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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND
ALL FORMS OF DISCRIMINATION**

**Report by the Special Rapporteur on contemporary forms
of racism, racial discrimination, xenophobia and
related intolerance, Mr. Doudou Diène**

Summary

This report is submitted pursuant to resolution 2003/30 adopted by the Commission on Human Rights at its fifty-ninth session. It should be read in conjunction with the interim report submitted by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the General Assembly (A/58/313).

Since the last session of the Commission, the Special Rapporteur has endeavoured, in the course of his visits, to pursue his dual strategy against racism, discrimination and xenophobia: on the one hand a legal strategy aimed at extending and confirming the legal and political responses to racism, racial discrimination, xenophobia and related intolerance, and on the other hand an intellectual and ethical strategy aimed at achieving a better understanding of the underlying ideological, cultural and mental causes, foundations, processes and mechanisms that tend to perpetuate and revive the culture and mentality of racism and discrimination.

This approach has guided all the Special Rapporteur's activities, which have focused not only on fieldwork but also on discussion and dialogue with Governments, United Nations agencies, national human rights institutions and non-governmental organizations. In the course of his recent missions, carried out in 2003, to Canada, Colombia, Guyana and Trinidad and Tobago, he was able to fulfil his mandate, with a view to promoting the Durban Programme of Action, in a spirit of critical dialogue with the authorities of the countries concerned and by paying careful heed to the communities directly involved and civil society. In preparing the studies requested by the Commission, particularly the study on the situation of Arab and Muslim populations after 11 September 2001 and the study concerning the relationship between democracy and racism, he has taken care to make due reference to the conceptual and programming advances achieved in the Durban Declaration and Programme of Action.

On the basis of the information he has gathered, the Special Rapporteur considers that the present situation as regards racism, racial discrimination, xenophobia and related intolerance reflects the following predominant tendencies: the complex and serious manifestation of a composite new form of discrimination combining race, religion and culture; aggravation of expressions of racism related to Islamophobia and anti-Semitism; a revival of racism in sport; the persistence and at times aggravation of discrimination against castes; racial profiling, and incitement to racial hatred through the Internet. He also paid particular attention to the situation of individual groups such as the Roma/Gypsies/Sinti/Travellers.

In 2003, the Special Rapporteur received allegations of racial discrimination and xenophobia concerning Belgium, Egypt, Greece, Slovakia, Sudan and Ukraine.

Lastly, the Special Rapporteur has focused his recommendations and conclusions on the following issues:

The cultural depth of racism and discrimination, which manifests itself in the form of growing political and intellectual intolerance of the cultural and religious signs, symbols and expressions of communities, groups and individuals;

The rejection or non-recognition of the reality of ethnic, cultural and religious pluralism as an ultimate major factor in the development of new forms of racism and discrimination;

The urgent need to establish a dialectical link between the fight against racism and discrimination and the promotion of dialogue between cultures and religions and the building of democratic and egalitarian multiculturalism;

The vigilant, balanced implementation of the Durban Programme of Action with respect to the recognition and in-depth treatment of the resurgence of Islamophobia and anti-Semitism;

The recognition and treatment of growing racism in sport, in close cooperation with international sports bodies;

The recognition and treatment of the discriminatory significance of the problem of castes, in close cooperation with the countries concerned.

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I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Field missions of the Special Rapporteur

1. In his choice of missions, the Special Rapporteur placed special emphasis on the region of the Americas and the Caribbean, in order to undertake a comparative and prospective study of the responses of countries of the region to the historic legacies of the racism and discrimination generated by long periods of slavery and colonization, and hence their responses to the major challenge of transforming de facto inegalitarian and discriminatory multiculturalism into egalitarian and democratic cultural and ethnic pluralism. The experiences of Canada, Colombia, Guyana and Trinidad and Tobago, which were looked at in the course of recent missions, show that the legacy of racism and discrimination is not so much a historic inevitability as an opportunity for change. In the last analysis, it is the political will, the vision and the commitment of the political system as a whole, both the party in power and the opposition, which channel such legacies either into ethnic polarization or into interactive cultural pluralism. The Special Rapporteur's findings, comments and recommendations are contained in the reports for each mission (Guyana and Trinidad and Tobago (E/CN.4/2004/18/Add.1); Canada (E/CN.4/2004/18/Add.2); and Colombia (E/CN.4/2004/18/Add.3)).

2. For 2004, the Special Rapporteur, in addition to racism in sport, would like to concentrate on the countries which, in Europe, the Middle East, Asia and Africa, have been most affected by the growing wave of racism, discrimination and xenophobia, related more especially to immigration, anti-Semitism, Islamophobia and the caste problem.

B. Participation in the work of the General Assembly at its fifty-eighth session

3. The Special Rapporteur submitted an interim report to the General Assembly (A/48/313). The report covered not only the main meetings in which the Special Rapporteur took part as a contribution to the implementation of the Durban Programme of Action, but also contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance, particularly expressions of racism in sport. The Special Rapporteur welcomes the high standard of the interactive dialogue and discussions he enjoyed on that occasion with representatives of the member States. The General Assembly took note with appreciation of the recommendations included in the interim report and asked the Special Rapporteur to pay special attention to racism in sport.

II. CONTEMPORARY MANIFESTATIONS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

4. The most significant manifestations of racism, racial discrimination, xenophobia and related intolerance include the rejection of diversity, the growing practice of racial profiling and the resurgence of Islamophobia and anti-Semitism.

A. Isolationism and the rejection of ethnic and cultural diversity

5. Discrimination, racism and xenophobia by definition constitute a rejection of or a failure to recognize difference. In the history of nation States, this rejection has led to the development, through historical writings and education, of a national identity founded on a particular ethnic group, race, culture or religion. This ghetto-identity, over the longer term, has thrived on the twin forces of opposition to and demonization of others and the heightening of that identity. Political domination has often been defended on the grounds of a deep-seated belief in cultural superiority. Throughout history, this ideology has provided an intellectual prop for all imperial ventures, especially slavery and colonization. But the civilizing mission that was the moral justification for this ideology gave way to a determination to impose a cultural, aesthetic and religious paradigm. According to this approach, the signs, symbols and cultural manifestations pertaining to others, particularly those under domination, must always be denied, ignored or, at best, reduced to folklore. Cultural contempt, bred on ignorance and on the silence or lack of visibility of others, of those who are different, has thus provided the deep and long-lasting root of discrimination and racism.

6. Through its encouragement of uniformity, present-day globalization further accentuates confinement and isolationism. The multicultural dynamic paradoxically provides a common factor for imperial expansion, slavery, colonization and immigration. This dynamic, which is embodied in the three-sided cultural and civilizing process of movement, meeting and interaction between different peoples and cultures, leads in the longer term to an identity crisis. The old ghetto-identity garb splits apart under the pressure of multiculturalism. The identity crisis then develops around the dilemma of whether to preserve an ethnic-centred identity or instead to recognize the reality of cultural and inter-religious pluralism. Seeking political gain from this identity crisis, extreme right wing parties, in a climate of economic and social unrest, then foster the resurgence of xenophobia, racism and intolerance. By deploying their usual ideological weapon, the culture of fear, nowadays strengthened by the spectre of terrorism, these parties can literally impose a political agenda of xenophobia on the traditionally democratic parties, thereby turning the discourse and practice of xenophobia and intolerance into a familiar occurrence.

7. Belief in the theory that conflict is inevitable between different cultures and civilizations, combined with the refusal to recognize their interaction and cross-fertilization, and hence the rejection of diversity and pluralism in this context, provides an intellectual justification for the isolationist approach to culture, religion and civilization. This ideological climate has coloured the debate on secularity currently taking place in France, through its negative connotations with regard to discrimination; whatever the intentions were behind the bill forbidding the wearing of ostensible religious signs in schools, it has been seen as essentially aimed at the Islamic headscarf, and therefore as a form of stigmatization of Islam. Preference has been given in this case to the solution of imposing a legal ban at the expense of dialogue on religious beliefs and their external expressions, to the exclusion of faith from the republican system of public education as a fundamental meeting ground for interaction, transformation and the learning of diversity, and especially, from a symbolic point of view, to the rejection of the expression of diversity.

B. Racial profiling

8. In its final report, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance urged States to combat the phenomenon “comprising the practice of police and other law enforcement officers relying [...] on race, colour, descent or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity”. This sort of practice generally takes the form of disproportionate checks, with frequent searches of persons belonging to targeted racial, ethnic or religious groups in ports and airports, in the street or when they are driving their cars. In a number of countries, certain racial or ethnic minorities are associated in the minds of the authorities with certain types of crimes and antisocial acts, such as drug trafficking, illegal immigration, pickpocketing and shoplifting. In other words, by targeting specific social groups, or the members of selected communities, the law enforcement agencies, often echoed and supported by the media, literally undertake to criminalize and stigmatize the members of these groups and communities and even whole areas where they live. Most of the time, the only profiling criterion, apart from skin colour, is external cultural or religious signs.

9. The excesses committed in the name of combating terrorism generate new forms of racism and discrimination and more generally speaking exclusion and repression. Racial, ethnic and religious profiling should be seen as the tip of the iceberg of racism and discrimination. It is often argued that the behaviour of the law enforcement authorities is justified because it reflects the dominant attitude of the population towards members of communities, which are systematically treated as criminal either by the media and because they account for an unusually large proportion of the prison population. Racial and religious profiling, in view of its widespread practice in all continents, and especially of the responsibility borne by the central law enforcement agencies, appears as an alarming indicator of the rise of a racist and discriminatory culture and mentality in many societies. The recognition of this practice and the adoption of legislative, judicial and administrative measures to ban and punish it must be built in to all national programmes for combating racism, discrimination and xenophobia.

C. Racial discrimination against the Roma/Gypsies/Sinti/Travellers

10. The World Conference against Racism recognized the Roma/Gypsies/Sinti/Travellers as vulnerable groups, exposed to racial discrimination, and encouraged States “to develop effective policies and implementation mechanisms for their full achievement of equality” (Durban Declaration, paragraph 68, Durban Programme of Action, paragraphs 39 to 44). The last report of the European Roma Rights Centre received by the Special Rapporteur¹ shows that these groups remain exposed to several forms of racial discrimination in a number of Eastern and Western European countries, particularly in the areas of education, housing and access to basic social services. Many communities are regularly subjected to police violence. The Special Rapporteur feels particular concern at the educational policies practised in some countries, which consist in segregating Roma children in special schools for supposedly backward children. In his view, this is one of the main obstacles to the integration of Roma which needs to be removed. Some encouraging efforts have been made in this respect by Bulgaria, which should serve as an example for the other States concerned.

11. It is clear from the report on the Special Rapporteur's mission to Colombia (E/CN.4/2004/18/Add.3), however, that the Roma are not exposed to racial discrimination only in Europe. As their travelling tradition has also taken them to Latin America, they have met with social exclusion there too. Apart from Colombia, the Special Rapporteur hopes that forthcoming reports may provide the Commission with information concerning the situation of Roma in South America in general.

D. Expressions of racism related to anti-Semitism and Islamophobia

12. The Durban Declaration, in paragraph 61, expresses the "deep concern" of participant States at "the increase in anti-Semitism and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas against Jewish, Muslim and Arab communities". The Special Rapporteur has paid particular attention to the growth of these tendencies in 2003. Since the Commission has already requested (resolution 2003/4, para. 14) the Special Rapporteur to examine Islamophobia in the context of a study on the situation of Muslim and Arab peoples in the aftermath of the events of 11 September 2001 (see E/CN.4/2004/19), this section has been chiefly devoted to anti-Semitism.

13. According to similar reports received from several non-governmental, particularly Jewish, organizations,² and from the State of Israel, there has recently been an alarming resurgence of anti-Semitism, which has taken the form of the profanation of synagogues and Jewish cemeteries, attacks on individuals who are Jewish or presumed to be Jewish, anti-Jewish propaganda on the Internet, and anti-Semitic graffiti and remarks by internationally well-known personalities. Several organizations have drawn attention to the statement by the former Prime Minister of Malaysia at the opening of the tenth summit meeting of the Organization of the Islamic Conference. The Special Rapporteur has particularly asked the Government of Malaysia for its reaction to the speech. Another particularly noteworthy example was the statement at a press conference on 12 November 2003 by a famous Greek composer, who said that "that small nation is the root of all evil in the world [...]. The Greek people do not possess the fanaticism of the Jews".

14. According to the World Jewish Congress, in 2002 and the beginning of 2003, a total of 311 serious anti-Semitic incidents took place in the world, including 56 large-scale armed attacks and 255 violent but unarmed incidents. Most of these took place in Western Europe, North America and the Russian Federation. The Jewish organizations also commented on the recent spread of anti-Semitism in the Middle East through the large-scale distribution of the *Protocols of the Elders of Zion*, a notoriously anti-Semitic book, which has been turned into a television series. The Special Rapporteur has written to the Governments concerned requesting their reactions to these allegations.

15. In the opinion of the Special Rapporteur, in view of the large number of confirmed incidents and of the representative and therefore influential nature of the personalities involved, the concern expressed by participant States at the Durban Conference regarding the rise of anti-Semitism is justified. Owing to its historic and religious depth and the extreme violence of its intellectual and human expressions, of which the Nazi holocaust remains the symbol, anti-Semitism is a particularly pregnant and resilient form of discrimination. Its reappearance in some parts of the world, combined with the revival of other forms of racism and discrimination,

adds weight to the comment of the German playwright Bertold Brecht, that: “The womb that gave birth to this foul beast is still fertile.” It is therefore important to make the rise of anti-Semitism, like that of Islamophobia, the subject of an in-depth study, which will look into its underlying causes, its manifestations and the ways and means available to combat it.

16. A full, objective study of the question is needed not only to identify its characteristics as an ancient form of discrimination but also to shed light on the heated debate raging around the following questions: the link between historic anti-Semitism, which reached its paroxysm in the holocaust and which is deeply connected with the culture and history of Europe, and the new forms and manifestations of anti-Semitism related to the conflict in the Middle East; the link between anti-Semitism as a form of discrimination and Zionism as a form of nationalistic ideological policy; and the link between responses to the policy conducted by the Government of Israel and the rise of anti-Semitism. The debate on these very basic questions runs not only through all political, intellectual and religious currents in different countries but also through the Jewish community in all its diversity. A healthy debate on these matters should finally reveal the dilemma at the heart of discrimination, namely the choice between the temptation to withdraw behind one’s own experience and the determination to move on from that experience to a universal feeling of compassion and solidarity for the victims of all forms of discrimination.

E. Measures taken by the Governments

1. United States of America

17. Since the 1990s, a fierce debate has been taking place in the United States on whether or not to maintain the policy of affirmative action introduced in the 1960s as a way of assisting the integration of ethnic, racial and female minorities in American society through preferential access to education, jobs and services. Some people consider that the individuals making up those minorities have by now derived sufficient benefit from the policy and enjoy a standard of living and social position which is comparable to those of the majority, so that pursuing the policy any further would lead to reverse discrimination. Some states, like California, based on this reasoning have dismantled their affirmative action policies. Others, on the other hand, believe that the effects of affirmative action measures are still inadequate and that individuals belonging to ethnic, racial and female minorities continue to be exposed to discrimination in the areas of education, training and employment.

18. The previous Special Rapporteur expressed the view, after a visit to the United States in 1994, that “30 years of intense struggle against racism and racial discrimination have not yet made it possible to eliminate the consequences of over 300 years of slavery and racial discrimination, particularly where African Americans are concerned” and that “affirmative action programmes should be revitalized in order to offset the negative consequences of the policy pursued during the 1980s in the fields of health, housing, education and employment” (see E/CN.4/1995/78/Add.1, para. 112).

19. The debate as to whether affirmative action should be pursued any further has been given added relevance by two recent decisions taken by the United States Supreme Court. In *Grutter v. Bollinger* and *Gratz v. Bollinger*, the Law School of the University of Michigan defended its admissions policy, which gave preference to persons belonging to ethnic or racial minorities. On 23 June 2003, the Court ruled that diversity of the student body constituted a

compelling state interest which justified the consideration of race, in association with other criteria such as socio-economic origin or the experience and skills of candidates, in the selection of students, insofar as it did not imply a systematic use of quotas. The Court considered, moreover, that the practice could still be used for another 25 years. The University of Michigan case showed, however, that there is opposition to affirmative action at the highest political level, considering that support for the plaintiffs was expressed by the President of the United States himself.

2. France

20. The French Government informed the Special Rapporteur that several legislative amendments had been adopted to help combat racial discrimination. Thus Act No. 2003-98 of 23 February 2003 introduced a new aggravating circumstance related to racism, xenophobia and anti-Semitism (article 132-76 of the Criminal Code). The aggravating circumstance must be objectively established and is confirmed only “if the offence is preceded, accompanied or followed by statements, writings, images, objects or acts of any kind offending the honour or esteem of the victim or group of persons of which the victim is a member on account of their real or presumed belonging or otherwise to a particular ethnic group, people, race or religion. The effect of this aggravating circumstance is to increase the applicable penalty and in some cases to modify the type of offence (e.g. dangerous damage to private property aggravated by racist motives become a criminal offence). Racist, xenophobic or anti-Semitic motivation may be considered to be an aggravated circumstance for the following offences: voluntary homicide, torture and acts of barbarism, violence unintentionally leading to death, violence leading to mutilation or permanent disability, and damage to private property by dangerous means.

21. Similarly, Act No. 2003-73 of 17 January 2002, the Social Modernization Act, amended the second paragraph of article 1 of the Act of 6 July 1989 concerning housing leases by explicitly banning refusals to let for reasons connected with the origin, name, physical appearance, customs, sexual leanings, beliefs, race or nationality of tenants.

22. With regard to judicial procedure, in a decision of 11 June 2002, the Criminal Chamber of the Court of Cassation admitted the submission of evidence based on the practice of “testing” on the grounds that in criminal matters the principle of freedom of evidence should prevail, in conformity with article 47 of the Code of Criminal Procedure. “Testing” consists in bringing several individuals to the entrance of a public establishment, usually in the presence of a law officer, and observing the way in which persons of different origins are received. Offences of racial discrimination, in the sectors of leisure, tourism, housing or other types of economic activity, are often hard to prove and evidence is not easy to come by. The recognition of the “testing” method is therefore to be particularly welcomed.

23. A particular reference has been made in French law also to the offence of grave desecration. This offence, which normally incurs a prison sentence of two years, is deemed to be aggravated if committed on the grounds of the real or presumed belonging or otherwise of the deceased persons to a particular ethnic group, people, race or religion. Penalties are then increased to three years’ imprisonment and a fine of 300,000 francs. Similarly, the penalty for exhuming a corpse, which is normally two years’ imprisonment, is raised to five years if the offence is committed for racist reasons (article 225-18 of the Criminal Code).

24. The Special Rapporteur welcomes the stiffer penalties introduced in French legislation for racial discrimination in all its forms and hopes that other countries will follow France's example.

III. ALLEGATIONS EXAMINED BY THE SPECIAL RAPPORTEUR

A. Belgium

1. Joint allegation transmitted on 25 September 2003 with the Special Rapporteur on the question of torture

25. The following individual cases were transmitted to the Belgian Government:

(a) **Bernardin Mbuku-Iwangi-Sung** and his wife, **Odette Ibanda Mavita**, both Belgian nationals from the Congo, were allegedly arrested in the night of 2 to 3 February 2003 in the district of Anderlecht, in Brussels. Two policemen reportedly came to their apartment and asked Bernardin Mbuku-Iwangi-Sung to come down to the police station with them to make a statement concerning a car accident, following which he had allegedly fled. According to reports, he denied the police's allegations but the officers dragged him violently out of his flat and down the stairs. According to information received, four other vehicles then arrived on the scene and the couple were arrested. They were then said to have been subjected to physical and verbal violence, in particular of a racist nature. Bernardin Mbuku-Iwangi-Sung was allegedly thrown into a vehicle, with his hands tied tightly. His glasses and watch were reportedly broken during the arrest. It was also reported that on his arrival at the police station he was shut in a cell, with his wrists tied, for several hours. He apparently spent three days in hospital to recover from the injuries he suffered during his arrest. In particular, his arm was reportedly broken and he suffered many blows on the back. His wife, who, according to information received, was about five months' pregnant at the time of the incident, was allegedly beaten on the back; a cloth was stuffed in her mouth and she was led to the police station practically naked. Their 2-year-old son was reportedly left alone in the flat. The couple apparently lodged a complaint, with a supporting medical certificate, with the Prosecutor's Office in Brussels. The police apparently informed the press that action had been taken in response to a complaint lodged after a hit-and-run accident, adding that a further complaint had been lodged against Bernardin Mbuku-Iwangi-Sung for physically attacking a police officer in the course of his duties;

(b) **Mr. Iliyassou**, a former driving instructor, was reportedly arrested in Brussels on 25 May 2002, at around 11.15 a.m. According to the information received, while he was sitting in his car, some police officers in a patrol car accused him of driving offences and asked him to show his papers and those of the car. He then reportedly moved his car a few metres in front of the police vehicle, apparently in order to move out of the way of the traffic, and got out of his car. The police officers apparently then accused him of disobeying their orders and arrested him. He was allegedly pushed to the ground and then against a wall, after which he was handcuffed and beaten. According to reports, he was then obliged to get into the police car, where he had to lie on his back with his hands tied behind him. One of the policemen was then said to have leaned on him with his full weight, while hitting him in the face and swearing at him. He apparently called him a "lousy Rwandese" and told him to "go back to his jungle". At the police station, he was allegedly beaten again and shoved several times, so that his head

struck the corner of a wall. Still according to reports, on the evening of the incident, Mr. Iliyassou's father-in-law died. When he asked for permission to phone his wife to tell her, he was apparently beaten again. He was then reportedly released, but when collecting his personal effects he noticed that his mobile telephone was broken and that he was missing the sum of €400. He then apparently went back to the police station, with some other persons, to lodge a complaint. The duty officer allegedly refused to accept his complaint, on the grounds that it was ethically inappropriate to receive a complaint about other police officers. He then apparently went to another police station, where he was given the same reply. It is reported that he then lodged his complaint with the Standing Committee for the Supervision of Police Services (P. Committee), where he submitted a medical certificate dated 26 May 2002, which reported extensive facial bruising, cuts and bruises on the wrist and a cheek injury.

2. Reply by the Belgian Government dated 13 October 2003

26. A judicial inquiry was conducted by the Standing Committee for the Supervision of Police Services concerning the cases of Bernardin Mbuku-Iwangi-Sung and his wife and Mr. Iliyassou, after which a judicial investigation was initiated.

27. The case of Mr. Bernardin Mbuku-Iwangi-Sung is still under investigation and Mr. Iliyassou's was submitted to the Registrar of the Council Chamber (Brussels District) on 10 June 2003 for a ruling.

3. Observation by the Special Rapporteur

28. The Special Rapporteur awaits the judicial conclusions concerning these cases and requests the Belgian Government to keep him informed in due course.

B. Brazil

1. Joint allegation transmitted on 17 September 2003 with the Special Rapporteur on the question of torture

29. In a joint allegation, the Special Rapporteurs brought to the Government of Brazil's attention allegations recently received according to which **Ijhad Abdelaziz**, a Moroccan man (passport L242831, living at Rua da Gloria, 485, Boa Vista, Recife, Pernambuco), was beaten, kicked and trodden on all over his body, especially his stomach, kidneys, legs and thorax by three members of the military police, one of them allegedly identified as a "lieutenant" from the 16th Military Police Battalion, on 1 February 2003, around 12 p.m., beside the post office building. It is reported that he was accused of being a thief, immediately after he was allegedly the victim of a robbery. It is also alleged that other people passing by helped the military police to punish the "thief". Afterwards, he was reportedly handcuffed and beaten again when the police officers realized that Ijhad Abdelaziz was a foreigner. According to the information received, when he was taken to the federal police station, one federal police officer (whose name is known to the Special Rapporteur) believed Ijhad Abdelaziz's explanation of what happened. It is also reported that Ijhad Abdelaziz complained the same day about the treatment by the police officers at the District Civil Police Station in Santo Amaro. Furthermore, a medical exam at the Legal Medicine Institute reported that he had many visible scars. On 5 February 2003, another complaint was allegedly presented to Pernambuco State's Police Ombudsman's Office

(*Ouvidoria*). A non-governmental organization allegedly transferred the case to the District Attorney's Office - Central of Torture Complaints and reportedly informed the military police about the incident.

2. Response of the Government of Brazil

30. No response has yet been received from the Government of Brazil.

C. Egypt

1. Allegation transmitted on 4 February 2003

31. The Special Rapporteur has received information indicating that the 41-part series *Horseman without a Horse*, which has been aired on State television in Egypt as well as other privately owned channels, allegedly contains consistent expressions of anti-Semitism and discriminatory stereotypes, which may encourage animosity and violence against Jews. It is alleged that the series is set in the 1930s and follows the story of an Egyptian journalist who exposes the existence of a secret copy of the so-called *Protocols of the Elders of Zion* in the hands of the Jewish community of Cairo. It is reported that the series itself visually depicts a group of Jews gathering in a darkened enclosure labelled the "Headquarters of the Conspiracy" and that its depiction of Jews is based on stereotypes.

32. Furthermore it is alleged that, with the broadcast of the series, articles, speeches and other expressions of anti-Semitism are emerging. It is reported, for example, that on 19 November 2002 Sheikh Tantawi, head of Al-Azhar University Institute, published an article in the official Islamic weekly, *Aqidati*, allegedly insisting that the *Protocols* are authentic. In an interview he allegedly affirmed the existence of a conspiracy of the elders to hurt the nations of the world, while advancing Jewish interests at the expense of others.

33. It is further reported that the series was produced in Cairo by Dream TV for special broadcasting during the holy month of Ramadan and that it passed official censorship in Egypt.

2. Response of the Government of Egypt

34. No reply has yet been received from the Government of Egypt.

D. Greece

1. Joint allegation transmitted on 11 July 2003 with the Special Rapporteurs on the question of torture and on violence against women, its causes and consequences

35. The Special Rapporteurs have received information on **Yannoula Tsakiri**, a 21-year-old woman from Nea Zoi, a Romani settlement in Aspropyrgos, approximately 15 km west of Athens, who was reportedly assaulted by police officers, on the morning of 8 January 2002, when police allegedly raided the settlement. According to the information received, a large group of police officers approached the settlement with their weapons drawn. The police were accompanied by a judicial official, but allegedly did not produce any arrest or search warrants. It is alleged that they ordered all the Roma out of their shanty-homes, and forced those already

outside to lie face down on the ground. The police officers searched, apparently indiscriminately, almost all the shanty-homes in the settlement for drugs, while the Roma, assembled outside, were allegedly shouted and sworn at, and subjected to racist insults.

36. It is believed that the conduct of police was deliberately intended to frighten and humiliate. One police officer allegedly pointed his gun at a 13-year-old girl. Another police officer reportedly shouted at a disabled 13-year-old boy to stand up, and then grabbed him by the arms to raise him. It is reported that when she tried to protect the latter, Yannoula Tsakiri was pushed away, kicked in the back and knocked to the ground. She was allegedly two-and-a-half months' pregnant at the time and as a result, started to bleed. The following day she was taken to hospital where she was reportedly diagnosed with a partially detached placenta. Three days later, she reportedly suffered a miscarriage. She is believed to have filed a complaint with the Athens prosecutor's office. The Special Rapporteurs have been informed that, according to the police authorities, an inquiry into these allegations found no evidence to support her allegations. It is also alleged that, during the raid, several other Roma were physically ill-treated by police officers. **Pavlos Christodouloupoulos**, aged 22, was reportedly kned in the stomach, and **Michalis Aristopoulos** slapped three times. Some 15 other men were allegedly detained and taken to Aspropyrgos police station with a view to checking whether they had any outstanding traffic fines or other penalties. It is alleged that, at the police station, police officers started to beat **Athanasios Sainis**, who had been found to be in possession of a small amount of hashish, when he refused to state from whom he had bought it. These men were reportedly held at Aspropyrgos police station, without food or water, for the whole day. All but five, who were allegedly charged with possession of drugs, were released on the evening of 8 January 2002. Those charged were reportedly held overnight. It is alleged that, before being released, they all had their fingerprints registered, and were asked to sign statements they had given. These were allegedly not read back to those who were unable to read.

2. Response of the Government of Greece of 13 October 2003

37. As a result of information about drug trafficking at a Roma settlement in the Nea Zoi area of Aspropyrgos, on 28 January 2002 a police operation took place, with the presence of a judiciary official, during which four persons were arrested and certain quantities of drugs seized.

38. During the operation no reprehensible actions by policemen were mentioned or noticed by the police officer in charge. On 1 February 2002, Tsakiri Giannoula filed with the District Attorney a written complaint against an unknown policeman who, according to her allegations, kicked her during the operation, resulting in the abortion of the embryo she carried. A criminal indictment was brought against an unknown person by the District Attorney's Office for violation of article 308, section 1, and 309 of the Criminal Code. A preliminary examination was ordered and is now pending.

39. Following an administrative inquiry, which was conducted by a higher-ranking police officer of the Greek police to ascertain the reliability of Mrs. Tsakiri's accusations, and also from other accusations which came to our office regarding the above-mentioned police operation, the findings were that the above-mentioned person was not arrested and that no trace of her abuse was seen by any of the witnesses examined. Moreover, the administrative inquiry concluded that Pavlos Christodouloupoulos and Michalis Aristopoulos had not been subjected to abuse by policemen.

40. Athanasios Sainis was arrested because a quantity of drugs was found in his possession which - as he readily confessed - he bought for his personal use from a person whom he explicitly named, and who was arrested. No psychological or physical violence was exercised against him by policemen, since such acts would have been recognized by the judiciary official who participated in the police action to observe its legality.

41. The accusations pending are characterized by exaggeration and, through intimidation, they aim at relaxation of police measures taken in the above-mentioned area for the prevention and suppression of crimes relating to drug use and trafficking. It should be noted that because the Roma's practice of defaming policemen is usual - with the obvious aim of the weakening of police control in similar police operations, judiciary officials always participate in order to provide maximum guarantees for the observation of legality.

3. Observations by the Special Rapporteur

42. The Special Rapporteur thanks the Government of Greece for the information it has supplied. He trusts that the activities of the Greek police will continue to be guided by the observance of legality and fundamental human rights principles, in particular respect for the physical integrity of persons and equality before the law. The Special Rapporteur proposes to monitor the question of racism and discrimination in Greece with particular attention in the light of recent press articles alleging growing racism in the country.

E. Slovakia

1. Joint allegation transmitted on 22 August 2003 with the Special Rapporteur on the question of torture

43. In this communication, the Special Rapporteurs would like to bring to the Government's attention allegations we have recently received according to which the police conducted an operation in the isolated **Roma settlement in Plavecký útvrtok** on 19 September 2000. It is reported that, in the course of the operation, about 20 officers of the Rapid Response Unit and six members of the Slovak Police Force, said to be wearing masks, violently entered the houses and allegedly beat and kicked indiscriminately the inhabitants, including women and children. The public forces are believed to have shouted racist insults. It is believed that the law enforcement agents were looking for a man who had been sentenced to one year's imprisonment in April 2000 and two other Roma who had reportedly obstructed the police in their attempts to arrest him four days earlier.

2. Response of the Government of Slovakia

44. No response has yet been received from the Government of Slovakia.

F. Sudan

1. Joint urgent action transmitted on 1 September 2003 with the Special Rapporteur on the question of torture

45. The Special Rapporteurs would like to draw the attention of the Government of the Sudan to information we have received concerning 23 persons of Fur ethnicity: **Fadl Adam Shatta, Gamreldin Adam Shatta, Hassan Asooli, Mohammed Suleiman Niple, Azhari Yagoub, Abdel Aziz Mukhtar, Adam Mohammed Khatir, Ibrahim Zakari, Abdel Latif Hassan, Zakaria Mohammed Suleiman, Abdel Mutalib Ahmed Omer, Abdalla Hamza, Adam Mohammed Suleiman, Siddig Ismail, Ismail Mohamed Abdallah**, who is reportedly a mentally ill man, **Abaker Ismail Adam, Alsadiq Sidiq, Suleiman Adam Musa, Hayder Tamboor, Nasr Eldin Tamboor, Yaqub Rahma Tanusi**, who is reportedly a Shertai tribal leader, and **Abud Mandy**. All were reportedly arrested by security forces without formal charges, on the basis of their alleged support for the Sudan Liberation Army (SLA), an armed opposition group reportedly operating in Darfur since February 2003 which has many members of Fur ethnicity. It is reported that all persons named above are being held in incommunicado detention.

46. According to the information received, Fadl Adam Shatta, Gamreldin Adam Shatta and Hassan Asooli were arrested by members of the security forces on 18 August 2003 in the town of Kabkabyia, North Darfur. They are reported to be held at security forces premises in Kabkabyia town. Mohammed Suleiman Niple, Azhari Yagoub, Abdel Aziz Mukhtar, Adam Mohammed Khatir and Ibrahim Zakaria were reportedly arrested during August 2003 and are said to be held in Shala Prison in El Fashir. Abdel Latif Hassan, Zakaria Mohammed Suleiman, Abdel Mutalib Ahmed Omer, Abdalla Hamza, Adam Mohammed Suleiman and Siddig Ismail were also reportedly arrested during August 2003 and are allegedly being held in security forces premises in Kabkabyia town.

47. Ismail Mohamed Abdallah, Abaker Ismail Adam, Alsadiq Sidiq, and Suleiman Adam Musa, were reportedly arrested around 3 August 2003 in the village of Mokjar in Western Darfur by security forces. It is reported that, after being detained incommunicado in the security forces' premises in Mokjar, they were transferred to Nyala, capital of Southern Darfur province, on 5 August 2003. Since then, the four men named above have reportedly been detained incommunicado at the security forces' premises in Nyala. They are allegedly not being allowed any contact with their relatives or lawyer.

48. Hayder Tamboor, Nasr Eldin Tamboor, Yaqub Rahma Tanusi, Abud Mandy and four others were reportedly arrested by officers from military intelligence in Zalingey, West Darfur State, and Western Sudan between 19 and 22 August 2003. They were reportedly taken to the security forces' premises in Zalingey where they are believed to be held in incommunicado detention. Nasr Eldin Tamboor was reportedly transferred to a hospital in Zalingey on 26 August 2003. There are reports that beatings by security forces officers worsened a kidney injury which he had sustained prior to his arrest. He is reportedly chained to his hospital bed, under surveillance by security forces officers and is not allowed any visits. It is also reported that Nasr Eldin Tamboor was previously detained incommunicado in Nyala prison, around August and September 2002, before being released without charge after about a month.

49. In the light of allegations of torture and incommunicado detention of the above-named persons, fears have been expressed that they may be subjected to further torture or other forms of ill-treatment.

2. Response of the Government of Sudan

50. No response has yet been received from the Government of Sudan.

G. Ukraine

1. Joint allegation with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, 29 September 2003

51. The three Special Rapporteurs have received information on the following individual cases: **Vladimir Fedorchenko** aged 25, his wife **Zukhra Fedorchenko**, 21, and their 6-year-old son **Jura Fedorchenko**, **Snezhana Fedorchenko**, 6, **Misha Fedorchenko**, 3, **Takhar Fedorchenko**, 15, and **Yury Fedorchenko**, 50, all members of the same Roma family. According to the information received, the family's home, located in the village of Malaya Kakhovka in the Poltava Province, was set alight in an arson attack on 28 October 2001. A senior police officer was allegedly involved in the incident.

52. It is reported that Yury Fedorchenko was leaving his house at about 7.30 a.m. on 28 October 2001 when he encountered three men, one of them allegedly a police major (whose name is known by the Special Rapporteurs). The above-mentioned police major had reportedly visited the family home on a number of occasions, allegedly for the purpose of extorting bribes from a family member on account of her past alleged involvement in drug trafficking. The three men reportedly forced their way into the house. It is alleged that in doing so, they hit Yury Fedorchenko over the head with a heavy object. A man reportedly holding the canister then allegedly emptied its flammable contents around the house and over various members of the Fedorchenko family, who are reported to have been sleeping at the time. The three men then allegedly lit the flammable substance and left the house, barring the premises' main door to prevent the inhabitants from escaping. The ignition of the flammable substance reportedly caused a powerful explosion.

53. It is believed that, as a result of the arson attack, five people died and two were injured. According to the reports, firefighters found the burnt remains of two members of the family, Vladimir Fedorchenko and his son, Jura Fedorchenko, in the house on the morning of 28 October 2001. Later, three members of the Fedorchenko family allegedly died in hospital as a result of the severe burns they sustained in the fire, including: Snezhana Fedorchenko on 28 October; Misha Fedorchenko on 29 October; and Zukhra Fedorchenko on 30 October. It is reported that Takhar Fedorchenko and Yury Fedorchenko survived the fire with 70 and 40 per cent burns respectively. It is reported that an investigation was initiated.

2. Response of the Government of Ukraine

54. No response has yet been received from the Government of Ukraine.

IV. CONCLUSIONS AND RECOMMENDATIONS

55. **The Special Rapporteur in his conclusions and recommendations wishes to focus on the following issues:**

(a) In view of the resurgence of contemporary forms of racism, discrimination and xenophobia, all Governments, as a matter of urgency, should prepare national programmes to combat these scourges on the basis of appropriate international instruments and the Durban Declaration and Programme of Action;

(b) It should be ensured that these national programmes take account of the cultural depth of racism and discrimination, which is reflected in a growing political and intellectual intolerance of cultural and religious symbols and expressions of communities, groups and individuals;

(c) All countries should pay particularly vigilant attention to the fact that the rejection or non-recognition of the reality of ethnic, cultural and religious pluralism constitutes a major factor favouring the development of new forms of racism and discrimination;

(d) The promotion of pluralism, as a factor fostering the recognition, respect and protection of diversity, and especially of cultural and religious features and expressions, should lie at the core of these programmes;

(e) In view of the danger that the debate concerning the proposed French legislation on the secular school system might generate a climate of polarization, intolerance and discrimination, it would be highly desirable for the legislative preparation and examination procedure to be accompanied by clear statements by the French Government at the highest political level and by legislative, judicial and administrative measures condemning all possible discriminatory side-effects;

(f) There is an urgent need to establish a dialectical link between the fight against racism and discrimination in all their forms and manifestations and the promotion of dialogue between cultures and religions and the building of democratic and egalitarian multiculturalism;

(g) The final report of the Durban Conference concerning the recognition and in-depth treatment of the resurgence of Islamophobia and anti-Semitism should be assured vigilant and balanced implementation. The Commission should formally agree to the presentation at each of its sessions of reports on Islamophobia and anti-Semitism;

(h) The rise of racism in sport should be recognized and dealt with by all countries through concrete measures, in close cooperation with international sports bodies;

(i) An appeal should be made to the Members States concerned for open and constructive cooperation with the Special Rapporteur for the recognition and treatment of the question of castes.

Notes

¹ European Roma Rights Centre, biannual report 2001-2002, Budapest.

² Anti-Defamation League, World Jewish Congress, the American Jewish Committee, the Jacob Blaustein Institute for the Advancement of Human Rights, Women's International Zionist Organization, the International Association of Jewish Lawyers and Jurists and Centrum Informatie and Documentie Israel at the Hague.
