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TO: RUEHIA/USIA WASHDC IMMEDIATE 1850

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SUBJ: MEDIA REACTION REPORT, LONDON, THURSDAY JANUARY
26 1995

TEXT:

UNCLAS SECTION 01 OF 07 LONDON 001309

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A. BROADCAST MEDIA

STATE OF THE UNION ADDRESS

ON ITN'S NEWS AT TEN LAST NIGHT, WASHINGTON CORRESPONDENT BILL NEELY REPORTED:

"IT SOUNDED LIKE A CAMPAIGN: IT LOOKED LIKE A CAMPAIGN. AND BILL CLINTON NEEDS TO CAMPAIGN, AS HE DID TODAY, TO WIN BACK AMERICAN VOTERS. ...

"THIS WAS DAY ONE OF THE NEW BILL CLINTON, THE PRESIDENT AS PENITENT, TO A CONGRESS NOW CONTROLLED BY HIS ENEMIES. ... TO THE VOTERS WHO HAVE REJECTED HIM, HE HAS BECOME THE DEMOCRAT WHO SPEAKS LIKE A REPUBLICAN. ...

"REPUBLICANS LOVED HIS TALK OF TAX CUTS AND CRACKING DOWN ON IMMIGRANTS. EXCEPT, HE WAS STEALING THEIR LINES. ...

"THE DANGER FOR BILL CLINTON IS THAT IN WEARING REPUBLICAN CLOTHES, HIS CORE SUPPORTERS WON'T RECOGNIZE HIM ANY MORE. WHICH IS WHY HE WILL BE CAMPAIGNING HARD, LIKE TODAY, FOR WEEKS TO COME."

NEELY CONCLUDED:

"BILL CLINTON IS NO LAME DUCK, BUT TONIGHT HE IS NOT QUITE THE COMEBACK KID EITHER. HALFWAY THROUGH HIS TERM, HIS PRESIDENCY REMAINS A ROLLERCOASTER OF NARROW TRIUMPHS AND SERIOUS SETBACKS. HE HAS TIME YET TO STEADY HIMSELF, BUT NOT MUCH TIME, BEFORE AMERICANS STOP LISTENING TO HIM AND START LOOKING ELSEWHERE."

B. TODAY'S MAJOR NEWS STORIES

1. STATE OF THE UNION ADDRESS
2. RESCUE PACKAGE FOR MEXICO

C. SUMMARY

1. STATE OF THE UNION ADDRESS

HAVING HAD TIME TO REFLECT ON THE SPEECH, ALL THIS MORNING'S SERIOUS PAPERS AND SOME OF THE TABLOIDS CARRY REPORTS AND COMMENTARIES ON THE STATE OF THE UNION ADDRESS BY PRESIDENT CLINTON. ON THE WHOLE, THEIR VERDICT IS THAT IT WAS A GOOD SPEECH, GIVEN THE DIFFICULT POLITICAL POSITION OF THE PRESIDENT, BUT NOT NECESSARILY GOOD ENOUGH TO SAVE HIS CAREER. MANY LAMENT THE LACK OF FOREIGN POLICY CONTENT. BUT SOME COMMENTATORS ALSO POINT OUT THAT THE PRESIDENT'S FORTUNES DEPEND LARGELY ON HOW THE REPUBLICANS PERFORM IN THE NEXT TWO YEARS.

THE CONSERVATIVE TIMES REPORTED:

"MR CLINTON'S SPEECH WAS GREAT POLITICAL THEATER BUT

LASTED 81 MINUTES. ... HOWEVER, MANY AMERICANS HAVE
TIRED OF MR CLINTON'S ATTEMPTS TO REINVENT HIMSELF. ALSO
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HE HAD TO COMPETE AGAINST A FORMIDABLE RIVAL ATTRACTION :
THE OPENING DAY OF THE O.J. SIMPSON MURDER TRIAL."

THE INDEPENDENT FINANCIAL TIMES COMMENTED:

"IT WOULD BE CHURLISH NOT TO CONCEDE THAT MR CLINTON ROSE
TO THE MOMENT. THE SPEECH MIGHT HAVE BEEN LONG AND IT
HAD VIRTUALLY NOTHING IN IT FOR A FOREIGN AUDIENCE
(EXCEPT MEXICO). BUT HE NEVER FLAGGED AND HIS ADDRESS
HAD AN OVERTURE FULL OF GRACE NOTES AND HUMOR AND A
GLORIOUS RHYTHMIC CODA. ..

"BUT ONE SPEECH DOES NOT NECESSARILY A PRESIDENCY MAKE
AND THIS PRESIDENT IS IN POLITICAL TROUBLE. ... IT IS HOW
HE PLAYS OUT THE LONG SLOG AHEAD -- AND HOW THE
REPUBLICAN MAJORITY PLAYS OUT ITS HAND -- THAT WILL
DETERMINE THE FUTURE OF THIS PRESIDENT."

PAPERS WERE ALSO IMPRESSED WITH THE PERFORMANCE OF
CHRISTINE TODD WHITMAN. THE CONSERVATIVE TIMES REPORTED:

"WHEN SHE GAVE HER DISMISSIVE RESPONSE TO THE STATE OF
THE UNION SPEECH BY PRESIDENT CLINTON, SHE
CONFIRMED HER
POSITION AS THE DARLING OF HER PARTY AND THE LEADING
CANDIDATE FOR THE VICE-PRESIDENCY IN ANY REPUBLICAN DREAM
TICKET FOR 1996."

2. RESCUE PACKAGE FOR MEXICO

THE INDEPENDENT FINANCIAL TIMES REPORTED ON ITS BACK
PAGE:

"MR ALAN GREENSPAN, CHAIRMAN OF THE U.S. FEDERAL RESERVE, YESTERDAY WARNED CONGRESS THAT FAILURE TO PASS A \$40BN MEXICAN LOAN PACKAGE WOULD THREATEN THE GLOBAL TREND TOWARDS FREE MARKETS AND DEMOCRACY. ...

"A STRING OF ADMINISTRATION WITNESSES, INCLUDING MR ROBERT RUBIN, TREASURY SECRETARY, PRESSED THE CASE FOR ASSISTING MEXICO AT A HOUSE HEARING. HOWEVER, SWIFT PASSAGE OF THE MEASURE APPEARS UNLIKELY, IN SPITE OF INITIAL SUPPORT FROM REPUBLICAN AND DEMOCRATIC LEADERS. ITS PROGRESS WILL BE A TEST OF CO-OPERATION BETWEEN PRESIDENT BILL CLINTON AND THE REPUBLICAN-CONTROLLED CONGRESS."

D. HEADLINES

1. STATE OF THE UNION ADDRESS

"CLINTON'S LESSONS" (F.T. EDITORIAL)

"ADDRESS REVEALS TROUBLED STATE OF THE PRESIDENT" (F.T. COMMENTARY)

"CLINTON'S RELAUNCH" (D.TEL EDITORIAL)

"CLINTON AIRS NEW IMAGE IN ADDRESS TO NATION" (D.TEL REPORT)

"THE HUMBLE PRESIDENT" (TIMES EDITORIAL)
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"CLINTON SPEECH BOWS TO REPUBLICANS' AGENDA" (TIMES REPORT)

"UNCLE BILL, THE MUSH IN THE MIDDLE" (GUARDIAN EDITORIAL)

"CLINTON TRIES TO RESCUE VISION" (GUARDIAN REPORT)

"WISDOM FROM A SHEEPISH LIBERAL" (INDEPENDENT COMMENTARY)

"CLINTON TRIES TO CLAW BACK MIDDLE-CLASS" (INDEPENDENT REPORT)

"PRESIDENT PATHETIC" (DAILY MAIL COMMENTARY)

"I WAS WRONG, SAYS CLINTON" (SUN REPORT)

2. RESCUE PACKAGE FOR MEXICO

"FED CHIEF URGES MEXICO AID PLAN" (F.T. REPORT)

"RESCUING MEXICO" (F.T. COMMENTARY)

E. TEXT

1. STATE OF THE UNION ADDRESS

THE INDEPENDENT FINANCIAL TIMES EDITORIALIZED:

"WHAT HAS PRESIDENT BILL CLINTON LEARNT FROM HIS FIRST TWO YEARS IN OFFICE? THE ANSWER HE GAVE TO THAT QUESTION IN TUESDAY'S STATE OF THE UNION MESSAGE WAS LENGTHY, BUT COHERENT. HE HAS RECOGNIZED HIS MISTAKES, AND CLAIMS TO HAVE LEARNT FROM THEM. IN TRUTH, HOWEVER, HIS CHANCES OF WINNING A SECOND TERM DEPEND MORE ON THE REPUBLICANS THAN ON MR CLINTON. ...

"THE LACK OF SPECIFIC PROPOSALS IN TUESDAY'S SPEECH INDICATES A GROWING RELUCTANCE TO SPEND TIME ON DETAILED PROGRAMS THAT ARE DOOMED TO FAIL, RADICAL OR OTHERWISE.

"AN OFTEN-MENTIONED EXCEPTION TO THIS APPROACH MIGHT HAVE BEEN FOREIGN POLICY, THE TRADITIONAL DOMAIN OF PRESIDENTS. YET THIS, TOO, WAS CONSPICUOUS BY ITS ABSENCE. APART FROM A BRIEF ENDORSEMENT OF THE MEXICAN \$40BN LOAN GUARANTEE PACKAGE, MR CLINTON DID NOT TAKE THE OPPORTUNITY TO STAKE OUT HIS TURF AS A FOREIGN POLICY PRESIDENT.

"AGAIN, THIS IS PARTLY A REFLECTION OF HIS WEAKENED POSITION. REGARDLESS OF WHETHER HE WOULD LIKE TO CONCENTRATE ON TAKING THE LEAD IN FOREIGN POLICY, IT IS FAR FROM CLEAR THAT IT IS OPEN TO HIM. ...

"YET THE NEGLECT OF FOREIGN AFFAIRS WAS LINKED TO THE OTHER KEY ELEMENT OF MR CLINTON'S SPEECH: A DETERMINATION, ON CORE DOMESTIC ISSUES, NOT TO ALLOW HIS MANDATE OF 1992 TO BE ENTIRELY ECLIPSED BY THAT OF 1994. HE CANNOT VETO A CONSTITUTIONAL BUDGET, WHICH HE OPPOSES, BUT HE WILL STOP MEASURES TO REVERSE HIS PAST EFFORTS, SUCH AS THE 1994 CRIME BILL. AND ALTHOUGH WILLING TO WORK WITH THE REPUBLICANS IN MANY AREAS, HE VOWED TO DRAW UNCLAS SECTION 04 OF 07 LONDON 001309

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THE LINE AT MEASURES THAT BENEFITTED THE RICH AT THE
EXPENSE OF THE WORKING AND MIDDLE CLASSES.

"THERE MAY BE SCOPE HERE FOR A WORKABLE COMPROMISE
BETWEEN MR CLINTON AND THE NEW CONGRESS. AS HE NOTED,
BOTH CAN AGREE THAT THE ELECTORATE VOTED FOR 'CHANGE' IN
1992 AND 1994. JUDGING BY TUESDAY'S SPEECH, THEY NOW
DISAGREE, HOWEVER, ON THE SCOPE FOR DELIVERING CHANGE IN

ANYTHING BUT MODEST DOSES. IF THE NEW RIGHTWING
REVOLUTIONARIES ON CAPITOL HILL IGNORE THIS FACT, MR
CLINTON COULD YET RECOVER."

THE CONSERVATIVE DAILY TELEGRAPH EDITORIALIZED:

"WHENEVER PRESIDENT CLINTON FINDS HIMSELF IN A TIGHT SPOT
HE TALKS TOO MUCH. ...

"MR CLINTON MADE IT CLEAR THAT THE KEY BATTLE FOR
THE
NEXT TWO YEARS WILL BE FOR THE HEARTS AND POCKETS OF THE
MIDDLE CLASS. HAVING WON THEM IN 1992, MILLIONS HAVE
SINCE DEFECTED. ... IN TUESDAY'S SPEECH, MR CLINTON
LAVISHED ATTENTION ON THIS CRUCIAL MIDDLE CLASS
CONSTITUENCY, ADDRESSING HIMSELF TO ISSUES SUCH AS CRIME,
SCHOOLING, AND -- MOST IMPORTANT -- TAX CUTS. BUT HIS
POSITION IS NOW VERY DIFFERENT FROM THAT OF A YEAR AGO.
BEFORE THE ELECTORAL ECLIPSE OF THE CONGRESSIONAL
DEMOCRATIC PARTY IN NOVEMBER, HIS FORTUNES WERE TIED TO
ITS COAT TAILS, AND HE WAS FORCED TO BEAR THE ONUS OF
BOTH PROPOSING AND PASSING LEGISLATION.

"NOW, HE CAN STAND ALOOF FROM THE IN-FIGHTING AND
PEDANTRY OF THE LEGISLATIVE PROCESS. HE CAN DECLARE HIS
SUPPORT FOR REPUBLICAN MEASURES, AND CLUTCH FOR SOME
CLAIM TO STATESMANSHIP. HE CAN ALSO DEFINE HIMSELF BY
PICKING FIGHTS OVER POPULIST ISSUES SUCH AS THE MINIMUM
WAGE. HOWEVER WRONG-HEADED MIGHT BE MR CLINTON'S

ENTHUSIASM FOR A MINIMUM WAGE, IT MAY PLAY BETTER WITH THE PUBLIC THAN THE REPUBLICANS' ARID AND APPARENTLY UNGENEROUS OPPOSITION. ...

"WHAT PEOPLE LIKED ABOUT THE REPUBLICANS AND,

PARADOXICALLY, ABOUT MR CLINTON, WAS THAT THEY CAME FROM OUTSIDE WASHINGTON AND SEEMED TO REPRESENT THE INTERESTS OF PEOPLE RATHER THAN OF POLITICIANS. TODAY, IT REMAINS UNCERTAIN WHETHER THE AMERICAN PEOPLE WILL SWALLOW YET ANOTHER ATTEMPT TO RELAUNCH THE CLINTON PRESIDENCY, AND THE SHADOW OF THE WHITEWATER INQUIRIES STILL HANG HEAVY OVER THE WHITE HOUSE. MR CLINTON REMAINS, TO MANY OF HIS OWN PEOPLE AND TO THE WORLD, A SADLY INADEQUATE PRESIDENT. YET IRONICALLY, WITH THE REPUBLICANS INCREASINGLY EMBROILED IN DIFFICULT LEGISLATION, AND THE PROSPECT OF A BLOODY FIGHT FOR THE PRESIDENTIAL NOMINATION, MR CLINTON MAY FIND HIMSELF BETTER PLACED FOR RE-ELECTION THAN HE SEEMED WHEN HIS OWN PARTY RULED CAPITOL HILL."

THE SAME PAPER REPORTED:

"PRESIDENT BILL CLINTON HAS USED A STATE OF THE UNION
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ADDRESS TO REINVENT HIMSELF ONCE AGAIN IN THE EYES OF AMERICANS, DITCHING THE IDEA OF BECOMING A LATTER-DAY LYNDON B JOHNSON THROUGH AMBITIOUS LEGISLATION.

"THE STRATEGY NOW IS TO FORGET POSTERITY AND CONCENTRATE ON SURVIVAL, RE-ADOPTING HIS OLD BIG-PICTURE RHETORIC OF A 'NEW COVENANT' BETWEEN THE CITIZENRY AND GOVERNMENT TO HALT THE REPUBLICAN DRIVE FOR THE WHITE HOUSE.

"MR CLINTON RESURRECTED THE KENNEDY-ESQUE TONE OF HIS ELECTION CAMPAIGN, ASKING AMERICANS TO TAKE MORE RESPONSIBILITY FOR THEIR LIVES. ... HIS LONG-WINDEDNESS

HAD AMERICANS SQUIRMING BEFORE THEIR TELEVISION SETS AND SWITCHING CHANNELS LONG BEFORE THE END."

THE SAME PAPER DESCRIBED THE SPEECH BY CHRISTINE TODD WHITMAN AS "WITTY AND INCISIVE".

THE CONSERVATIVE TIMES EDITORIALIZED:

"ON ANY OTHER OCCASION, HIS SPEECH MIGHT HAVE BEEN JUDGED PRAGMATIC. ... IF THE PRESIDENT HOPED, HOWEVER, THAT HIS CONVERSION WOULD WIN HIM ACCLAIM OR BLUNT HIS ENEMIES' TALONS, HE WAS MISTAKEN. HIS PERFORMANCE WAS UNCONVINCING BECAUSE IT WAS SO OBVIOUSLY FORCED ON HIM. AND THE CHANGE OF TACK, COMING AFTER SO MANY PREVIOUS ATTEMPTS TO GALVANIZE A FLAGGING PRESIDENCY AND RE-INVENT HIS PERSONA, LOOKED LIKE JUST ANOTHER FLIP-FLOP. ...

"HOWEVER CAREFULLY CRAFTED, THIS STATE OF THE UNION MESSAGE WILL NOT RESCUE HIS PRESIDENCY. THE REPUBLICANS HAVE SMELT BLOOD, AND ARE EAGER TO PURSUE THEIR WOUNDED QUARRY. THE BIGGEST THREAT NOW HANGING OVER MR CLINTON'S PROMISE OF CONSTRUCTIVE CO-OPERATION IS THE PROSPECT OF DRAWN-OUT CONGRESSIONAL HEARINGS INTO WHITEWATER. ...

"MR CLINTON WAS ADVISED AFTER THE NOVEMBER DISASTER TO CONCENTRATE HIS ATTENTION MORE ON FOREIGN POLICY, AN AREA WHERE HE STILL RETAINS RELATIVE FREEDOM OF MANOEUVRE. HERE, FOR EXAMPLE, HE MIGHT EXPLOIT THE REPUBLICANS' OWN VACILLATION BETWEEN NEO-ISOLATIONISM AND A FORCEFUL NEW LINE AGAINST RUSSIA TO PROTECT THE HARD-WON FREEDOMS OF EASTERN EUROPE. A FEW SUCCESSES IN THIS AREA WOULD HELP. BUT THERE IS STILL LITTLE INDICATION THAT MR CLINTON IS FOCUSED ON ANY INITIATIVES. HIS ATTENTION WILL INSTEAD BE CONCENTRATED ON PRE-EMPTING CHALLENGES TO HIS RENOMINATION FROM FELLOW SENIOR DEMOCRATS. THAT DOES NOT AUGUR WELL FOR THE NEXT TWO YEARS."

THE LIBERAL GUARDIAN EDITORIALIZED:

"MR CLINTON WAS LONG, VERY LONG, ON WORDS AND SHORT OF SPECIFICS. HE SEEKS TO BE THE MUSH IN THE MIDDLE, TRADING COMPACTS AND COVENANTS WITH THE NEW REPUBLICAN MAJORITIES ON CAPITOL HILL, GOING MUCH OF THE WAY WITH THEM WHERE PUBLIC OPINION POLLS COUNSEL TIMIDITY BUT DIGGING IN WHERE THEIR ZEALOTRY ... CUTS THEM OFF FROM THE VOTERS. IT IS A STRATEGY OF COWED PRAGMATISM AND OCCASIONAL OPPORTUNISM. ...

"THERE IS THUS ANOTHER GUARANTEED FLIP-FLOP COMING,
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ANOTHER RE-INVENTION OF THE REAL BILL. SCANT CONVICTION
AND TWO YEARS OF SECOND-GUESSING CAPITOL HILL. IT'S A
LOUSY MIS-READING OF THE SITUATION. MR CLINTON IS IN
THIS PREDICAMENT BECAUSE HE INITIALLY PREFERRED TO TAG
ALONG BEHIND A FRAIL DEMOCRATIC CONGRESS RATHER THAN
LEAD. THE HOPE THAT TRAILING BEHIND A REPUBLICAN
CONGRESS CAN BRING HIM LASTING LUSTER IS SIMPLY ABSURD."

THE SAME PAPER REPORTED:

"FOR FOREIGN OBSERVERS, IT WAS STRIKING THAT THE U.S.
PRESIDENT DID NOT MENTION INTERNATIONAL AFFAIRS UNTIL 57
MINUTES INTO HIS SPEECH. HE THEN DEVOTED 480 SECONDS TO
THE TOPIC."

WRITING IN THE CENTRIST INDEPENDENT, COMMENTATOR HAMISH
MCRAE SAID:

"IT IS THE NATURE OF THE BEAST THAT AMERICA'S ANNUAL
STATE OF THE UNION ADDRESS SHOULD BE HIGH-FALUTIN'
WAFFLE, AND PRESIDENT CLINTON'S YESTERDAY WAS NO

EXCEPTION. BUT WHAT GAVE IT A SPECIAL RESONANCE WAS THAT
IT WAS THE BEST POSSIBLE RESPONSE OF A DECENT AND
TALENTED POLITICIAN OF THE CENTER-LEFT TO THE WHIRLWIND
ELECTORAL VICTORY OF THE RIGHT. IT IS A RESPONSE THAT
SHOULD BE STUDIED CAREFULLY BY ALL POLITICIANS IN EUROPE.
FOR IT SIGNPOSTS A WAY DOWN THE PATH THEY ARE LIKELY TO
HAVE TO TRAVEL THEMSELVES. SEE THIS STATE OF THE UNION
NOT JUST AS THE SQUIRMING OF A WRONG-FOOTED AMERICAN
POLITICIAN: BUT AS A ROAD MAP WHICH WILL BE USEFUL FOR US
ALL."

THE SAME PAPER REPORTED:

"AS ALWAYS, MR CLINTON WAS AN EFFECTIVE PERFORMER, OFTEN
WITTY, SOMETIMES FOLKSY AND SOMETIMES ROUSING. BUT
NEITHER HIS OWN GENIALITY NOR THE TRADITIONAL DECORUM OF
THE OCCASION COULD GLOSS OVER THE PARTISAN BATTLES WHICH
SURELY LIE AHEAD IN THE 104TH CONGRESS. ... NOR WAS
THERE ANY HIDING MR CLINTON'S OWN DIMINISHED STATUS AFTER
THE DEMOCRATS' MID-TERM ELECTION ROUT."

THE CONSERVATIVE TABLOID DAILY MAIL CARRIED A RATHER LESS

MEASURED COMMENTARY, BY WRITER ANN LESLIE:

"IN THEORY, THIS IS THE WORLD'S MOST POWERFUL MAN. IN REALITY, HE'S A POLITICAL CRIPPLE. A CONFUSED AND LEADERLESS WORLD NEEDS A STRONG AMERICAN PRESIDENT, ONE WHO MEANS WHAT HE SAYS, DOES WHAT HE PROMISES, AND WHO CAN BE RELIED ON NOT TO LURCH DRUNKENLY TO AND FRO ACCORDING TO EVERY SHORT-TERM SHIFT OF THE POLITICAL WIND. ALAS, IT HASN'T GOT ONE.

"THE PRESIDENT, THANKS TO HIS OWN VACILLATING NATURE --

AND AMERICAN ELECTORAL REALITIES -- IS NOW ONE OF THIS TURBULENT CENTURY'S WEAKEST, MOST INEFFECTUAL WORLD LEADERS. NONE OF US ... SHOULD CHEER THAT DISMAL FACT. ...

"BILL CLINTON, HAVING BEGUN HIS PRESIDENCY BY STUFFING UNCLAS SECTION 07 OF 07 LONDON 001309

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HIS ADMINISTRATION WITH POLITICALLY-CORRECT APPOINTEES ... IS SWINGING DESPERATELY BACK TO THE RIGHT. NOT FOR THE FIRST TIME: BILL CLINTON REINVENTS HIMSELF AS OFTEN AS HIS WIFE HILLARY -- A PROFESSIONAL RICTUS OF WIFELY ADMIRATION ON HER FACE -- REINVENTS HER HAIRSTYLES. ...

"THE COMEBACK KID, LIKE A NAUGHTY LITTLE BOY WHO'D MISBEHAVED AND BEEN THUMPED ON THE BACKSIDE AS A RESULT, HUMBLY APOLOGIZED, PROMISED HE'D BE A GOOD BOY IN FUTURE. ... HE PLEADED WITH AMERICANS (AND DOUBTLESS, ESPECIALLY, THOSE WHO VOTED SO OVERWHELMINGLY FOR THE REPUBLICANS) TO CO-OPERATE. ... THE NEWTIDS GRACIOUSLY CHEERED HIM, BUT WASHINGTON IS NOT A FORGIVING TOWN, IT IS A PARTISAN, PETTY AND PRIDEFUL TOWN. ... AS THE DEMOCRATS UNDER THE FLOUNDERING PRESIDENT HAVE DISCOVERED TO THEIR COST: THEY AND THEIR COMEBACK KID MAY NEVER NOW RECOVER."

THE CONSERVATIVE TABLOID MASS CIRCULATION SUN REPORTED:

"TROUBLED BILL CLINTON HAS ADMITTED MAKING MISTAKES IN HIS FIRST TWO YEARS AS U.S. PRESIDENT. HE BEGGED FOR A SECOND CHANCE IN A POWERFUL STATE OF THE UNION SPEECH YESTERDAY. MR CLINTON'S BARNSTORMING PERFORMANCE INSTANTLY BOOSTED HIS RATINGS IN THE POLLS."

(REPRODUCED IN FULL)

THE CONSERVATIVE TABLOID DAILY EXPRESS REPORTED:

"AMERICA MOVED DRAMATICALLY CLOSER TO PUTTING A WOMAN IN THE WHITE HOUSE YESTERDAY AFTER A DAZZLING TV PERFORMANCE BY CONSERVATIVE CHRISTINE TODD WHITMAN. ... THE CONTRAST WITH CLINTON WAS DRAMATIC. HE GAVE A SPEECH WHICH WAS FULL OF APOLOGIES FOR PAST FUMBLES. ... WHILE MILLIONS OF AMERICANS WERE PUZZLING OUT HOW THEIR PRESIDENT COULD BE PROUD TO BE HUMBLE, HE RANGED ACROSS POLICY AFTER POLICY -- TRYING ON THE CLOTHES OF HIS REPUBLICAN OPPONENTS."

2. RESCUE PACKAGE FOR MEXICO

THE INDEPENDENT FINANCIAL TIMES COMMENTED:

"MR ALAN GREENSPAN, CHAIRMAN OF THE U.S. FEDERAL RESERVE, IS RIGHT NOT TO MINCE HIS WORDS ABOUT MEXICO. IF CONGRESS FAILS TO PASS THE \$40BN RESCUE PACKAGE, THE CONSEQUENCES FOR MEXICO AND OTHER EMERGING MARKETS WILL BE DIRE. PANIC CAPITAL FLIGHT WILL RESUME. OTHER LATIN AMERICAN AND EMERGING MARKETS COULD BE SWEEPED UP IN THE MAELSTROM. FORTUNATELY, MR NEWT GINGRICH, THE NEW HOUSE SPEAKER, HAS STAKED SOME CREDIBILITY ON GETTING THE DEAL ACCEPTED. THAT, MORE THAN MR GREENSPAN'S OR PRESIDENT BILL CLINTON'S URGINGS, IS THE BEST REASON FOR THINKING THE PACKAGE WILL PASS."

O'BRIEN

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ORIG: USMISSION USUN NEW YORK
TO: RUEHC/SECSTATE WASHDC 4039
INFO: RUEHGV/USMISSION GENEVA 7712
SUBJ: HUMAN RIGHTS COMMITTEE - STATEMENT BY DEVAL L.
PATRICK, 31 MARCH 1995.

TEXT:

UNCLAS SECTION 01 OF 07 USUN NEW YORK 001428

STATE PLEASE PASS TO DOJ, DOI, INS

E.O. 12356: N/A

TAGS: PHUM, UNHRC-2, KTIA, PGOV, SOCI, US

SUBJECT: HUMAN RIGHTS COMMITTEE - STATEMENT BY DEVAL L.
PATRICK, 31 MARCH 1995.

1. HERE FOLLOWS TEXT OF U.S. STATEMENT TO THE HUMAN RIGHTS COMMITTEE, IN RESPONSE TO COMMITTEE COMMENTS ON CIVIL RIGHTS ISSUES IN CONNECTION WITH THE U.S. INITIAL REPORT ON IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, AS DELIVERED BY DEVAL L. PATRICK, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, MARCH 31, 1995:

THANK YOU, MR. CHAIRMAN.

AS THE ASSISTANT ATTORNEY GENERAL IN CHARGE OF THE CIVIL RIGHTS DIVISION IN THE DEPARTMENT OF JUSTICE, I WOULD LIKE TO ADDRESS THOSE OF THE COMMITTEE'S QUESTIONS WHICH FALL UNDER MY AUTHORITY.

VOTING

TWO MEMBERS OF THE COMMITTEE POSED QUESTIONS ABOUT VOTER REGISTRATION AND PARTICIPATION IN THE UNITED STATES. GENERALLY, LET ME SAY THAT VOTER REGISTRATION IS LARGELY LEFT TO THE OVERSIGHT AND MANAGEMENT OF THE STATES. HOWEVER, THE UNITED STATES VIEWS THE RIGHT TO VOTE AS A FUNDAMENTAL RIGHT AND RESPONSIBILITY OF AMERICAN CITIZENSHIP, AND IS, THEREFORE, ABSOLUTELY COMMITTED TO ELIMINATING UNFAIR STATE AND LOCAL BARRIERS TO REGISTRATION AND VOTER PARTICIPATION.

WITH THE VOTING RIGHTS ACT OF 1965, WHICH WE ENFORCE IN THE CIVIL RIGHTS DIVISION, LITERACY TESTS AND OTHER DEVICES AS PREREQUISITES OF VOTING WERE ELIMINATED; LOCAL AND STATE CHANGES IN VOTING PRACTICES BECAME SUBJECT TO FEDERAL APPROVAL TO ENSURE THAT THEY WERE NOT DISCRIMINATORY; FEDERAL OBSERVERS WERE AUTHORIZED TO MONITOR ELECTIONS; AND FEDERAL REGISTRARS REGISTERED VOTERS IN AREAS IN WHICH LOCAL REGISTRARS WERE REFUSED. WE ALSO HAVE AUTHORITY TO BRING CASES CHALLENGING ACTS OF INTIMIDATION OR OTHER IMPEDIMENTS TO VOTING FREEDOM UNDER THE ACT.

CHIEF JUSTICE LALLAH SPECIFICALLY ASKED WHAT THE UNITED STATES IS DOING TO REGISTER VOTERS. MAINLY, AS I HAVE SAID, THE UNITED STATES RAISES COURT CHALLENGES TO UNLAWFUL BURDENS PLACED ON REGISTRATION BY STATE OR LOCAL GOVERNMENTS OR INDIVIDUALS. IN ADDITION, IN 1993, CONGRESS ENACTED THE NATIONAL VOTER REGISTRATION ACT (NVRA) IN AN EFFORT TO MAKE IT EVEN EASIER TO REGISTER. AS OF NOVEMBER 1992, THERE WERE ALMOST 174 MILLION VOTING-AGE AMERICAN CITIZENS, OF WHOM 72.8 PERCENT WERE REGISTERED AND 65.6 PERCENT REPORTED THEY VOTED IN 1992. THE NVRA REQUIRES STATES TO PERMIT PEOPLE TO REGISTER TO VOTE WHEN THEY APPLY FOR DRIVER'S LICENSES OR WHEN THEY GO TO VARIOUS OTHER GOVERNMENTAL AGENCY OFFICES ON OTHER BUSINESS. THE ACT ALSO REQUIRES STATES TO PERMIT PERSONS TO REGISTER BY MAIL AND IT LIMITS THE PURGING OF NAMES FROM THE ROLLS OF REGISTERED VOTERS. WE ARE SEEING TREMENDOUS RESULTS. FOR EXAMPLE, ONE STATE (ALABAMA) REPORTED A 600

INCREASE IN REGISTRATION IN JANUARY 1995 ALONE.

WE HAVE VIGOROUSLY PRESSED STATES TO COMPLY IMMEDIATELY WITH THE NVRA. MOST STATES HAVE; BUT A FEW STATES DECLINED TO COMPLY BY THE JANUARY 1, 1995 DEADLINE. WE SUED THE FIVE STATES THAT HAVE NOT MADE A GOOD FAITH EFFORT TO IMPLEMENT THE NVRA. SO FAR, WE HAVE WON THREE OF OUR SUITS IN THE TRIAL COURTS. WE ARE WAITING FOR DECISIONS IN THE OTHER CASES.

THERE HAVE ALSO BEEN EFFORTS TO IMPROVE VOTER PARTICIPATION AND THE MEANING OF THAT PARTICIPATION. IN 1975, CONGRESS AMENDED THE VOTING RIGHTS ACT TO REQUIRE THAT JURISDICTIONS WITH SIGNIFICANT NUMBERS OF LANGUAGE-MINORITIES PROVIDE ELECTION INFORMATION IN THE LANGUAGE OF THOSE POPULATIONS. THE UNITED STATES HAS NEGOTIATED SUCCESSFULLY WITH A NUMBER OF JURISDICTIONS, INCLUDING NEW YORK CITY TO HAVE BALLOTS PRINTED IN LANGUAGES OTHER THAN ENGLISH.

JUSTICE LALLAH ALSO ASKED ABOUT THE EFFECT OF REDISTRICTING ON MINORITY CONSTITUENCIES. WHILE REDISTRICTING HAS BEEN USED TO REMEDY PAST DISCRIMINATION, THE LONG-TERM EFFECT REMAINS UNCLEAR. IN THE CASE OF SHAW V. RENO, THE SUPREME COURT QUESTIONED THE CONSTITUTIONALITY OF CONGRESSIONAL DISTRICTS DRAWN IN AN EFFORT TO ALLOW BLACK CITIZENS OF NORTH CAROLINA AN

OPPORTUNITY TO ELECT CANDIDATES OF THEIR CHOICE TO CONGRESS. THIS HAS SPAWNED SIMILAR CHALLENGES TO SUCH CONGRESSIONAL DISTRICTS -- ONES DRAWN WHERE AFRICAN AMERICANS OR HISPANIC AMERICANS COMPRISE A MAJORITY OF THE VOTING AGE POPULATION -- IN GEORGIA, TEXAS, LOUISIANA, FLORIDA AND ILLINOIS. WHILE THE COURT'S DECISION CASTS DOUBT ON THE MEANS BY AND EXTENT TO WHICH TO TAKE RACE INTO ACCOUNT IN DRAWING THE BOUNDARIES FOR UNCLAS SECTION 02 OF 07 USUN NEW YORK 001428

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TAGS: PHUM, UNHRC-2, KTIA, PGOV, SOCI, US

SUBJECT: HUMAN RIGHTS COMMITTEE - STATEMENT BY DEVAL L. PATRICK, 31 MARCH 1995.

ELECTORAL DISTRICTS, THE UNITED STATES BELIEVES THAT UNDER THE EQUAL PROTECTION CLAUSE, STATES AND OTHER JURISDICTIONS IN WHICH THE POLITICS ARE PLAINLY RACIALLY POLARIZED SHOULD BE ABLE TO TAKE RACIAL FAIRNESS AND COMPLIANCE WITH THE VOTING RIGHTS ACT INTO ACCOUNT WHEN THEY REDISTRICT. ACCORDINGLY, WE HAVE ARGUED IN COURT AGAINST THESE CHALLENGES TO REDISTRICTING PLANS. WE WILL ARGUE TWO OF THESE CASES IN THE SUPREME COURT IN TWO WEEKS.

PROFESSOR MEDINA ASKED US TO EXPLAIN THE VOTING STATUS OF D.C. RESIDENTS. D.C. RESIDENTS HAVE THE RIGHT TO VOTE IN ELECTIONS FOR PRESIDENT AND VICE-PRESIDENT. IN 1967, CONGRESS GRANTED WHAT IS CALLED "HOME RULE" TO THE DISTRICT OF COLUMBIA, AND RESIDENTS NOW ELECT A MAYOR, CITY COUNCIL, AND SCHOOL BOARD. THE HOME RULE STATUTE ALSO ESTABLISHED THE ELECTED POSITION OF NON-VOTING DELEGATE FOR THE DISTRICT TO THE HOUSE OF REPRESENTATIVES. WHILE THE DELEGATE DOES NOT HAVE A VOTE ON THE FLOOR OF THE HOUSE, SHE DOES VOTE AS A MEMBER OF HOUSE COMMITTEES AND IS A STRONG ADVOCATE FOR DISTRICT RESIDENTS.

LANGUAGE RIGHTS

IT WAS PROFESSOR HIGGINS, I BELIEVE, WHO ASKED SEVERAL QUESTIONS ABOUT THE USE OF ENGLISH IN THE WORKPLACE AND IN THE CLASSROOM. MINORITY LANGUAGE SPEAKERS ARE ENTITLED UNDER THE UNITED STATES CONSTITUTION, AS WELL AS UNDER ARTICLE 26 AND ARTICLE 27 OF THE COVENANT, TO EQUAL PROTECTION UNDER THE LAWS. THE GOVERNMENT MAY NOT DISCRIMINATE AGAINST LINGUISTIC MINORITIES, NOR DENY THEM FUNDAMENTAL RIGHTS SOLELY BECAUSE THEY SPEAK A LANGUAGE OTHER THAN ENGLISH. IN FACT, OVER 30 MILLION AMERICANS SPEAK A LANGUAGE OTHER THAN ENGLISH IN THEIR HOME.

WE HAVE BEEN ASKED TO EXPLAIN UNITED STATES POLICY ON "ENGLISH-ONLY RULES" IN THE WORKPLACE. THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, THE FEDERAL AGENCY RESPONSIBLE FOR ENFORCING TITLE VII'S PROHIBITION AGAINST DISCRIMINATION IN PRIVATE EMPLOYMENT, HAS PUBLISHED

GUIDELINES PROHIBITING ENGLISH-ONLY RULES IN THE WORKPLACE, UNLESS THE EMPLOYER CAN SHOW THAT SUCH A RULE IS JUSTIFIED BY A BUSINESS NECESSITY. THOUGH ONE COURT OF APPEALS HAS RULED THAT SUCH RULES SHOULD NOT BE CONSIDERED PRESUMPTIVELY DISCRIMINATORY, THE EEOC GUIDELINES REMAIN IN PLACE. AT PRESENT, THIS QUESTION IS NOT FINALLY SETTLED.

TWO FEDERAL STATUTES PROVIDE THE MECHANISM FOR STRIKING THE BALANCE IN SCHOOLS THAT PROFESSOR HIGGINS DESCRIBED BETWEEN THE INTEREST IN ALLOWING CHILDREN TO SPEAK THEIR NATIVE LANGUAGE AND THE INTEREST IN TEACHING CHILDREN ENGLISH. TITLE VI OF THE 1964 CIVIL RIGHTS ACT REQUIRES THAT NON-ENGLISH SPEAKING STUDENTS RECEIVE EQUAL BENEFITS IN FEDERALLY ASSISTED SCHOOL SYSTEMS. THE EQUAL EDUCATIONAL OPPORTUNITIES ACT REQUIRES EDUCATIONAL AGENCIES TO OVERCOME STUDENTS' LANGUAGE BARRIERS THAT PREVENT EQUAL PARTICIPATION IN EDUCATIONAL PROGRAMS. THE UNITED STATES IS COMMITTED TO MAKING THE EDUCATION OFFERED IN ITS PUBLIC SCHOOLS ACCESSIBLE TO ALL STUDENTS REGARDLESS OF THEIR PROFICIENCY IN ENGLISH AND SPENDS MILLIONS OF DOLLARS EVERY YEAR, THROUGH THE DEPARTMENT OF EDUCATION, TO PROVIDE BILINGUAL EDUCATION SERVICES TO PUBLIC SCHOOL STUDENTS.

PRISON CONDITIONS

SEVERAL MEMBERS OF THE COMMITTEE RAISED QUESTIONS ABOUT CURRENT PRISON CONDITIONS. PROFESSORS MEDINA AND KRETZMER WERE PARTICULARLY INTERESTED IN THE TREATMENT OF WOMEN IN PRISON IN THE UNITED STATES AND THEIR VULNERABILITY TO SEXUAL ABUSE AND INVASIONS OF PRIVACY BY MALE GUARDS.

SEXUAL ABUSE IN PRISON IS A VIOLATION OF FEDERAL CRIMINAL CIVIL RIGHTS STATUTES. IN FACT, FEDERAL, AS WELL AS MANY STATE, LAWS PROHIBIT EVEN CONSENSUAL SEXUAL CONTACT BETWEEN INMATES AND CORRECTIONS OFFICERS.

UNDER THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT OF 1980 (CRIPA), THE CIVIL RIGHTS DIVISION HAS INVESTIGATED SEVERAL WOMEN'S PRISONS FOR ALLEGATIONS OF SEXUAL ABUSE AND INVASION OF PRIVACY OF FEMALE INMATES. THE DIVISION ALSO HAS NEW AUTHORITY UNDER THE POLICE MISCONDUCT PROVISIONS OF THE 1994 CRIME BILL TO BRING SUIT FOR INJUNCTIVE RELIEF FOR A PATTERN OR PRACTICE OF SEXUAL MISCONDUCT AT PENAL INSTITUTIONS.

THE GOVERNMENT'S EFFORTS TO PROTECT PRISONERS FROM UNNECESSARY FORCE AND ARBITRARY PHYSICAL ABUSE IS THREEFOLD, INCORPORATING TRAINING, ADMINISTRATIVE SANCTIONS, AND CRIMINAL PROSECUTIONS. SECOND, THERE IS A UNCLAS SECTION 03 OF 07 USUN NEW YORK 001428

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PATRICK, 31 MARCH 1995.

WELL-ESTABLISHED SCHEME FOR PUNISHING FEDERAL PRISON PERSONNEL WHO ABUSE INMATES IN THEIR CUSTODY. THE FEDERAL BUREAU OF PRISONS AND STATE DEPARTMENTS OF CORRECTIONS HAVE NUMEROUS POLICIES AND PROCEDURES TO HELP MINIMIZE THE POSSIBILITY OF STAFF ABUSE. IN ADDITION, THERE ARE ORGANIZATIONS OUTSIDE OF CORRECTIONAL DEPARTMENTS, SUCH AS THE JUSTICE DEPARTMENT'S CIVIL RIGHTS DIVISION AND ITS INSPECTOR GENERAL'S OFFICE WITH SOME OVERSIGHT OF CORRECTIONS FACILITIES. THE CIVIL RIGHTS DIVISION REGULARLY INVESTIGATES STATE AND LOCAL FACILITIES FOR ALLEGATIONS OF SYSTEMATIC ABUSE OF PRISONERS. IN THOSE CIRCUMSTANCES WHERE FEDERAL CORRECTIONAL OFFICERS USE EXCESSIVE FORCE AGAINST INMATES IN THEIR CUSTODY, WE HAVE NOT HESITATED TO PROSECUTE THEM.

WITH REGARD TO THE QUESTION ABOUT PRIVACY, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 REQUIRES THAT THE FEDERAL PRISON SYSTEM AND MOST STATE CORRECTIONS SYSTEMS EMPLOY OFFICERS IN PRISONS WITHOUT REGARD TO GENDER. IN ORDER TO PROTECT THE PRIVACY OF FEMALE INMATES, ONLY FEMALE OFFICERS ARE PERMITTED TO CONDUCT STRIP SEARCHES OR BODY CAVITY SEARCHES, EXCEPT IN EMERGENCY SITUATIONS. MALE OFFICERS WORK IN THE WOMEN'S HOUSING UNITS, BUT THEY ARE ADMONISHED TO RESPECT THE INMATES' PRIVACY BY NOT INTENTIONALLY OBSERVING THEM IN STATES OF UNDRESS.

PROFESSOR KRETZMER ALSO EXPRESSED CONCERN ABOUT SO-CALLED "SUPERMAX" PRISON CONDITIONS. THE FEDERAL BUREAU OF PRISONS AND SOME STATES HAVE DETERMINED THAT SPECIAL DETENTION FACILITIES FOR EXTREMELY VIOLENT INMATES SERVE A ROLE IN THE UNITED STATES PRISON SYSTEM. THEY SERVE A VERY LIMITED NUMBER OF THE PRISON POPULATION, ONLY ABOUT 0.4

OF THE INMATE POPULATION. NEARLY ALL THE INMATES AT THESE INSTITUTIONS HAVE A HISTORY OF VIOLENT BEHAVIOR INCLUDING ASSAULT, MURDER OR ATTEMPTED MURDER, OR PRISON ESCAPE OR ATTEMPTED ESCAPE. ALSO, WHERE THERE IS A PATTERN OF DRASTIC OR UNNECESSARY PUNISHMENT, THE JUSTICE DEPARTMENT HAS THE AUTHORITY TO SEEK BOTH CRIMINAL AND CIVIL SANCTIONS AND PENALTIES AGAINST SUPERMAX FACILITIES AND THEIR EMPLOYEES WHO VIOLATE THE CONSTITUTION OR FEDERAL STATUTES. WE HAVE AT LEAST ONE FACILITY UNDER INVESTIGATION NOW.

PREDICTABLY, THE IMPLEMENTATION OF THE NEW 1994 CRIME BILL WILL INCREASE THE PRISON POPULATION. LEGISLATORS HAVE ADDRESSED THIS CONCERN BY APPROPRIATING SUBSTANTIAL NEW FUNDS FOR NEW PRISON CONSTRUCTION. FOR EXAMPLE, UNDER THE 1994 FEDERAL CRIME BILL, THE UNITED STATES IS COMMITTED TO SPENDING SEVERAL BILLION DOLLARS ON NEW PRISON CONSTRUCTION.

PROFESSOR POCAR ASKED ABOUT THE PROPOSAL OF ONE STATE PRISON COMMISSIONER TO REINSTITUTE CHAIN GANGS, ACCORDING TO A MARCH 26, 1995 NEW YORK TIMES ARTICLE. WE CAN SAY

WITH SOME CERTAINTY THAT THE JUSTICE DEPARTMENT, UNDER THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT, WILL TAKE A LONG, HARD LOOK AT THE NEW PRACTICE, IF IMPLEMENTED.

IT IS IMPORTANT TO REMEMBER WHEN TALKING ABOUT PRISON CONDITIONS GENERALLY THAT WHENEVER CONDITIONS OF INCARCERATION VIOLATE CONSTITUTIONAL STANDARDS, INMATES HAVE A NUMBER OF AVENUES FOR RECOURSE. THEY CAN SEEK REDRESS THROUGH THE PRISON GRIEVANCE SYSTEM, FILE A FEDERAL LAWSUIT, SEEK A STATE REMEDY (INCLUDING ACTIONS UNDER TRADITIONAL TORT THEORIES), AND THEY CAN PETITION STATE AGENCIES AND THE FEDERAL GOVERNMENT FOR ASSISTANCE. OVER THE PAST 15 YEARS, THE DEPARTMENT OF JUSTICE HAS SERVED AS THE IMPETUS FOR IMPROVED CONDITIONS IN MORE THAN 60 JAILS, LARGE AND SMALL, URBAN AND RURAL, THROUGHOUT THE UNITED STATES AS A RESULT OF CRIPA INVESTIGATIONS. WE INTEND TO MAINTAIN AND, I HOPE, IMPROVE UPON THAT RECORD OF VIGILANCE.

SCIENTIFIC EXPERIMENTATION

PROFESSOR KRETZMAR AND PROFESSOR MEDINA ASKED ABOUT THE UNITED STATES' POSITION ON SCIENTIFIC EXPERIMENTATION. THE JUSTICE DEPARTMENT, UNDER THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT, HAS THE AUTHORITY TO INVESTIGATE NONCONSENSUAL MEDICAL EXPERIMENTATION ON INSTITUTIONALIZED PERSONS. THE DEPARTMENT HAS CONDUCTED DOZENS OF VERY EXTENSIVE INVESTIGATIONS AND BROUGHT LAWSUITS INVOLVING INSTITUTIONS FOR THE MENTALLY RETARDED AND FOR THE MENTALLY ILL. IN NONE OF THOSE INVESTIGATIONS HAVE WE DISCOVERED EVIDENCE OF A SYSTEMATIC USE OF INSTITUTIONALIZED PERSONS FOR MEDICAL EXPERIMENTS. WE WOULD OF COURSE MOVE SWIFTLY TO STOP ANY SUCH INCIDENTS.

THE MARCH 26, 1995 NEW YORK TIMES ARTICLE ON MEDICAL
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SUBJECT: HUMAN RIGHTS COMMITTEE - STATEMENT BY DEVAL L. PATRICK, 31 MARCH 1995.

EXPERIMENTS ON CHILDREN AND THE MENTALLY ILL REFLECTS THE FACT THAT THE POTENTIALLY AGGRIEVED INDIVIDUALS WERE MEDICATED WITH THE CONSENT OF THEIR RELATIVES OR GUARDIANS, WHICH WAS TROUBLESOME BUT A FAR CRY FROM THE KIND OF ABUSES FOUND SEVERAL DECADES AGO.

PROFESSOR KRETZMER ASKED SPECIFICALLY FOR MORE INFORMATION ABOUT FDA REQUIREMENTS FOR THE USE OF DRUGS IN EXPERIMENTAL RESEARCH AS REFERENCED IN PARAGRAPH 179 OF THE REPORT. THE "CERTAIN CONDITIONS" REFERENCED ARE THOSE MENTIONED IN THE REMAINDER OF THAT PARAGRAPH AND IN PARAGRAPH 180. IN PARTICULAR, INFORMED CONSENT IS

REQUIRED EXCEPT IN A LIFE-THREATENING SITUATION AS DESCRIBED. IN ALL CASES, THERE HAS TO HAVE BEEN A PRELIMINARY DETERMINATION BY THE FDA THAT THE DRUG IS SUFFICIENTLY SAFE FOR TESTING ON HUMANS, BASED ON PREVIOUS TESTING BY OTHER MEANS. IN ADDITION, THERE MUST BE A THERAPEUTIC PURPOSE. UNLESS IT IS FOR SUCH A PURPOSE, DRUG TESTING ON HUMANS IS NOT PERMITTED. THESE REQUIREMENTS APPLY TO ANY EXPERIMENTAL DRUG, IRRESPECTIVE OF FEDERAL FUNDING.

PROPOSITION 187

PROFESSOR PRADO VALLEJO, AND BY INFERENCE, JUDGE EVATT, WERE CONCERNED THAT THE RECENT PASSAGE OF A BALLOT INITIATIVE IN CALIFORNIA CALLED PROPOSITION 187 WOULD DISCRIMINATE AGAINST LATINOS THERE. WE SHARE THAT CONCERN. FOR THOSE WHO DON'T KNOW, PROPOSITION 187 IS A STATE PLEBESITE WHICH PROHIBITS ILLEGAL ALIENS FROM RECEIVING PUBLIC BENEFITS INCLUDING, EDUCATION, HEALTH CARE AND WELFARE.

THE PASSAGE OF THIS BALLOT INITIATIVE HAS RAISED NUMEROUS OBJECTIONS FROM MANY IN THIS COUNTRY. THE INITIATIVE IS BEING CHALLENGED BY A COALITION OF ADVOCACY GROUPS ON A NUMBER OF CONSTITUTIONAL GROUNDS, BOTH FEDERAL AND STATE, AS WELL AS STATUTORY. WHEN A LAW IS OF QUESTIONABLE CONSTITUTIONAL VALIDITY, THE COURTS WILL BLOCK ITS IMPLEMENTATION IF THERE IS A LIKELIHOOD OF SUCCESS ON THE MERITS AND IMMINENT HARM BY ITS IMPLEMENTATION BEFORE A DECISION IS MADE ABOUT ITS CONSTITUTIONALITY. BOTH FEDERAL AND STATE COURTS HAVE ENJOINED THE MAJORITY OF MEASURES UNDER THIS PROVISION. AS A RESULT, PROPOSITION 187 IS NOT NOW BEING IMPLEMENTED IN CALIFORNIA. THE FIRST TRIAL IS SET FOR SEPTEMBER 1995 IN FEDERAL COURT

JUDGE EVATT WAS ALSO CONCERNED ABOUT THE PROTECTION OF AMERICAN CHILDREN BORN OUT-OF-WEDLOCK. UNDER THE FEDERAL CONSTITUTION, CHILDREN BORN OUT-OF-WEDLOCK HAVE A RIGHT TO PROTECTION FROM SUCH CLASSIFICATIONS PARTICULARLY WHERE FUNDAMENTAL PERSONAL RIGHTS MAY BE ENDANGERED, UNLESS THE CLASSIFICATION IS SUBSTANTIALLY RELATED TO AN IMPORTANT GOVERNMENTAL INTEREST. THE SUPREME COURT HAS HELD THAT PUNISHING THE PARENTS BY IMPOSING DISABILITIES ON THE OUT-OF-WEDLOCK CHILD IS CONTRARY TO THE BASIC CONCEPTS OF OUR SYSTEM THAT LEGAL BURDENS SHOULD BEAR SOME RELATIONSHIP TO THE INDIVIDUAL RESPONSIBILITY OR WRONGDOING. (TRIMBLE V. GORDON). BEING BORN OUT-OF-WEDLOCK WAS A SITUATION OUT OF THE CONTROL OF THE CHILD, AND HE OR SHE SHOULD NOT BE PUNISHED FOR IT.

DE FACTO DISCRIMINATION

COMMITTEE MEMBERS PROFESSORS PRADO VALLEJO AND HIGGINS ALSO EXPRESSED CONCERN ABOUT THE PROBLEM OF DE FACTO DISCRIMINATION, SPECIFICALLY SEGREGATION OF OUR EDUCATIONAL SYSTEM. FORTY YEARS AGO, IN THE SUPREME COURT DECISION REFERRED TO AS BROWN V. BOARD OF EDUCATION, THE PRACTICE OF PROVIDING STUDENTS WITH

SEPARATE OR INFERIOR SCHOOLS ON THE BASIS OF THEIR RACE WAS DECLARED UNCONSTITUTIONAL IN THE UNITED STATES. TODAY, ENFORCEMENT OF THAT DECISION CONTINUES TO BE AN IMPORTANT UNITED STATES POLICY.

THE CONSTITUTION AND LAWS OF THE UNITED STATES PROHIBIT ANY GOVERNMENT AUTHORITY FROM PASSING ANY LAW OR TAKING ANY ACTION WHATSOEVER TO SEPARATE STUDENTS ON THE BASIS OF RACE. MOREOVER, UNDER THE LAW, NO NON-GOVERNMENT EDUCATIONAL ENTITY THAT RECEIVES ANY PUBLIC FUNDS MAY SEPARATE STUDENTS OR TREAT STUDENTS DIFFERENTLY ON THE BASIS OF RACE. LIKEWISE, NO GOVERNMENT AUTHORITY OR NON-GOVERNMENT ENTITY RECEIVING ANY GOVERNMENT FUNDS MAY PROVIDE INFERIOR EDUCATIONAL RESOURCES TO STUDENTS OR GROUPS OF STUDENTS BECAUSE OF THEIR RACE. THE DEPARTMENT OF JUSTICE IS ENGAGED IN LITIGATION, NEGOTIATIONS AND MONITORING IN HUNDREDS OF SCHOOL DISTRICTS ACROSS THE COUNTRY ENSURING COMPLIANCE WITH EXISTING DESEGREGATION COURT ORDERS AND SEEKING FURTHER RELIEF WHERE NECESSARY TO ELIMINATE THE VESTIGES OF SEGREGATION "ROOT AND BRANCH."

THUS, THE LAWS OF THE UNITED STATES ARE QUITE IN SYNC
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TAGS: PHUM, UNHRC-2, KTIA, PGOV, SOCI, US

SUBJECT: HUMAN RIGHTS COMMITTEE - STATEMENT BY DEVAL L. PATRICK, 31 MARCH 1995.

WITH THE RIGHT TO EQUAL PROTECTION OF THE LAWS AS SET FORTH IN ARTICLE 26 OF THE ICCPR. IN THIS REGARD, WHEN ONE EXAMINES DATA REFLECTING THE RACIAL COMPOSITION OF PUBLIC SCHOOLS IN AMERICA, ONE MUST BE CAREFUL TO DISTINGUISH BETWEEN RACIAL PATTERNS THAT ARE A RESULT OF THE ACTIONS OF PUBLIC AUTHORITIES AND RACIAL PATTERNS THAT ARE THE RESULT OF INDIVIDUAL CHOICES ABOUT WHERE TO LIVE. ONE OF OUR RESPONSIBILITIES IN THE CIVIL RIGHTS DIVISION IS TO ENFORCE PROVISIONS OF FEDERAL LAW THAT PROHIBIT DISCRIMINATION IN HOUSING AS WELL.

IT MIGHT BE APPROPRIATE IN THIS CONTEXT TO ADDRESS THE QUESTIONS RAISED BY PROFESSOR HIGGINS AND MR. JUSTICE BHAGWATI REGARDING AFFIRMATIVE ACTION. AS YOU KNOW, THE PRACTICE OF MAKING SPECIAL EFFORTS TO REACH OUT TO MINORITIES AND WOMEN TO BROADEN OPPORTUNITIES IN EDUCATION, EMPLOYMENT AND GOVERNMENT CONTRACTING HAS BEEN UNDERWAY FOR ABOUT 25 YEARS NOW. PRIVATE INDUSTRY AND UNIVERSITIES ARE ALSO VOLUNTARILY ENGAGED IN AFFIRMATIVE MEASURES OF THIS KIND. THE SUPREME COURT HAS PERMITTED SUCH EFFORTS AS A MATTER OF AMERICAN CONSTITUTIONAL AND STATUTORY LAW SO LONG AS SUCH EFFORTS ARE FLEXIBLE, THEY DO NOT SACRIFICE MERIT AND THEY DO NOT UNFAIRLY DIVEST WHITES OF VESTED RIGHTS. THE COURT HAS CONSISTENTLY REJECTED THE NOTION THAT THE CONSTITUTION IS COLORBLIND. THE COURT HAS RECOGNIZED THAT THE CONSTITUTION DOES ALLOW THE CONSIDERATION OF RACE OR SEX AS A FACTOR.

PROFESSOR HIGGINS INQUIRED ABOUT THE BASIS FOR CURRENT OBJECTIONS TO AFFIRMATIVE ACTION. CLEARLY, SOME AMERICANS BELIEVE THAT THE WRONGS IT WAS MEANT TO ADDRESS ARE ALL IN THE PAST. OTHERS BELIEVE THAT IT IS SIMPLY UNFAIR TO NON-MINORITIES. MR. JUSTICE BHAGWATI WONDERED WHAT, WITHOUT AFFIRMATIVE ACTION, WOULD BE THE UNITED STATES' EFFECTIVE MEANS TO RAISE AFRICAN AMERICANS AND LATINOS TO BE THE SAME LEVEL AS OTHERS.

AS YOU MAY KNOW, PRESIDENT CLINTON HAS DIRECTED US TO REVIEW THE FEDERAL GOVERNMENT'S PROGRAMS RELATING TO AFFIRMATIVE ACTION. THAT REVIEW IS PROCEEDING, BUT IS NOT YET COMPLETE NOR CAN I ANTICIPATE THE PRESIDENT'S CONCLUSIONS. HOWEVER, I MUST EMPHASIZE TWO FUNDAMENTAL POINTS: FIRST, THIS GOVERNMENT IS COMMITTED TO THE GOAL OF EXPANDING OPPORTUNITY FOR ALL AMERICANS IN EDUCATION, EMPLOYMENT, AND THE ECONOMY GENERALLY. THERE WILL BE NO RETREAT FROM THAT COMMITMENT. SECOND, REGRETTABLY, DISCRIMINATION ON THE BASIS OF RACE, ETHNICITY AND GENDER PERSISTS IN THIS COUNTRY: NOT JUST THE EFFECTS OF PAST DISCRIMINATION, BUT CURRENT, REAL LIFE, PERNICIOUS DISCRIMINATION OF THE HERE AND NOW. WHILE MEANINGFUL PROGRESS HAS BEEN MADE IN ELIMINATING DISCRIMINATORY BARRIERS TO EMPLOYMENT, EDUCATION, AND OTHER ECONOMIC OPPORTUNITIES, SOME BARRIERS, AND THE EFFECTS OF PREVIOUS ONES, REMAIN FOR MINORITIES AND WOMEN. TO ADDRESS THAT, WE MUST REMAIN VIGILANT IN ENFORCEMENT OF ANTI-DISCRIMINATION LAWS.

AT THE SAME TIME, THE COURTS HAVE SUPPORTED LEGITIMATE USES OF AFFIRMATIVE ACTION PROGRAMS AS ONE MECHANISM TO PROMOTE OPPORTUNITIES FOR PREVIOUSLY EXCLUDED AMERICANS. IT REMAINS ONE OF A RANGE OF REMEDIES AVAILABLE FOR HISTORIC AND CONTINUING EXCLUSION.

GENDER DISCRIMINATION

PROFESSOR MEDINA ASKED WHAT EFFORTS THE UNITED STATES IS TAKING TO COUNTER SEXUAL DISCRIMINATION. THE UNITED STATES IS A LEADER IN PROMOTING EQUALITY BETWEEN THE SEXES. OUR FEDERAL CONSTITUTION PROVIDES THAT NO PERSON MAY BE DENIED THE EQUAL PROTECTION OF THE LAWS BASED ON GENDER OR RACE. IN DETERMINING WHETHER A DENIAL OF EQUAL PROTECTION HAS ACTUALLY OCCURRED, THE SUPREME COURT HAS APPLIED AN INTERMEDIATE LEVEL OF SCRUTINY TO DISTINCTIONS BASED ON SEX, BECAUSE THERE ARE DIFFERENCES BETWEEN MEN AND WOMEN THAT MAY, IN RARE CASES, JUSTIFY DIFFERENTIAL TREATMENT. DIFFERENTIAL TREATMENT OF GROUPS THAT ARE NOT SIMILARLY SITUATED DOES NOT CONSTITUTE DENIAL OF EQUAL PROTECTION. IN PRACTICE, HOWEVER, THE COURT RARELY UPHOLDS DISTINCTIONS BASED SOLELY ON SEX, AND WOULD NOT UPHOLD A DISTINCTION DENYING WOMEN ANY OF THE FUNDAMENTAL RIGHTS GUARANTEED BY THE COVENANT.

IN OUR WORK AT THE CIVIL RIGHTS DIVISION, SEVERAL OF THE STATUTES WE ENFORCE SPECIFICALLY PROTECT THE RIGHTS OF WOMEN AND OUTLAW DISCRIMINATION BASED ON GENDER, SUCH AS

IN HOUSING, EDUCATION, EQUAL CREDIT AND EMPLOYMENT. ALSO OTHER AVENUES ARE AVAILABLE TO CHALLENGE SEXUAL DISCRIMINATION. FOR INSTANCE, BOTH THE DEPARTMENT OF JUSTICE AND THE EEOC HAVE ACTIVE LITIGATION PROGRAMS AIMED AT ADDRESSING THE FAILURE AND REFUSAL OF EMPLOYERS TO HIRE WOMEN INTO POSITIONS TRADITIONALLY RESERVED FOR MEN. AS WELL, WOMEN WHO ARE VICTIMS OF SUCH PRACTICES UNCLAS SECTION 06 OF 07 USUN NEW YORK 001428

STATE PLEASE PASS TO DOJ, DOI, INS

E.O. 12356: N/A

TAGS: PHUM, UNHRC-2, KTIA, PGOV, SOCI, US

SUBJECT: HUMAN RIGHTS COMMITTEE - STATEMENT BY DEVAL L. PATRICK, 31 MARCH 1995.

MAY FILE CHARGES WITH THE EEOC AND THEMSELVES FILE SUIT UNDER TITLE VII TO SEEK RELIEF FROM SUCH PRACTICES. WE HAVE RECENTLY RAISED CHALLENGES TO THE FAILURE OF THE LAST TWO PUBLIC MILITARY COLLEGES IN AMERICA (VMI AND THE CITADEL) TO ADMIT WOMEN.

SEXUAL ORIENTATION

ONE OF THE CONCERNS RAISED BY CHIEF JUSTICE LALLAH WAS WHETHER SEXUAL ORIENTATION WAS A PROTECTED CLASS IN THE HOUSING AREA. JUDGES MAVROMATTIS AND EVATT ALSO RAISED CONCERNS ABOUT THE PRIVACY RIGHTS OF HOMOSEXUALS.

UNDER THE FEDERAL FAIR HOUSING ACT, HOUSING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION IS NOT PROHIBITED. THERE ARE, HOWEVER, STATE AND LOCAL LAWS WHICH INCLUDE SEXUAL ORIENTATION AS A PROTECTED CATEGORY. FOR EXAMPLE, IN CALIFORNIA, THE STATE'S CIVIL RIGHTS ACT (CALIF. CIV. CODE SECTION 51 AND 52) HAS BEEN INTERPRETED BY STATE COURTS TO INCLUDE A PROHIBITION AGAINST DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION IN HOUSING, EMPLOYMENT AND PUBLIC ACCOMMODATION. IN WISCONSIN, THE STATE'S FAIR HOUSING LAW SPECIFICALLY INCLUDES SEXUAL ORIENTATION AS A PROTECTED CATEGORY. (GEN. MUN. LAW, CH. 101, SECTION 101.22.)

GAYS AND LESBIANS ARE ENTITLED UNDER THE UNITED STATES CONSTITUTION TO EQUAL PROTECTION OF THE LAWS. A CHALLENGE TO A COLORADO STATE BALLOT INITIATIVE, WHICH PROHIBITED LOCAL GOVERNMENTS FROM PASSING ANY LAWS THAT WOULD GIVE PREFERENCES ON THE BASIS OF SEXUAL ORIENTATION, IS CURRENTLY PENDING BEFORE THE SUPREME COURT. SO FAR, THE STATE AND FEDERAL COURTS THAT HAVE CONSIDERED THESE INITIATIVES HAVE FOUND THAT PROVISIONS OF THIS TYPE DENY GAYS AND LESBIANS EQUAL ACCESS TO THE POLITICAL PROCESS BY PREVENTING THEM FROM SEEKING ANTI-DISCRIMINATION LEGISLATION ON THEIR OWN BEHALF.

THERE ARE NO FEDERAL ANTI-SODOMY LAWS IN THE UNITED STATES. MOREOVER, IT IS HIGHLY UNUSUAL FOR ANY STATE TO PROSECUTE ANYONE UNDER AN ANTI-SODOMY STATUTE FOR PRIVATE, CONSENSUAL SEXUAL ACTIVITY. NEVERTHELESS, THE

SUPREME COURT DECIDED IN BOWERS V. HARDWICK THAT A GEORGIA STATE ANTI-SODOMY STATUTE WAS CONSTITUTIONAL. HOWEVER, THE COURT DID NOT DECIDE WHETHER SUCH STATUTES MIGHT BE CONSTITUTIONALLY INFIRM ON EQUAL PROTECTION GROUNDS. NOR DOES THE DECISION SAY ANYTHING ABOUT THE STATES' ABILITY TO TAKE ACTIONS AGAINST PERSONS THOUGHT LIKELY TO ENGAGE IN SODOMY, IN THE ABSENCE OF ANY EVIDENCE THAT THEY HAVE ACTUALLY DONE SO.

IF I MAY DIGRESS HERE, PROFESSOR POCAR ASKED FOR A FULLER EXPLANATION OF OUR EQUAL PROTECTION ANALYSIS INVOLVING A "LEGITIMATE GOVERNMENTAL OBJECTIVE" IN REVIEWING A CLASSIFICATION FOR CONSTITUTIONAL VALIDITY.

THE EQUAL PROTECTION CLAUSE OF THE UNITED STATES CONSTITUTION PROVIDES THAT ALL PERSONS ARE ENTITLED TO EQUAL PROTECTION OF THE LAWS. THE SUPREME COURT HAS USED VARIOUS ANALYTICAL TOOLS TO DETERMINE WHETHER EQUAL PROTECTION HAS BEEN DENIED IN A PARTICULAR CASE. THE COURT HAS RECOGNIZED THAT THE GREAT MAJORITY OF GOVERNMENT CLASSIFICATIONS IN LAWS DRAW DISTINCTIONS AMONG GROUPS OF PERSONS THAT DO NOT DISCRIMINATE AGAINST ANY PERSON OR GROUP ON THE BASIS OF STATUS, BUT RATHER PROMOTE "LEGITIMATE" GOVERNMENT INTEREST IN EFFICIENCY, ADDRESSING PARTICULAR PUBLIC PROBLEMS, AND ACCOMMODATING COMPETING NEEDS. "LEGITIMATE" USUALLY MEANS A PURPOSE ENUMERATED IN THE CONSTITUTION, AND MAY BE AS BROAD AS "THE GENERAL PUBLIC WELFARE." INVIDIOUS DISCRIMINATION BASED ON STATUS, OR A DESIRE TO HARM A POLITICALLY UNPOPULAR GROUP IS NEVER A LEGITIMATE GOVERNMENTAL OBJECTIVE.

HATE SPEECH/HATE CRIMES

A NUMBER OF COMMITTEE MEMBERS, INCLUDING PROFESSOR KLEIN AND LATER THE CHAIRMAN, ASKED THE QUESTION WHETHER HATE SPEECH COULD BE EQUATED TO OBSCENITY UNDER UNITED STATES LAW, SUCH THAT IT RECEIVED NO PROTECTION UNDER THE FIRST AMENDMENT.

THERE CAN BE NO DOUBT THAT HATE SPEECH REFLECTS A CANCER OF THE SOUL THAT CAN PSYCHOLOGICALLY TRAUMATIZE BOTH THE INTENDED VICTIMS AND THE LARGER COMMUNITY AS A WHOLE. NEVERTHELESS, THE UNITED STATES HAS LONG RESPECTED FREEDOM OF SPEECH AND NONVIOLENT POLITICAL EXPRESSION AS CORNERSTONES OF OUR DEMOCRACY. THE U.S. SUPREME COURT HAS DECLARED THAT HATE SPEECH, ALTHOUGH OFFENSIVE, IS PROTECTED BY THE FIRST AMENDMENT UNLESS ACCOMPANIED BY CERTAIN VIOLENT ACTIONS OR THE THREAT TO TAKE SUCH UNCLAS SECTION 07 OF 07 USUN NEW YORK 001428

STATE PLEASE PASS TO DOJ, DOI, INS

E.O. 12356: N/A

TAGS: PHUM, UNHRC-2, KTIA, PGOV, SOCI, US

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ACTIONS.

UNDER UNITED STATES LAW, RACIST WORDS ALONE ORDINARILY DO NOT CONSTITUTE A HATE CRIME. THE WORDS MUST BE ACCOMPANIED BY ACTIONS, OR BY THE THREAT TO TAKE ACTION, AGAINST THE VICTIM. THE U.S. SUPREME COURT RECENTLY EMPHASIZED THIS DISTINCTION BETWEEN UNPROTECTED -- AND THEREFORE PROSECUTABLE -- CONDUCT ON THE ONE HAND, AND PROTECTED SPEECH ON THE OTHER.

THE DEPARTMENT OF JUSTICE VIGOROUSLY PROSECUTES ACTS OF RACIAL VIOLENCE NATIONWIDE. WE ALSO DO NOT HESITATE TO PROSECUTE CASES INVOLVING RACE-BASED THREATS TO TAKE VIOLENT ACTION AGAINST RACIAL MINORITIES. LET THERE BE NO DOUBT THAT WE SHARE YOUR CONCERN ABOUT AND DISDAIN FOR HATE SPEECH. HOWEVER, WE MUST OPERATE WITHIN THE PARAMETERS SET FORTH BY THE FIRST AMENDMENT, AS INTERPRETED BY THE UNITED STATES SUPREME COURT.

MISCELLANEOUS

THERE ARE JUST A FEW MORE QUESTIONS I WOULD LIKE TO RESPOND TO THAT DID NOT FIT NEATLY WITHIN THE BROAD CATEGORIES DESCRIBED ABOVE.

MCCARTHYISM

PROFESSOR ANDO ASKED A QUESTION ABOUT HOW THE UNITED STATES GOVERNMENT PLANS TO COPE WITH LINGERING ABUSES OF MCCARTHYISM. FEDERAL SAFEGUARDS EXIST IN THE CONSTITUTION TO PROTECT THE RIGHT OF FREE ASSOCIATION. CITIZENS MAY ENFORCE THAT PROTECTION BY LEGAL CHALLENGES UNDER FEDERAL LAW. MANY STATES HAVE COMPARABLE PROTECTIONS.

POLICE BRUTALITY

REGARDING THE USE OF EXCESSIVE FORCE BY POLICE, BOTH CRIMINAL AND CIVIL STATUTES EXIST TO REMEDY SUCH VIOLATIONS. THE UNITED STATES DEPARTMENT OF JUSTICE INVESTIGATES AND PROSECUTES OFFICIAL MISCONDUCT CASES THROUGHOUT THE NATION. WE HAVE PROSECUTED OVER 100 CASES OF BEATING, SHOOTING AND SEXUAL ASSAULT IN SMALL TOWNS AND BIG CITIES ACROSS THE COUNTRY. THE DEPARTMENT NOT ONLY PROSECUTES CASES, BUT WORKS TO PREVENT SUCH ABUSES BY PARTICIPATING IN TRAINING OF LOCAL LAW ENFORCEMENT PERSONNEL IN CONJUNCTION WITH THE FBI, AND THROUGH CONDUCTING LECTURES AND SEMINARS WITH OTHER LAW ENFORCEMENT AGENCIES.

VICTIMS OF EXCESSIVE FORCE PRIVATELY VINDICATE VIOLATIONS OF THEIR CONSTITUTIONAL AND STATUTORY RIGHTS BY CIVILLY SUING LAW ENFORCEMENT AGENCIES. THROUGH SUCH SUITS, VICTIMS MAY SEEK COMPENSATORY AND PUNITIVE MONETARY DAMAGES, AS WELL AS OTHER REMEDIES SUCH AS IMPROVED HIRING AND TRAINING. SECTION 1983 LITIGATION ALSO REACHES A WIDER RANGE OF MISCONDUCT THAN THAT PERMITTED

BY THE STRICT CRIMINAL INTENT REQUIREMENTS OF FEDERAL
CRIMINAL STATUTES.

RULE 11

FINALLY, JUSTICE BHAGWATI RAISED A CONCERN ABOUT RULE 11
OF THE FEDERAL RULES OF CIVIL PROCEDURE ALLOWING
MANDATORY SANCTIONS TO BE IMPOSED AND POSSIBLY CHILLING
THE FILING OF CIVIL RIGHTS ACTIONS. SOME OF OUR FELLOW
MEMBERS OF THE BAR SHARED YOUR CONCERNS, AND THE RULE WAS
AMENDED IN 1993. THE RULE IS NOW MORE REASONABLE AND
ACCOMMODATING, ALLOWING PARTIES AN OPPORTUNITY TO CURE
ANY DEFECT OR ARGUMENT BEFORE A MOTION FOR SANCTION WOULD
BE CONSIDERED OR ALLOWED. ALSO, CLIENTS REPRESENTED BY
AN ATTORNEY CANNOT BE PENALIZED OR FINED BY THE COURT FOR
THE ABUSES AND FRIVOLOUS ARGUMENTS OR ACTIONS OF THEIR
COUNSEL.

MR. CHAIRMAN, I HOPE THIS INFORMATION IS RESPONSIVE TO
SOME OF THE COMMITTEE'S VERY THOUGHTFUL QUESTIONS.

THANK YOU.

ALBRIGHT

BT

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SUBJ: UN NEGOTIATIONS ON NEW HUMAN RIGHTS STANDARDS

TEXT:
UNCLAS SECTION 01 OF 04 GENEVA 006309

DEPARTMENT FOR L - DAVID STEWART AND MIRIAM SAPIRO,
IO/ESA AND DRL/MLA

E.O. 12356: N/A

TAGS: PHUM, UNHRC-1

SUBJECT: UN NEGOTIATIONS ON NEW HUMAN RIGHTS STANDARDS

REFS: (A) 94 GENEVA 9897 (B) 94 GENEVA 10873 (C) 94
GENEVA 10374

1. THIS MESSAGE MEETS A REQUIREMENT OF THE POST
REPORTING PLAN

INTRODUCTION

2. THIS MESSAGE REVIEWS THE NEGOTIATIONS ON NEW HUMAN
RIGHTS STANDARDS SCHEDULED TO TAKE PLACE BETWEEN NOW AND
MARCH 1996. IT IDENTIFIES AREAS IN WHICH WASHINGTON
GUIDANCE IS NEEDED, OR IN WHICH EXISTING GUIDANCE MAY
REQUIRE REFINEMENT.

3. THERE WILL BE FIVE SEPARATE WORKING GROUPS ON NEW
HUMAN RIGHTS STANDARDS BETWEEN THE END OF SEPTEMBER AND
MARCH 1996. ONE OF THESE (THE WORKING GROUP ON THE
INDIGENOUS DECLARATION) IS NEW; THE OTHERS ARE ONGOING.

4. IN SOME PAST YEARS, THE COUNCIL OF EUROPE'S HUMAN
RIGHTS DIVISION HAS HELD A FALL MEETING IN STRASBOURG AS
A FORUM FOR WESTERN CONSULTATIONS ON PENDING HUMAN
RIGHTS STANDARDS WORK. WE DO NOT KNOW IF SUCH A MEETING
IS SCHEDULED THIS YEAR. IF SO, GIVEN THE RANGE OF
PENDING NEGOTIATIONS, U.S. ATTENDANCE COULD BE OF VALUE.

5. IN THE EARLY 1990'S, GENEVA WORKING GROUPS HAD A

GOOD RECORD OF COMPLETING NEW HUMAN RIGHTS STANDARDS FOR SUBSEQUENT APPROVAL BY THE HUMAN RIGHTS COMMISSION, ECOSOC AND THE GENERAL ASSEMBLY. IN 1991, A WORKING GROUP FINISHED A DRAFT DECLARATION ON HUMAN RIGHTS OF MENTALLY ILL PERSONS, APPROVED BY THE GENERAL ASSEMBLY THAT SAME YEAR. A STRONG DECLARATION ON DISAPPEARANCES WAS COMPLETED IN LATE 1991 AND APPROVED BY THE GENERAL ASSEMBLY IN 1992. IN JANUARY 1992, A LONG-RUNNING WORKING GROUP BROKE THROUGH A PROTRACTED IMPASSE ON MINORITY ISSUES, FINISHING THE UN DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO MINORITIES. THIS WAS APPROVED BY THE GENERAL ASSEMBLY IN DECEMBER 1992.

6. MORE RECENTLY, HOWEVER, WORK ON NEW HUMAN RIGHTS STANDARDS HAS GONE SLOWLY. NO NEW STANDARDS HAVE BEEN APPROVED; THERE SEEMS LITTLE CHANCE THAT ANY WILL BE SOON. THIS MESSAGE SUMMARIZES EACH SEPARATE NEGOTIATION.

THE U.S. ROLE

7. THE UNITED STATES HAS BEEN A KEY PLAYER IN GENEVA'S WORK ON NEW HUMAN RIGHTS STANDARDS. THE MISSION LEGAL ADVISER OR LEGAL EXPERTS FROM WASHINGTON HAVE PARTICIPATED ACTIVELY IN EACH NEGOTIATION. THE U.S. DELEGATION OFTEN HAS BEEN A SOURCE OF LEADERSHIP WITHIN THE WESTERN GROUP, AND ALL REGIONAL GROUPS HAVE LOOKED TO US FOR DRAFTING EXPERTISE AND LEGAL ADVICE. ALTHOUGH THIS WORK CAN BE TIME-CONSUMING AND THE PAY-OFFS SLOW, MISSION BELIEVES THAT STANDARD SETTING WORK IS IMPORTANT AND THAT THE SIGNIFICANT AMOUNTS OF TIME REQUIRED SHOULD CONTINUE TO BE MADE AVAILABLE.

8. THE PENDING NEGOTIATIONS ARE LISTED HERE IN CHRONOLOGICAL ORDER.

OPTIONAL PROTOCOL ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

9. THIS GROUP'S SECOND MEETING IS SCHEDULED FOR EITHER OCTOBER 16-27 OR OCTOBER 30-NOVEMBER 10. (IF THE LATTER PERIOD, IT WILL OVERLAP WITH A THE WORKING GROUP ON THE TORTURE PROTOCOL.) THE FIRST SESSION IS REPORTED IN 94 GENEVA 9897.

10. DURING NEGOTIATIONS OF OPTIONAL PROTOCOL 1 TO THE ENEVA CONVENTIONS IN THE 1970'S AND OF THE CONVENTION ON THE RIGHTS OF THE CHILD IN THE 1980'S, SWEDEN AND OTHERS SOUGHT AN ARTICLE SETTING THE MINIMUM AGE OF ENLISTMENT FOR MILITARY SERVICE AS 18 YEARS, RATHER THAN THE 15 YEARS ULTIMATELY SPECIFIED IN OPTIONAL PROTOCOL 1. THE UNITED STATES, WHICH ALLOWS ENLISTMENT WITH PARENTAL CONSENT AT 17, JOINED WITH OTHER COUNTRIES IN BLOCKING THE SWEDISH EFFORT.

11. THEREAFTER, VARIOUS NGO'S, PARTICULARLY THE QUAKERS, HAVE PRESSED FOR A WORKING GROUP TO DRAFT AN OPTIONAL PROTOCOL TO RAISE THE AGE OF ENLISTMENT TO 18. PROTOCOL SUPPORTERS STRESS THE WIDESPREAD AND INCREASING

INVOLVEMENT OF PERSONS BELOW THE AGE OF 18 IN ARMED CONFLICTS, PARTICULARLY IN INTERNAL ARMED CONFLICTS. THE UNITED STATES AND OTHER OPPONENTS ARGUED THAT (A) THEY WOULD NOT CHANGE LONGSTANDING PRACTICES ALLOWING ENLISTMENT (OFTEN FOR TRAINING) BELOW THE AGE OF 18, (B) A BODY CREATED BY THE HUMAN RIGHTS COMMISSION WAS NOT AN UNCLAS SECTION 02 OF 04 GENEVA 006309

DEPARTMENT FOR L - DAVID STEWART AND MIRIAM SAPIRO,
IO/ESA AND DRL/MLA

E.O. 12356: N/A

TAGS: PHUM, UNHRC-1

SUBJECT: UN NEGOTIATIONS ON NEW HUMAN RIGHTS STANDARDS

APPROPRIATE FORUM TO ADDRESS A LAW OF WAR ISSUE, AND (C) AN OPTIONAL PROTOCOL WOULD NOT IN ANY CASE MAKE ANY DIFFERENCE IN THE (MOSTLY INTERNAL) ARMED CONFLICTS WHERE THE PROBLEM WAS GREATEST.

12. THE FIRST TWO-WEEK MEETING OF THE WORKING GROUP IN THE FALL OF 1994 (CHAIRD BY SWEDEN) REVEALED BROAD SUPPORT FOR A BAN ON FORCED CONSCRIPTION BELOW THE AGE OF 18, BUT WAS DIVIDED REGARDING A BAN ON VOLUNTARY ENLISTMENT BELOW THAT AGE. THE UNITED STATES AND SOME OTHER (MOSTLY WESTERN) COUNTRIES OPPOSED A BLANKET BAN ON VOLUNTARY ENLISTMENT BELOW 18; HOWEVER. THE UK AND SEVERAL OTHERS SEEMED WILLING TO ACCEPT A TEXT THAT WOULD ALLOW VOLUNTEERING BELOW 18 ONLY FOR TRAINING, AND NOT FOR COMBAT SERVICE. THE UNITED STATES WAS RELATIVELY ISOLATED IN ARGUING FOR BOTH ENLISTMENT AND PARTICIPATION IN COMBAT AT 17. (THE U.S. POSITION WAS PRIVATELY QUESTIONED BY THE QUAKERS, WHO HAD THE IMPRESSION THAT DOD POLICY WAS TO SEEK TO AVOID INVOLVING PERSONS UNDER 18 IN COMBAT.)

13. ANOTHER DIFFICULT ISSUE CONCERNED THE APPLICATION OF ANY PROTOCOL TO NON-INTERNATIONAL ARMED CONFLICTS. THERE WAS GENERAL AGREEMENT THAT ANY PROTOCOL SHOULD BE FRAMED TO COVER THE KINDS OF CONFLICTS IN WHICH CHILDREN ARE MOST COMMONLY ENGAGED. HOWEVER, THERE WAS NO AGREEMENT ON HOW TO DO THIS; THE ISSUE WAS FURTHER UDDIED BY SPARRING BETWEEN INDIA AND PAKISTAN RELATED TO KASHMIR.

14. THE REPORT OF THE 1994 WORKING GROUP IS DOCUMENT E/CN.4/1995/96. BEFORE THE SECOND SESSION OF THE WORKING GROUP, THE DEPARTMENT IS REQUESTED TO REVIEW ITS INITIAL GUIDANCE (94 STATE 293406) IN LIGHT OF DEVELOPMENTS AT THE 1994 SESSION AND CURRENT U.S. POLICY. U.S. DELEGATION SHOULD BE PREPARED TO DISCUSS THE ISSUE OF DOD POLICY REGARDING PARTICIPATION OF 17-YEAR OLDS IN COMBAT; DELEGATION SHOULD ALSO GIVE THOUGHT TO THE ISSUE OF WHETHER AND HOW A PROTOCOL COULD BE FRAMED TO APPLY TO NON-STATE PARTIES IN AN INTERNAL ARMED CONFLICT.

PROTOCOL TO THE TORTURE CONVENTION

15. THE FOURTH SESSION OF THIS WORKING GROUP WILL MEET OCTOBER 30-NOVEMBER 10. THE PREVIOUS SESSION, IN OCTOBER 1994, MADE LITTLE PROGRESS, AS REPORTED IN 94 GENEVA 10873. THE GROUP WAS CHAIRED BY AMBASSADOR SEGURA OF COSTA RICA; MOST NEGOTIATING IN 1994 TOOK PLACE IN A DRAFTING GROUP LED BY ANNE-MARIE PENNEGARD OF SWEDEN.

16. THIS PROTOCOL'S KEY SUPPORTERS (SWITZERLAND, COSTA RICA AND THE NORDICS) SEE IT AS CREATING A SYSTEM OF CONFIDENTIAL PRISON VISITS TO IDENTIFY AND HELP ELIMINATE PRISON CONDITIONS CONDUCIVE TO TORTURE, ALONG THE LINES OF THE SYSTEM OF PRISON VISITS NOW OPERATING IN EUROPE UNDER THE EUROPEAN CONVENTION FOR THE PREVENTION OF TORTURE.

17. IN 1993, THE WORKING GROUP FINISHED A FIRST READING OF PARTS I AND II OF THE PROTOCOL AND PRODUCED SEVEN HEAVILY BRACKETED ARTICLES. THE 1994 SESSION CONTINUED WITH A FIRST READING OF THE ENSUING ARTICLES. IT REACHED A REASONABLE COMPROMISE (ARTICLE 9) ON THE PREVIOUSLY DIFFICULT ISSUE OF THE RELATIONSHIP BETWEEN THE EXISTING EUROPEAN CONVENTION AND THE NEW TREATY.

18. ON OTHER ISSUES, HOWEVER, THERE WAS LITTLE HEADWAY. MEXICO AND CUBA DEMANDED THAT EACH VISIT TO A COUNTRY HAVE CASE-BY-CASE PRIOR CONSENT OF THE RECEIVING STATE. CHINA TOOK IT A STEP FURTHER, ARGUING FOR PRIOR CONSENT FOR INDIVIDUAL LOCATIONS. THEY DISMISSED THE ARGUMENTS THAT (1) THE NEW PROTOCOL IS OPTIONAL, AND (2) STATES CONSENT TO VISITS WHEN THEY RATIFY THE NEW PROTOCOL.

19. CHINA AND OPPONENTS ALSO SOUGHT OTHER LIMITS ON INSPECTIONS, INCLUDING SEVERE LIMITS ON THE ROLE OF EXPERTS AND ADVISERS. THE OUTCOME ON MOST KEY ARTICLES WAS A LIST OF CONTENDING NATIONAL PROPOSALS OR HEAVILY BRACKETED ALTERNATIVES. MAJOR UNRESOLVED ISSUES INCLUDE WHETHER TO:

-- ALLOW AD HOC INSPECTIONS IN RESPONSE TO PARTICULAR SITUATIONS, IN ADDITION TO REGULAR MISSIONS.

-- REQUIRE MISSION-BY-MISSION (OR EVEN LOCATION BY LOCATION) CONSENT PRIOR TO ANY INSPECTIONS.

-- ALLOW COMMITTEE MEMBERS ON MISSIONS TO BE ASSISTED BY EXPERTS AND ADVISERS. (UNDER THE EUROPEAN UNCLAS SECTION 03 OF 04 GENEVA 006309

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CONVENTION, SUCH ASSISTANCE HAS BEEN IMPORTANT, SINCE

MISSIONS TO A COUNTRY INVOLVE VISITS TO SEVERAL PLACES.)

-- THE EXTENT TO WHICH MISSIONS WILL BE SUBJECT TO NATIONAL REGULATIONS; E.G., ON TRAVEL AND ACCESS TO PLACES OF DETENTION.

20. AT THE CLOSE OF THE 1994 WORKING GROUP, THE UNITED STATES AND SEVERAL OTHERS VOICED CONCERN THAT THE MANY RESTRICTIONS AND QUALIFICATIONS BEING ADDED TO THE INITIAL COSTA RICAN DRAFT COULD RESULT IN A SYSTEM FAR LESS EFFECTIVE AND USEFUL THAN ORIGINALLY ENVISIONED.

INDIGENOUS DECLARATION

21. THE "WORKING GROUP ON A DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE" IS SCHEDULED FOR NOVEMBER 20 - DECEMBER 1. WE UNDERSTAND THAT PREPARATION OF U.S. POSITIONS ON THE ARTICLES OF THE DRAFT DECLARATION DEVELOPED BY THE WORKING GROUP ON INDIGENOUS POPULATIONS IS WELL UNDERWAY AND THAT THE DEPARTMENT IS IN CONTACT WITH U.S. NATIVE AMERICAN GROUPS.

22. A KEY ISSUE IN THIS WORKING GROUP WILL BE THE CHAIRMANSHIP. THIS WILL BE A TOUGH NEGOTIATION TO MANAGE AND MOVE FORWARD. THE DRAFT DECLARATION COVERS MUCH CONTROVERSIAL GROUND AND TAKES MANY MAXIMALIST POSITIONS. AS A RESULT, THERE IS GREAT SKEPTICISM ABOUT ITS TEXT, EVEN ON THE PART OF SOME GOVERNMENTS THAT WOULD LIKE TO SEE AN EFFECTIVE DECLARATION. AT THE SAME TIME, INDIGENOUS GROUPS TEND TO DISTRUST GOVERNMENTS AND TO HARBOR UNREALISTICALLY HIGH HOPES FOR THE DECLARATION.

DRAFT OPTIONAL PROTOCOL ON SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

23. THE SECOND MEETING OF THIS WORKING GROUP IS SCHEDULED FOR JANUARY 29-FEBRUARY 9, 1996. THIS WORKING GROUP IS CONTROVERSIAL. ITS MAIN ORIGINAL PROPONENT WAS CUBA, BUT THE WESTERN GROUP HAD A JARRING PUBLIC SPLIT WHEN IT WAS FIRST AUTHORIZED AT THE 1994 HUMAN RIGHTS COMMISSION. FRANCE AND AUSTRALIA ARGUED EMOTIONALLY FOR THE GROUP, IN DIRECT OPPOSITION TO THE UNITED STATES AND OTHER WEWG COUNTRIES. (THE HUMAN RIGHTS COMMISSION'S 1995 DECISION TO CONTINUE THE WORKING GROUP WAS MADE BY A VOTE; THE UK, UNITED STATES, GERMANY, AND SEVERAL OTHER WESTERN COUNTRIES ABSTAINED.)

24. CRITICS OF THE PROTOCOL IDEA (INCLUDING SEVERAL MEMBERS OF THE COMMITTEE ON THE RIGHTS OF THE CHILD, THE FORMER SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN AND SOME WESTERN GOVERNMENTS) ARGUE THAT AN OPTIONAL PROTOCOL IS UNNECESSARY WINDOW DRESSING. THE CONVENTION ON THE RIGHTS OF THE CHILD ALREADY CONTAINS STRONG PROVISIONS REQUIRING STATE ACTION TO PREVENT SALE AND SEXUAL EXPLOITATION OF CHILDREN. WHAT IS NEEDED IS CONSCIENTIOUS IMPLEMENTATION OF EXISTING OBLIGATIONS, NOT A NEW PROTOCOL.

25. AS REPORTED 94 GENEVA 10374, CUBA WAS ELECTED CHAIR OF THE WORKING GROUP AT ITS INITIAL 1995 MEETING; THE CUBAN CHAIR GENERALLY CONDUCTED THE PROCEEDINGS WITH IMPARTIALITY. PROBLEMATIC LANGUAGE REGARDING CRIMES AGAINST HUMANITY WAS EASILY DELETED. FRANCE AND AUSTRALIA, BOTH REPRESENTED BY SKILLED DELEGATIONS, SUCCEEDED IN DEVELOPING A REASONABLE SET OF ELEMENTS OF A POSSIBLE CONVENTION, WEIGHTED TOWARDS MEASURES FOR STRENGTHENED LAW ENFORCEMENT COOPERATION. THE DRAFT ALSO CALLS FOR COUNTRIES TO CRIMINALIZE SEXUAL ACTIVITIES OF THEIR NATIONALS INVOLVING CHILDREN IN OTHER COUNTRIES ("SEX TOURISM"), A STEP THE UNITED STATES TOOK IN THE 1994 CRIME BILL.

26. DURING THE WORKING GROUP'S FIRST MEETING, THE UNITED STATES URGED THAT, AS THE DISCUSSIONS SEEMED AIMED TOWARD A PROTOCOL AIMED AT STRENGTHENING LAW ENFORCEMENT COOPERATION, APPROPRIATE LAW ENFORCEMENT EXPERTS SHOULD BE BROUGHT INTO THE PROCESS. IN PREPARING FOR THE 1996 SESSION, THE UNITED STATES CERTAINLY SHOULD SEEK INPUT FROM THE DEPARTMENT OF JUSTICE. IT SHOULD ALSO CONSIDER PARTICIPATION BY JUSTICE OFFICIALS OR OTHER LAW ENFORCEMENT EXPERTS ON THE U.S. DELEGATION.

27. THE U.S. DELEGATION SHOULD ALSO BE WARY OF EFFORTS TO INJECT ADOPTION AND SALE OF CHILDREN'S ORGANS INTO THE TEXT. INDIVIDUAL MEMBERS OF SOME DELEGATIONS AT THE FIRST WORKING GROUP SEEMED CONCERNED THAT SHAM INTERNATIONAL ADOPTIONS WERE BEING USED TO OBTAIN CHILDREN FOR IMMORAL PURPOSES. THE CUBANS AND OTHER MISCHIEF MAKERS ARE ALSO PRONE TO TRY TO SNEAK IN UNCLAS SECTION 04 OF 04 GENEVA 006309

DEPARTMENT FOR L - DAVID STEWART AND MIRIAM SAPIRO,
IO/ESA AND DRL/MLA

E.O. 12356: N/A

TAGS: PHUM, UNHRC-1

SUBJECT: UN NEGOTIATIONS ON NEW HUMAN RIGHTS STANDARDS

REFERENCES TO THE SALE OF CHILDREN'S ORGANS. THE DELEGATION SHOULD ALSO BEWARE OF EFFORTS BY DELEGATIONS LIKE IRAN TO SEEK COMMITMENTS TO ELIMINATE THE "ROOT CAUSES" OF CHILD EXPLOITATION, BE THEY POVERTY OR WESTERN MORAL DEPRAVITY.

HUMAN RIGHTS DEFENDERS WORKING GROUP

28. THE HUMAN RIGHTS DEFENDERS WORKING GROUP IS SCHEDULED FOR ONE WEEK, MARCH 11-15, 1996. THIS GROUP SEEKS TO DEVELOP A NON-BINDING DECLARATION AIMED AT CONFIRMING AND STRENGTHENING THE WORK OF INDIVIDUALS AND GROUPS WHO SEEK TO PROMOTE HUMAN RIGHTS, BOTH IN PARTICULAR COUNTRIES AND INTERNATIONALLY. IT IS CHAIRED BY PROFESSOR JAN HELGESSON OF NORWAY.

29. THE HUMAN RIGHTS DEFENDERS EXERCISE HAS

CONSIDERABLE RHETORICAL SUPPORT FROM THE NGO COMMUNITY, PARTICULARLY IN LIGHT OF CONTROLS ON HUMAN RIGHTS DEFENDERS' ACTIVITIES BEING ADOPTED IN MANY COUNTRIES. HOWEVER, ONLY TWO MAJOR NGO'S (AMNESTY INTERNATIONAL AND THE INTERNATIONAL COMMISSION OF JURISTS) HAVE PARTICIPATED REGULARLY IN THE WORKING GROUP.

30. THE JANUARY 1995 SESSION OF THE WORKING GROUP WAS A VIRTUAL STALEMATE. CUBA TOOK EXTREME AND UNCOMPROMISING POSITIONS ON ALMOST EVERY ISSUE, EXPLOITING THE RULE OF CONSENSUS TO BLOCK PROGRESS; CUBA ALSO TRIED TO REOPEN AGREEMENTS REACHED ON KEY ISSUES IN PRIOR YEARS. CUBA'S EXTREME POSITIONS AND AGGRESSIVE TACTICS ALLOWED OTHER OPPONENTS OF THE DECLARATION (SYRIA, CHINA) TO SIT BACK QUIETLY AND APPEAR MODERATE BY COMPARISON.

31. THE STALEMATE IN THE WORKING GROUP LED SOME WESTERN DELEGATIONS TO ASK WHETHER THE WHOLE EFFORT SHOULD BE SHELVED UNTIL CIRCUMSTANCES IMPROVED IN THE FUTURE. IN THE END, DECLARATION SUPPORTERS DECIDED TO SEEK CONTINUATION OF THE WORKING GROUP, BUT ONLY FOR ONE WEEK AND NOT TWO. THE DECISION TO SEEK A SINGLE WEEK REFLECTED NEGOTIATING FATIGUE STEMMING FROM THE MANY WORKING GROUPS IN THE MONTHS BEFORE THE 1995 COMMISSION. GIVEN OTHER HEAVY DEMANDS ON THEIR TIME, FEW GENEVA DELEGATIONS WANTED TO COMMIT TWO FULL WEEKS TO A WORKING GROUP THAT WAS GOING NOWHERE.

32. THE DEBATE AT THE 1995 SESSION IS DESCRIBED IN UNUSUAL DETAIL IN THE WORKING GROUP'S REPORT (DOCUMENT E/CN.4/1995/93), WHICH SHOULD BE CAREFULLY REVIEWED BEFORE THE 1996 SESSION. WE SHOULD ALSO BE IN EARLY CONTACT WITH THE NORWEGIANS REGARDING THEIR PLANS.

CONCLUDING COMMENT

33. THE HUMAN RIGHTS STANDARD SETTING WORK IS ARDUOUS, AND THE COMING SEASON OFFERS LITTLE PROMISE FOR RAPID PROGRESS. NEVERTHELESS, WE BELIEVE THAT FULL-TIME EXPERT PARTICIPATION BY U.S. DELEGATIONS IN THESE EFFORTS IS FULLY WARRANTED. OTHER WEOG'S LOOK TO US FOR LEADERSHIP ON THESE ISSUES. THE HUMAN RIGHTS STANDARDS GENERATED BY WORKING GROUPS LIKE THESE THROUGH THE YEARS MAKE UP AN IMPORTANT PART OF THE BODY OF HUMAN RIGHTS LAW. HENCE, THE NEGOTIATING PROCESS MUST "GET IT RIGHT" AND AVOID TEXTS THAT ARE RETROGRADE OR IN CONFLICT WITH OTHER STANDARDS. THERE CAN BE SUDDEN BREAKTHROUGHS, AS THE SUDDEN COMPLETION OF THE DECLARATION ON PERSONS BELONGING TO MINORITIES SHOWS. AND, IF WE ARE NOT THERE, THERE IS THE RISK OF TEXTS THAT ARE PREJUDICIAL TO OUR INTERESTS ON A WIDE RANGE OF ISSUES. GERSON
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