on self-determination movements and hope the problem will disappear. The example of the Soviet Union shows that painfully. On the contrary, a survey of existing nationalities-conflicts around the world and in particular in the ex-Soviet Union confirms that self-determination movements will proliferate. While it is true that the creation of new States is usually associated with high costs, the denial of self-determination may be associated with even higher costs.

* The complete text of this and other replies are kept in the files of the Secretariat and can be made available upon request.

The present approach of the international community to self-determination claims suffers from the following deficiencies, among others: (1) international law is viewed as the guardian of global status quo; (2) the international community's response is always late; (3) the international community responds grudgingly; (4) the international community's approach is Eurocentric; (5) the few rigid standards promulgated are applied inconsistently; (6) there are no enforcement mechanisms to guarantee those standards; (7) self-determination claims are addressed only after a central government collapses and conflict is already under way; and (8) the ultimate objective of self-determination claims, that is to respond to the will of the people, is often lost to the international community. The international community is then left with a fait accompli and with little influence if any. However, if the international community engages in an earlier dialogue with a self-determination movement then opportunities will improve to influence the direction of that movement constructively to achieve a peaceful solution.

As a first step to adopting a new approach to self-determination, the international community could adopt a broader and less alarmist view of self-determination. It must be borne in mind that self-determination claims need not result in the outcome predicted by those who would discredit the principle - independent States for every single national minority in the world, that is more than 5,000. Rather, self-determination can lead to a number of outcomes, ranging from equal rights, to minority rights protection, to various degrees of autonomy, border changes and secession.

As a second step, the determination of which group is entitled to self-determination should not be based on a single criterion of "people"; all subjective and objective factors must be taken into consideration. Historical factors must be considered seriously. The dominant group's and ruling government's conduct must be weighed. The conduct of the movement claiming self-determination is also an important factor. The potential for violent consequences when self-determination is denied or granted should be considered as well.

As a third step, a new approach to enforcing minority rights protection is needed. The enforcement of minority rights must be taken more seriously. States should be convinced that the protection of minority rights, for that matter human rights in general, as well as the promotion of democratic governance is in their best interest and protects their own sovereignty and territorial integrity in the long run. However, if States fail, then the international community must be prepared to support self-determination for the threatened minority. The international human rights community can assume an important role in this area.

When all else fails and conflict does emerge from a self-determination movement, the international community is left with a need to prevent the consequent horrific violence, oppressive dictatorships, humanitarian crises and large-scale war. To accomplish this, the collective use of military force by the international community may become necessary. However, other means need to be considered prior to the use of force. Monitoring human rights developments and early warning is crucial to the prevention of conflict. In this area, non-governmental organizations have an essential role to assume. Diplomatic intervention may be the next step before the use of force. The

International Court of Justice may become an important institution for the prevention of conflicts. The international legitimacy of a State violating its obligations regarding a minority may be challenged. Collective economic sanctions may also be considered. Finally, when all else fails, collective military intervention becomes a necessity. Military intervention may have several objectives, including peace-keeping, delivery of humanitarian aid, advancement of self-determination, defense of an emerging State, finally, but not least, defence of a representative central government threatened by chaos.

The international community may have to revise some of its procedures and create new forums to address self-determination claims. Can the Trusteeship Council be revived, revised and given a new mandate to address self-determination claims? Can the International Court of Justice or a chamber thereof sort out the legal principles which govern a particular claim for self-determination? Can a working group of the Commission on Human Rights contribute to the peaceful management of self-determination quests? How can the international community enforce some of its decisions regarding self-determination? Enforcement capabilities and collective military readiness need to be addressed. These and other questions should be addressed urgently by the international community, and in particular the international human rights community ...".

INTERNATIONAL CATHOLIC MIGRATION COMMISSION

[Original: French]
[29 January 1993]

"AFRICA

Djibouti

In Djibouti, there are several minority groups such as the Afars, the Arabs, the Gadabursi Somalis, the Issaq Somalis and the Ethiopians, whereas the Issa Somalis are the dominant group.

The legal and political institutions of the country regard the Afars as a national group whereas the Arabs, the Gadabursi Somalis and the Issaq Somalis are regarded as nationals only if they are holders of national identity cards. Otherwise, they are recognized as a separate minority, like the Ethiopians. In Djibouti, the Issaq Somalis occupy all the key positions, in the civil service, the army and the police.

There is no specific procedure for the recognition of the national minorities or groups. On the contrary, it is politically and legally vague and undefined. The Arab minority group is the only one that has any cultural institutions or institutions of learning which meet its needs.

Officially, within the framework of national education, the linguistic minorities have no education in their own language. There are, however, small private schools where pupils are taught to read and write in Afar, Somali and Amharic.

The established foreign minorities and the groups of recent immigrants do not take part in political life. Their average economic level, life expectancy, infant mortality rate and standard of living are close to the national averages and in the case of certain minorities, like the Arab minority, sometimes far exceed the national average (they are often rich traders).

The disadvantaged minority groups have sometimes enjoyed preferential measures such as emergency food aid and legal protection. The problem of agrarian reform does not arise in Djibouti, since the agriculture of the country is in an embryonic stage.

The members of minority groups may freely maintain relations with other ethnic, cultural or linguistic groups.

The groups of recent immigrants enjoy the protection of Office of the United Nations High Commissioner for Refugees when they are holders of a refugee card, and may reside in the country until they find another host country. Many refugees or asylum-seekers find a job (although they do not have the right to work), but they are underpaid and cannot enjoy the protection of the labour legislation.

LATIN AMERICA

Argentina

The following minority groups are found in Argentina: Laos (300 families settled throughout the country), who are poorly integrated mainly on account of the language; recent refugees of different nationalities and religions; gypsies (200,000); and groups of immigrants, often recent ones, such as Peruvians, Paraguayans, Bolivians, Brazilians, Uruguayans and Chileans.

These groups are not recognized by the legal and political institutions of the country. They are simply regarded as groups of migrants who, as they advance economically, integrate into the national community. As for the refugees, in addition to the lack of jobs and the language problem, it is difficult for them to obtain a residence permit, since they are regarded as immigrants and demands are made upon them which prolong the administrative proceedings for two to three years.

The majority of the refugees manage to run or set up cultural institutions by themselves. The Laos have some kind of internal organization. The gypsies are on the whole integrated into the national community and their ways and customs are respected. The immigrants frequent their own, or other, clubs, which enable them to protect and preserve their identity.

The problem facing the minorities in Argentina is not one of the lack of integration or of racial discrimination, but rather of marginalization through the lack of work and economic resources.

Although the linguistic minorities, as a rule, speak their language of origin among themselves, often they do not feel the need to teach it to their children. The Bolivians are frequently ashamed of teaching their children Quechua or Aymara.

In Argentina, the minority groups cannot take part in the life of the country. Economically, the minorities often belong to the lowest or the marginal classes, not through discrimination, but because they do not succeed in gaining access to the labour market. Many refugees work as itinerant vendors; the immigrants take the jobs that the local population does not want. No preferential measures are adopted by the Government on behalf of the underprivileged minority groups.

The Argentine Catholic Migration Commission continues to make strong representation to the National Population and Migration Department to grant the refugees the treatment to which they are entitled. The moment the refugee ceases to receive aid from UNHCR he should have a document issued by the Argentine authorities in order to be able to enter the labour market. But the administrative proceedings are very long and discourage some of the refugees who then leave for other countries.

Ecuador

One of the minority groups comprises Colombians who have settled in some parts of the country, others are made up of the indigenous nations (Shuaras, Saraguros, Huaoranis, Awas and Tsachillas) whose greatest problem remains the land boundaries. The Colombians are recognized as a minority group, under the terms of a bi-national treaty. As far as the indigenous nations are concerned, they have still to be recognized by the national Government.

Despite the fact that they have no political representatives in the country's institutions, the indigenous minorities do manage, through their own organizations, to bring their concerns to the attention of the government authorities. Mobilizations and demonstrations have been organized on several occasions and have sometimes yielded positive results. However, the foreign minority groups have no representatives to the authorities.

Whilst the economic level of the minorities is usually lower than that of the nationals, their infant mortality rate is higher.

The Ecuadorian Church has succeeded, with the assistance of other organizations, in promoting land purchases on behalf of the indigenous peoples, and in providing legal aid to the people who are in the country illegally.

ASIA

Hong Kong

There are really no established minorities in Hong Kong, but rather small groups of wealthy Indian or Pakistani businessmen, who are fluent in Cantonese

and English and who have complete freedom to practise their religion and culture. Some 99 per cent of the population is ethnic Chinese, of different origins.

However, in Hong Kong, there are workers who come from various Asian countries, including the Philippines, Thailand, India and Sri Lanka, and who are recruited as domestics for rather low wages (but which are considered high by comparison with the wages in their own countries).

The population of immigrant workers in Hong Kong increased from 28,000 in 1984 to 83,200 in 1992. These workers do not know their rights. What is more, the current labour laws as well as their application by the Hong Kong Government cannot afford adequate protection for the immigrant workers, who are exploited by irresponsible employers.

The social services, aid and meeting places which are at the disposal of immigrant workers are insufficient.

India

The concept of minority is used in India to refer to three distinct groups: (1) Indian citizens recognized by the Constitution as minority groups because of their language, religion or membership of a particular ethnic group; (2) persons or groups recognized as refugees by the Government of India; (3) foreign immigrants who are not recognized as refugees, but who can apply for naturalization after a certain time.

The first group is recognized as a minority by the legal and political institutions of the country. The second is a group for which the Government provides welfare measures. Since the third group is made up of illegal immigrants, it is not granted the status of a minority.

All the minority groups in India have the right and the opportunity to establish or to maintain their own educational institutions. Moreover, the opportunity to receive a part of their education in their own language is provided by the central Government and the states of India. Only the Indians who belong to the national minorities may have the benefit of development policies.

The living standard of the minority groups cannot be lower than that of the poor in India, but as a rule they are not under-privileged. In fact, they enjoy more privileges than the average citizen in India. The refugee groups are entitled to better economic security, medical care, education and other services than the poor who live outside the refugee camps.

The Indian minority groups are entitled to representation in the national and state legislatures. The tribal minorities have been able to benefit from the laws which prohibit the purchase of land by persons who are not members of the tribe. The recognized refugees, like the Tibetans and the Indians repatriated from Sri Lanka, have benefited from resettlement programmes.

The members of the minority groups may freely maintain relations with any other ethnic or linguistic group.

Philippines

The indigenous cultural communities account for about 12 to 16 per cent of the total population. The main ones are the Moro, the Igorot, the Carballo mountain people, the Negritos and Agtas, the Mangyan tribes and the Lumads. The Chinese comprise about 25 per cent of the Filipino population, not including the few Indians and new immigrant groups.

These minorities are officially recognized and assisted by the Government and the non-governmental organizations. Various offices are legally appointed to preserve and develop the traditions and institutions of the cultural minorities, and to promote their general well-being in accordance with national unity and development.

Two regions of the country, where the minorities are numerically dominant, have been politically designated as autonomous regions (the Cordillera Autonomous Region and the Autonomous Region of Muslim Mindanao). The minorities all have leaders who are politically, socially, religiously and culturally active. In most of the primary and secondary schools, teaching is in the dialect of the region. The minority groups are free to participate in all aspects of community life.

However, despite the Government's measures and the programmes, the indigenous peoples of the Philippines endure such problems as colonialism, oppression and discrimination by the Government; non-recognition of their ancestral land rights; expropriation of their lands; failure of the Government to provide them with the basic social services; poor political representation and cultural exploitation.

The economic and social development of the tribal communities is far behind that of the national community. The opportunities available for the tribal communities to receive an education are generally limited to the level of the primary school, on account of the lack of infrastructure and staff in the tribal areas. On the other hand, the situation of the Chinese, Indian and other immigrant groups is positively different.

Taiwan

The indigenous peoples, composed of 13 different tribes, represent the minority group of the island, and are recognized as a national group. Their lands are protected (they may not be bought by non-indigenous peoples), and they enjoy a special status of protection. Furthermore, they have the same rights as the other citizens when they migrate to other parts of the island.

The indigenous peoples are free to organize themselves as they wish. Schooling very recently became bilingual (Chinese and tribal languages). This minority group has elected representatives at all the levels of the Government.

Their standard of living is below the national standard, but this is due above all to the difference in cultural values (they have no interest in trade or business and make no provision for the future). Whereas their life

expectancy is the same as the national average, their infant mortality rate is higher. The members of the minority groups may freely maintain relations with other ethnic, cultural or linguistic groups.

The foreign workers, in so far as they are immigrants, are allowed to remain for two- to three-year contracts; they are included in the labour legislation and enjoy the same social benefits as the other workers. The migrant workers or those without papers are basically protected by the laws, but they are exploited by groups or individuals, since they cannot ask for legal protection without being sent back to their countries of origin.

EUROPE

Malta

The minorities in Malta are mainly classified according to language: English, Italians, Germans, French, Arabs. The Greek-speaking and Jewish communities have virtually disappeared. As for the refugees, most of them are Iraqis, of whom 90 per cent are Chaldeans.

The minorities are well accepted and are free to organize their own associations, cultural clubs, and schools. The refugees may not work but they are entitled to hospitalization and to free education.

The economic circumstances of the minorities, except those of the refugees, are usually fairly good. The life expectancy and the infant mortality rate are close to the national averages.

The minority groups are not directly represented in the national legislative bodies. They are, moreover, completely free to maintain relations with other ethnic, cultural or linguistic groups.

OCEANIA

Australia

In Australia, there are groups of recent immigrants, such as the Cambodians and the Chinese "boat people" (500), as well as illegal immigrants (around 80,000).

All immigrants enjoy a right of permanent residence and are considered as being a part of the national community. Besides, the minority groups are free to run or have institutions at their disposal. The immigrants are the hardest hit by the current recession and have the highest unemployment rate. They also have a lower than average standard of living, but through their adaptability and their industriousness, they are gradually succeeding in improving that standard.

As citizens and permanent residents, all immigrants may be elected to the Federal and state Parliaments. The legislation in Australia prohibits racial discrimination and lays down penalties for any infringement of these laws."

MOVEMENT AGAINST RACISM AND FOR FRIENDSHIP AMONG PEOPLES

[Original: French]

[18 January 1993]

"(i) France, like all the industrialized countries (Western Europe, North America, South-East Asia and the Persian Gulf, Japan, Australia), has immigrant populations that have made and are still making a substantial contribution to these countries' wealth.

In general these populations are composed of numerous elements, taking the form of differentiated strata (cf. the recent wave of Latin American and Korean immigrants and South-East Asian refugees in the United States).

Immigration in France is a long-standing feature (ca. 1850), linked to the beginnings of industrialization. At first, it involved Europeans (Belgians, Germans, then Italians and Poles) and was concentrated in the heavy industry areas in the northern and eastern part of the country. Then came the "colonials" between the two World Wars and after 1945: essentially from North Africa. The Portuguese, who are currently the largest immigrant group, came in the 1960s and 1970s. More recently, workers have been coming from the former African colonies.

France's image of a republic has also brought foreign political refugees fleeing large-scale massacres or civil wars: Armenians, Jews from Central and Eastern Europe, Spanish Republicans and, more recently, Vietnamese boat people.

West Indians and people from Reunion are a major immigrant group in metropolitan France (well-represented in the public services); they have had French nationality since 1945, but this does not mean that they are guaranteed against racism. For a good 10 years now, new immigrants have been making their appearance: Turks, Sri Lankans. Many, but not all, were or are political asylum-seekers.

Despite all the administrative obstacles to its implementation, the legislation on family reunification has enabled a relatively large number of these workers to live with their families and thus maintain their specific cultural physiognomy. Racist agitators frequently make use of this aspect.

(ii) France is a classic example of a nation-State. For the past century, nearly all the historically established linguistic minorities (Basques, Bretons, etc.) have been the target of a policy of assimilation, in particular through the schools. This policy has been effective; for 30 years, it has been the subject of a historical and political debate, since many persons regard this policy of assimilation into the Republic as an attempt to destroy regional identities and cultures. These debates inevitably intrude into the debates on racism and into the anti-racist movement itself.

For the last generation, efforts have been made both by associations and by lawmakers to strengthen regional languages and cultures. They have not had convincing results.

There are two exceptions, Alsace and Lorraine (Mosellane) and Corsica. The inhabitants of Alsace and the Moselle have preserved their cultural and linguistic identity, on the one hand, because this region's tragic history created strong bonds among its inhabitants and, on the other, because the Germanic dialects spoken there are based on the language of a great culture and on daily contacts with neighbouring Switzerland and Germany.

The case of Corsica, where demands for recognition of its identity are based on deeply rooted popular traditions and on the recent nature of the annexation (the Buonaparte family supported Paoli at first), together with underdevelopment and, of course, insularity, is also quite particular; Corsican is commonly spoken in daily life. A Corsican university was recently established, but it is too soon to see what its effects will be. There have also been efforts to create a Corsican-language theatre.

The same is true of Creole as spoken in the West Indies and Reunion; attempts to give it literary status are recent (despite the example of Haiti). For a long time, there were not even any dictionaries. Moreover, West Indian literary expression is so rich and fertile in French - even when influenced by Creole - that it is not certain that Creole literature will ever achieve genuine autonomous status.

As far as the established immigrant groups are concerned, the assimilative powers of the French language and lifestyle were so great and so strong that the cultural heritage of the parents became lost with the second generation; the third generation hardly knew that it came from anywhere else. Children and grandchildren of Italian or Spanish immigrants have been known to make xenophobic and even racist remarks and to act "more French than the French".

Among more recent immigrants, we note that, although the attraction of language and lifestyle has remained just as strong, the marginalization of the second and third generations is much more marked than in the past. Allowance should be made for the fact that the economic and social crisis in France has very strongly accentuated existing tendencies towards marginalization. These children and grandchildren of foreigners, many of whom have French nationality, thus feel very "foreign" with respect to the French, who have not met their expectations. In this connection, linguists might be interested in the fact that a "beur accent" (i.e. the accent of the children of North African immigrants) has formed in French pronunciation; although it is not an accent like any other, it has managed to impose itself as objectively meaningful.

The debate or at least discussion referred to above (reply to question (ii), p. 2) necessarily reappears here, if we look at the role of the French Government in the maintenance or decline of immigrant groups' languages and cultures. It is true that, for some of these groups - such as the Poles in the Nord-Pas de Calais region - there has not only been no lack of specific cultural institutions, but they were even looked on with great benevolence for a very long time, not without political and social ulterior motives. In his book, "Les banlieues de l'Islam", sociologist Gilles Kepel suggests a somewhat similar theory with regard to certain Muslim cultural institutions financed by Saudi Arabia.

In any event, there is an undeniable objective problem: what can be done to preserve identity when one is immersed in French life through work and daily routine?

(iii) In addition to specifically linguistic and cultural measures, some political personality has been granted, in the framework of the French Republic, not only to the overseas departments (DOM), but also to Corsica, and, in academic matters, to Alsace and Moselle (maintenance of the agreement in existence before the 1918 reunification).

The question of local autonomy has been hotly debated for years and laws on decentralization and regionalization have entered into force; nevertheless, France, quite unlike Germany and Italy, is still basically the centralized and centralizing country that history has produced.

(iv) Minority groups benefit from a number of legal provisions relating to the teaching of "minority languages" and "languages of origin" (migrants). The opportunities actually offered, however, are restricted. A number of high schools offer the vernacular languages as electives in addition to regular subjects. As far as the languages of origin are concerned, agreements with Portugal, Algeria, etc., have made it possible to hire primary school teachers trained in those countries. This practice had some success for a time, but it is still applied on a very limited basis; it is also being highly criticized for both political and educational reasons.

The laws in force in France allow subsidized private schools. A number of Jewish schools, which often have a fundamentalist approach, have thus been opened and teach Hebrew.

Muslim (North African, Turkish) cultural and religious institutions make efforts to teach Koranic Arabic and, in some cases, the Turkish language. Some very bitter ideological and political rivalries are at stake in such endeavours.

(v) No. This can only be part of extra-curricular education. There are some "international sections" in a few public high schools with predominantly English or German student bodies; to my knowledge, there is no Portuguese or Arabic equivalent and this is not at all surprising, for such sections are intended for the children of diplomats, professors and administrators and not at all for the school population produced by immigration.

(vi) The point is that these groups do not have representatives. In a very small number of cities, on the initiative of left-wing mayors, elections have been organized among foreign residents to designate "associate councillors", who obviously have only an advisory role. Although such municipal councillors are of a very special kind, they nevertheless function, in principle, like all other councillors: they represent all of their constituents, not a particular group. France remains deeply hostile to a "community approach", and the Movement against Racism and for Friendship among Peoples, for its part, sees this as a danger.

The result of all this is that immigrants in the vast majority of municipalities have no right to take part in decision-making and are kept out of all institutions, including those that concern them the most, in particular those dealing with housing.

The ratification of the Maastricht Treaty makes the granting of the immigrants' demand for the vote in local elections both more urgent and less likely, since "Community" foreigners will now be full-fledged voters in these elections (including immigrant Portuguese workers and their families), while their neighbours, whose origin is probably less acceptable, will continue to be excluded from citizenship, and since a reform of the law on this point has been made much more difficult by the Treaty.

(vii) In economic terms, there are very great disparities between groups of different origins: African workers (concentrated mainly in the Paris region) are the poorest and live in what are usually disastrous conditions (cf. the problems of the homeless and the badly housed that have repeatedly been in the Paris news).

Because of their living conditions and because they are less strongly rejected, immigrant groups of European origin are similar to French people belonging to the same social group.

In demographic terms, researchers have found that the fertility rate among women of foreign origin living in France is getting to be the same as that of women born in France.

(viii) This is a strange question. Since the proportion of unskilled workers in these groups is obviously higher than the national average, they are harder hit by unemployment in traditional industrial sectors and even in the building and public works sector.

Obviously nothing prevents immigrants from seeking to improve their situation by their own efforts - and a small number of them manage to do so - but, considered as groups, they are almost completely lacking in means to improve their lot, and this explains the rebellious feelings among young people in particular.

In our view, questions (ix), (x), (xi) and (xii) are not applicable to France.

Question (xiii), however, would require a very complete reply, which might ultimately amount to providing a summary record of the work of the last MRAP congress.

Racism against migrant workers, particularly the most recent migrants, and against young people of the second generation, has constantly increased in France in the last 12 years.

Such racism cannot be evaluated only in terms of the electoral successes of the party of the far-right, the National Front, or the various types of racist violence, ranging from insults to crimes. It must also include the

insidious spread of "differentialist" racist theories among broad sectors of public opinion which refuse, moreover, to identify themselves with the far right.

The ideas of incompatible lifestyles, insurmountable differences between cultures and even the Islamic threat are now becoming widespread; leaders of the "civilized" right have not hesitated, given the current economic situation, to endorse them to a certain extent. The "South" as a threat is also a topic of discussion: its underdevelopment and galloping population growth make it doubly frightening.

France has antiracist (criminal) legislation that is exemplary in many respects, but the courts apply it only half-heartedly, when they cannot do otherwise. The Government Procurator's office is extremely reluctant to institute proceedings if the antiracist associations do not take the responsibility themselves.

In brief, the question of racism can be considered as one of the major contradictions in French social and political life; to give only one example, it is official French policy to achieve "integration", but, at the same time, this policy tends to keep immigrants in an underprivileged situation as long as possible. France, the country of human rights, is thus no more eager than the other industrialized countries (United States, Japan, United Arab Emirates, countries of the European Economic Community, etc.) to take the necessary steps to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, unanimously adopted by the United Nations General Assembly two years ago.
