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SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 22 March 2004, at 10 a.m.

Chairperson: Mr. SMITH (Australia)

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The meeting was called to order at 10 a.m.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 5) (continued) (E/CN.4/2004/14 and 15; E/CN.4/2004/G/6; E/CN.4/2004/NGO/7, 56, 68, 82, 89, 109, 133, 139, 177, 200, 219 and 220)

1. Ms. MENDOZA (International Indian Treaty Council) said that, as the International Decade of the World's Indigenous People drew to a close, little progress had been made on the draft United Nations declaration on the rights of indigenous peoples, since some Governments participating in the Working Group were opposed to the adoption of the declaration as approved by the Sub-Commission. A group of Governments, mostly from the North, tended to rate peoples as "first class" and "second class" when it came to applying international norms. Indigenous peoples categorically rejected that approach and regarded article 3 of the draft declaration, which accorded them the right of self-determination, as the instrument's core provision. Denying indigenous peoples that right, as set forth in article 1 of the International Covenants on Human Rights, was tantamount to denying their existence as "peoples".

2. Many other Governments, however, were in favour of adopting the draft declaration as approved by the Sub-Commission. Mexico was one of them, although its own laws failed to recognize the rights concerned. The Commission's Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people had recommended in his report (E/CN.4/2004/80/Add.2) that Mexico should adopt a new constitutional amendment reflecting the 1996 San Andrés Accords between the Government and the Zapatista Army of National Liberation (EZLN) to ensure full recognition of the rights of the indigenous peoples of Mexico.

3. The Commission should urge Governments to ensure that substantial progress was made at the next session of the Working Group so that it could complete its mandate.

4. Mr. KASHMIRI (European Union of Public Relations) said that failure to recognize the right of self-determination had profoundly affected the lives of some 15 million subjugated people living in an area divided into three and controlled by Pakistan, India and China. The people of Jammu and Kashmir had been deliberately kept in illiteracy, poverty and backwardness by successive Governments. Their problems had been compounded in recent years by religious fundamentalist organizations that had infiltrated the region with the connivance of the intelligence agencies.

5. Since 1947 the puppet "Azad" Kashmir Government had remained under the direct control of unelected nominees of the Government of Pakistan. In a series of rigged elections, parties and candidates supporting independence and refusing to sign a declaration acknowledging "Azad" Kashmir's accession to Pakistan had been denied the right to participate in the elections. Gilgit and Baltistan had been forcibly incorporated into Pakistan in a major constitutional fraud. Judicial pronouncements aimed at reversing the situation had been ignored by successive Pakistani Governments. As India and Pakistan began to normalize relations, there was no alternative to the eventual reunification of the people of the erstwhile sovereign state of Jammu and Kashmir.

6. Ms. MASSAGEE (Al-Haq) said that the United Nations had adopted scores of resolutions over the past five decades upholding the right of the Palestinian people to self-determination and urging Israel to withdraw from territories unlawfully acquired or occupied by force and to implement Palestinian refugees' right of return and right to compensation. It was clear from the realities on the ground that Israel had rejected those obligations. Over 400,000 Israeli settlers were illegally living in the Occupied Palestinian Territory and Israel had recently begun construction of a wall which, if completed in accordance with existing plans, would annex over 40 per cent of the West Bank.

7. Thousands of Palestinian and hundreds of Israeli lives had been lost since September 2000 in a seemingly endless cycle of violence. The Palestinian people wanted to live a normal, peaceful life but were unable to do so while being denied the fundamental right of self-determination. She called on the international community to honour its repeated commitments regarding recognition of that right, so that a just and lasting solution to the conflict could be reached and Palestinians and Israelis could live in peace.

8. Mr. PARRY (Indian Movement "Tupaj Amaru") said that a year had passed since a coalition of States led by the United States and the United Kingdom had attacked the Iraqi people, without Security Council authorization, on the pretext of fighting against terrorism. Since then the world had been caught up in a spiral of violence because it was a political and strategic error to respond to terrorist attacks by directing acts of vengeance and hatred against Muslims and Arabs. The military occupation of Iraq violated international law and had no moral justification. No State, however powerful, was justified in imposing its model of democracy and development and its concept of human rights on other peoples as absolute and universal values.

9. The United States, which had emerged as a nation by exterminating a large proportion of its indigenous population, had now assumed the role of world leader. Displaying contempt for the United Nations and the International Criminal Court, it undertook military interventions wherever its strategic and geopolitical interests were at stake and was subjugating the world on a scale unmatched by any other empire in history. After the tragic events of 11 September 2001, the President of a State that possessed thousands of nuclear and other weapons of mass destruction had declared pre-emptive war on what he termed the "axis of evil".

10. Mr. SHARMA (International Institute for Peace) said that Gilgit and Baltistan, once part of the state of Jammu and Kashmir, had remained in the colonial grip of Pakistan for over 50 years. There had never been a democratic election in the region. If the ruler of Pakistan wished to prove his democratic credentials, he should hold the first general elections there. Curbing dissent and denying people the right to choose their own leaders fostered resentment and aggression.

11. The climate of non-accountability encouraged by the rulers of Pakistan allowed the uncontrolled spread of the means of mass destruction, as demonstrated by the Abdul Qadeer Khan affair. Only unrestricted and unqualified democracy permitted all citizens an equal share in a nation's destiny. For true self-determination every citizen should have the right not just to choose his or her leaders but also to question the leadership about issues and situations that had an impact on the individual's well-being.

12. Mr. BALOCH (Afro-Asian People's Solidarity Organization) said that Pakistan, a country that professed to champion the cause of self-determination, had done everything possible to crush it, both internally and externally. A succession of military coups and continuous interference by the Pakistani military in political life had impaired the functioning of the Parliament and the judiciary, and the military pursued its corporate interests at the expense of the people's welfare. The result was a collapse of the rule of law, erosion of the people's faith in government, a dysfunctional economy, regional imbalances in the allocation of development resources and institutionalized discrimination on grounds of ethnicity and religion.

13. The Pakistani military's unofficial alliance with radical Islamic religious parties and sectarian militant groups to keep mainstream secular political parties in check had led to a marked increase in sectarian violence and attacks on minorities.

14. He called on the Commission to set up a mechanism to study the behaviour of States such as Pakistan which pursued policies that eroded the right of self-determination of large sections of their own population and of the inhabitants of territories that they sought to annex by force or fraud.

15. Mr. CHEIKH (International Youth and Student Movement for the United Nations) said that the right of self-determination had not yet been accorded to the Sahrawi people, whose territory had been occupied by Morocco since 1975 despite a series of United Nations resolutions explicitly reaffirming that right. The latest peace plan for self-determination of the people of Western Sahara presented by the Special Envoy of the Secretary-General in 2003 had been rejected by Morocco just as it had rejected the Settlement Plan adopted by the Security Council in 1990 and 1991. The Polisario Front had accepted both.

16. The organization of a free and democratic referendum was the only way of reaching a final settlement that would end the injustice and exile endured by the Sahrawi people for almost three decades. In the meantime, Morocco was consolidating its hold on the territory and exploiting its wealth with impunity.

17. It was time for the United Nations to complete the process of decolonization of Western Sahara. The international community should put more pressure on Morocco to consent to the organization of an equitable referendum on self-determination.

18. Mr. REHMANI (World Muslim Congress) said that the illegal Indian annexation of the State of Jammu and Kashmir was a history of broken promises and brutal repression by a succession of Governments. A host of restrictive laws and widespread violations of international humanitarian law were designed to force the people of Kashmir to abdicate their right of self-determination. For five decades puppet governments had been installed through sham elections as an alternative to the impartial plebiscite called for in relevant United Nations resolutions. India had recently begun to brand the rightful struggle of the people of Kashmir to realize their right of self-determination as "terrorism", a classic example of the culprit playing the victim.

19. He called on the Commission to bring its influence to bear on the Government of India to activate the internationally mandated mechanism for enabling the 13 million people of Kashmir to exercise their right of self-determination. It was time to shun selectivity and contribute to the realization of that cherished dream.

20. Mr. MALEZER (Foundation for Aboriginal and Islander Research Action) said that the Working Group on a draft United Nations declaration on the rights of indigenous peoples had failed to reach consensus on their right to self-determination, a right that those peoples viewed as self-evident and a natural interpretation of the provisions of the Charter of the United Nations and other human rights instruments. The Aboriginal peoples of Australia had been subject to colonial domination for some 200 years, their territories having been claimed as *terra nullius*. Although two discriminatory references had been removed in 1967, the Constitution still failed to recognize the existence of the Aboriginal peoples or their inherent rights as peoples.

21. The Prime Minister refused to negotiate a treaty with the Aboriginal and Torres Strait Islander peoples on the ground that they had no status and the Government had intentionally terminated the appointments of many Aboriginal people who had held high office. In addition, the Government had suspended the elected Chair of the Aboriginal and Torres Strait Islander Commission (ATSIC) because he had intervened in a race clash between Aboriginal people and the police, and advocated the dismantling of ATSIC. It had quashed the 10-year "Reconciliation" agenda and Aboriginal leaders now considered that reconciliation was dead.

22. He called on the Commission unreservedly to assert the right of indigenous peoples to self-determination and to finalize the draft declaration. He urged Australia to reinstate the Chairman of ATSIC, to restore that body's functions and to enter into bilateral negotiations with the Aboriginal peoples on a treaty.

23. Mr. GIMBERNAT (Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos) said that deadlock had again been reached in negotiations on a peace plan for the Western Sahara, with Morocco obstructing the holding of a census as a prerequisite for a referendum on self-determination. The latest version of the so-called "Baker Plan" had also been blocked by Morocco following its acceptance by the Sahrawi authorities.

24. The refugees in the Tindouf refugee camps had been stranded for almost 30 years in an inhospitable region of the Sahara Desert. The European Union (EU), and Spain in particular, had failed to bring the necessary political pressure to bear on the Moroccan Government to accept relevant United Nations resolutions on decolonization. The Sahrawi representatives had made a major concession in accepting the latest peace plan, but their efforts to reach a settlement had not been rewarded.

25. In the territory they occupied, the Moroccan authorities imposed restrictions on the freedom of expression and movement of Sahrawi associations. In March 2003, 13 human rights defenders and relatives of disappeared persons had been prevented from attending the previous session of the Commission. Their passports and tickets had been confiscated and had not yet been returned.

26. Ms. AMADOR (Federación de Mujeres Cubanas) said that hegemonic Powers were seeking to fragment nations, restore zones of imperial influence and recolonize territory. They had shown contempt for the authority of the United Nations by invading Iraq and committing acts of plunder in pursuit of economic interests. On the pretext of a “war against terrorism”, the United States condoned vandalism, the use of bombs against civilians, destruction of the world’s cultural heritage and foreign occupation.

27. Cuban women empathized with the mothers of Palestinian children killed by Israeli violence.

28. Cuba had been the victim of assaults on its right of self-determination for more than 40 years in the form of mercenary invasions and a genocidal blockade imposed unilaterally by successive United States administrations. It demanded the return of the illegally usurped territory that now constituted the United States naval base of Guantánamo. The Cuban people looked for international solidarity in asserting that claim. She also called for the release of five Cubans who had been imprisoned in the United States for defending their country’s sovereignty.

29. Ms. AGUILA (Women’s International Democratic Federation) said that the terrorist attacks of 11 September 2001 had marked the beginning of an era of military intervention by the United States in violation of the right of peoples to self-determination. Pre-emptive war violated international law and the Charter of the United Nations, and States which waged such wars should be punished.

30. Her organization supported demands for the creation of an independent and sovereign Palestinian State with East Jerusalem as its capital and denounced the crimes of Ariel Sharon.

31. She welcomed the end of the United States military occupation of Vieques Island, Puerto Rico, but regretted that much of the land had not been restored to the people of the Island. The women of Puerto Rico had fought for 62 years against the world’s most powerful country. During that period, over 1,500 people had been imprisoned for civil disobedience.

32. For almost half a century the Cuban people had endured a genocidal economic, commercial and financial blockade by the United States Government, which constituted an ongoing obstacle to their right of self-determination.

33. Her organization condemned the invasion and occupation of Iraq. The Iraqi people should be allowed to exercise their right of self-determination, and women and religious and secular minorities should be ensured equitable representation in a future Iraqi Government.

34. Mr. CHOUDHRY (World Peace Council) said that the State of Jammu and Kashmir had been forcibly divided between India and Pakistan in 1947 and its people denied their right of self-determination. When the future of Kashmir had been discussed in the Security Council, the Pakistani Government had suggested that the Kashmiri people’s right to determine their future should be limited to choosing between accession to Pakistan or India. As both India and Pakistan failed to agree on issues related to demilitarization, the people of Kashmir remained divided and oppressed.

35. The elections in Azad Kashmir in 2001 had been ignored by the international community, which mistakenly believed that only India denied the Kashmiris their political rights. But the leaders who had emerged from those elections were all committed to making Kashmir a part of Pakistan. The majority of the people, who disagreed with that policy, were denied employment, government contracts and opportunities in private enterprise. The people of Gilgit and Baltistan enjoyed even fewer rights than those of Azad Kashmir. He took it that the Commission agreed that the people of Gilgit and Baltistan and of Azad Kashmir deserved to enjoy the same rights and protection under the Universal Declaration of Human Rights as those in other parts of the world.

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

- (a) COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE DURBAN DECLARATION AND PROGRAMME OF ACTION (agenda item 6) (E/CN.4/2004/16, 17 and Add.1-3, 18 and Add.1-4, 19-21, 112 and 120; E/CN.4/2004/NGO/5, 15, 16, 25, 26, 78, 101, 110, 140, 155, 186, 187, 191, 204, 225, 232, 244 and 255; A/CONF.189/PC.2/21 and Corr.1 and 2)

36. Mr. DIÈNE (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), introducing his report (E/CN.4/2004/18 and Add. 1-3), said that the holistic view of racism and racial discrimination and the consensus of all participating member States at the Durban Conference had raised justified hopes that the international community had finally found the means to rid the world of racism, racial discrimination and xenophobia. Unfortunately, almost three years later, racism was still rampant: there was a resurgence in traditional forms of discrimination such as caste systems, racism based on colour, particularly against black people, Asians, indigenous peoples, Arabs and the Roma, anti-Semitism and Islamophobia; and at the same time the emergence of new forms of discrimination directed against non-nationals and immigrants. While they had different historical and geographical roots, those forms of racism had all been reinforced by an insidious new culture of discrimination resulting from a combination of ideological, political, economic and social factors. While the will to combat racism had doubtless declined due to political apathy towards implementing the Durban Programme of Action, that was also attributable to the excessive emphasis placed on the fight against terrorism in the wake of the tragic events of 11 September 2001.

37. In the light of his visits to Guyana, Trinidad and Tobago, Canada, Colombia and Côte d'Ivoire, and based on the allegations of racism and discrimination he had received, he had arrived at some key conclusions regarding the waning fight against racism. The authorities' readiness to facilitate the visits to those countries had demonstrated both recognition that racism and discrimination existed, and that there was a political will to tackle them. In many countries, however, combating racism and discrimination was limited to the legal framework which, while fundamental, was restricted in the long term by a lack of recognition of the historical, cultural and intellectual roots of racism. For instance, while Canada's legal armoury was one of the most comprehensive and innovative in combating racism, a more intellectual approach was required, one that embraced the historical background of racism, from slavery to the need for more

interactive and egalitarian multiculturalism. Colombia urgently needed both a legal, social and economic strategy and a more democratic and egalitarian pluralism that took into account the marginalization, insecurity and extreme violence suffered by the indigenous population, the Afro-Colombian minorities and the Roma.

38. One of the consequences of the new ideological framework resulting from the fight against terrorism and the injection of cultural and religious elements had been new types of discriminatory practices that targeted communities, ethnic groups, religions and spiritual traditions. The concomitant decline in political and ethical will to combat racism and racial discrimination was of great concern. In Colombia that had led to increased political violence and forced displacements and more suffering and discrimination against minorities. Canada should ensure that the fight against terrorism did not result in discrimination against its ethnic minorities and undermine its cultural dynamism.

39. Discriminatory and xenophobic practices were being justified in many countries by a new, openly proclaimed emphasis on security considerations and upholding “threatened identity”. The rejection of ethnic, cultural or religious pluralism had led to an acceptance of Islamophobia by many influential figures, particularly in the press, and a denial of the upsurge in anti-Semitism. Similarly, in Côte d’Ivoire, the concept of “ivoirité” (“Ivorianness”) had been given an ethnicist interpretation and had profoundly influenced political debate. While extreme ethnic polarization had taken place in Guyana and Trinidad and Tobago, democratic multiculturalism was on the increase once again, a trend which should be encouraged.

40. Internal political conflicts had increasingly resulted in discrimination, racism and xenophobia. Despite the absence of a tradition of xenophobia in Côte d’Ivoire, it had played a large part in the current crisis. In Colombia, the ethnic communities that already suffered from discrimination were those that bore the full brunt of the extreme political violence.

41. A growing number of political parties worldwide had taken advantage of the current rejection of cultural diversity to gain ground, often hiding xenophobic, racist and discriminatory policies behind the veneer of national causes. That had led to the construction of a new discourse justifying racism, xenophobia and intolerance that was used by politicians and, increasingly, intellectuals, and targeted non-nationals, refugees and immigrants. It constituted a dual distortion of the democratic ideal, given that freedom of expression and opinion had led to its dissemination, and it was able to influence traditionally democratic political parties through electioneering and opportunism.

42. Mr. SINGH (Guyana) said that due to the late issuance of the English version of the Special Rapporteur’s final report, his Government had not had the opportunity to study its contents. It did, however, take heed of the interim report to the General Assembly (A/58/313) and the recommendations therein for the eventual eradication of ethnic and racial problems in Guyana, including a strengthened democratic process and multi-ethnic political parties. He assured the Commission of Guyana’s commitment to submit a periodic report to the Committee on the Elimination of Racial Discrimination (CERD) by September 2004, with the assistance of a human rights adviser and consultant from the Office of the United Nations High Commissioner for Human Rights (OHCHR). The Government had taken note of the recommendations,

following the Special Rapporteur's recent visit, that ethnic and racial discrimination should be addressed and all institutions should have a multi-ethnic identity, and that Guyana should become a voluntary multi-ethnic State that promoted mutual equality in all spheres, including education and the media.

43. The Government was committed to fighting racial and ethnic discrimination and polarization, and had recently amended the Constitution to create an Ethnic Relations Commission aimed at scrutinizing all governmental, national and local activities. The functions of that commission included providing for equality of opportunity between persons of different ethnic groups, promoting the elimination of discrimination on the grounds of ethnicity and discouraging and prohibiting institutions, persons and political parties from disseminating discriminatory messages. It had also established an Ethnic Relations Tribunal, which was shortly to hear its first case of alleged racial discrimination. Other constitutional reforms had been aimed at enhancing financial and decision-making transparency, which would strengthen democracy by aiding the process of eliminating racial intolerance.

44. Guyana had the most inclusive Constitution in the region and had shown its firm commitment to combating racial and ethnic discrimination. It had taken several measures to facilitate inclusion and transparency in society since the Special Rapporteur's visit and had consolidated the democratic process and strengthened national institutions to ensure a more just society. While the challenges it faced were the result of Guyana's colonial legacy and the cold war, they were not insurmountable and the Government was determined that, with help in capacity-building and resources, it would be able to overcome those problems and pursue the recommendations in the report.

45. Mr. MEYER (Canada) said his Government recognized that many Canadians experienced racism, racial discrimination, xenophobia and related intolerance. The elimination of those phenomena was a national priority and a central objective of Canada's international human rights agenda. The Special Rapporteur's report had served to remind the Government of the importance of closing the gap between the goal of substantive equality and the actual social and economic circumstances of people from ethno-racial communities, a process in which Governments, community organizations, police, religious leaders and others should be involved. Canada's identity was directly linked to its bilingualism and multiculturalism and the effective participation of all Canadians in the economic, social, political and cultural life of the society. The Government was committed to policies and programmes aimed at fostering diversity and the fundamental belief that all people were equal. The goal of the multiculturalism policy was for all Canadians to retain their identities, take pride in their ancestry and have a strong sense of belonging, thus giving them a feeling of security and self-confidence and making them more open to ethno-racial and ethno-cultural diversity. The Canadian experience had demonstrated that multiculturalism encouraged racial and ethnic harmony and cross-cultural understanding, and discouraged ghettoization, hatred, discrimination and violence.

46. The Government would continue to work with all Canadians to ensure that they built on their successes and created a more inclusive and respectful society. It would carry on working with the United Nations and other international organizations to foster inter-cultural dialogue and understanding and develop effective strategies for the elimination of racial discrimination. Canada remained committed to collaborating with OHCHR, the Special Rapporteur and other key partners in promoting national and international efforts to eliminate racism. Visits such as

that by the Special Rapporteur contributed to the effective fulfilment of human rights obligations and the resulting reports, when drafted so as to share good practice, constituted practical tools for other States. Canada had issued a standing invitation to all the Commission's Special Rapporteurs as an indication of its willingness to open its human rights record to the scrutiny of the international community. His delegation encouraged all States that had not already done so to do likewise, in order to encourage the implementation of human rights for all people.

47. Mr. BEKE DASSYS (Côte d'Ivoire) said that his country had always been willing to cooperate with the Commission and had welcomed the visit by the Special Rapporteur. Côte d'Ivoire had ratified most of the conventions on human rights and the second part of its Constitution was dedicated to human rights and fundamental freedoms. All forms of racial and religious discrimination were condemned in articles 2 and 10 of the Constitution.

48. While the Special Rapporteur was to be commended on his excellent work in meeting different political and religious groups and going to both urban and rural areas during his visit, it would have been useful for him to visit the north of the country had time permitted. Regarding the Special Rapporteur's observations, it should be noted that Côte d'Ivoire had always been a welcoming and hospitable country. In that respect, the facts detailed in the report should be recognized as isolated cases that were directly or indirectly linked to the current crisis. Legislation was already in place to prevent the cases condemned in the report from becoming widespread. The Government had adopted 15 draft laws implementing the Linas-Marcoussis Agreement, currently under examination by the parliament, which covered such issues as the nationality code, identity, the status of foreigners, the electoral system and the eligibility requirements for the presidency.

49. With regard to the causes of the current conflict in Côte d'Ivoire, the Special Rapporteur should carry out a thorough examination of the diverse parameters and the role of the different participants in the emergence of the crisis in order to aid national reconciliation. Implementation of the Special Rapporteur's recommendations had already begun by means of the draft laws adopted in accordance with the Linas-Marcoussis Agreement and Security Council resolution 1528 (2004).

50. Mr. KHAN (Pakistan) welcomed the report on the situation of Muslim and Arab peoples in various parts of the world (E/CN.4/2004/19). It confirmed the evidence of a spiralling trend of Islamophobia in the form of physical assaults and attacks against Muslims, their places of worship, cultural centres, businesses and properties and hostility and discrimination against Muslims in the aftermath of the events of 11 September 2001. Two fundamental aspects of the phenomenon were the intellectual legitimization of increasingly overt hostility towards Islam and its followers by influential figures, and growing tolerance of that hostility in many countries. The most serious aspect of Islamophobia was that Islam was targeted as a religion, desecrating the Koran and humiliating the Prophet. His delegation endorsed the recommendation that all Member States should recognize the reality and seriousness of Islamophobia and take legislative, judicial and other measures to eradicate it. States should educate people about religions in general and about Islam in particular, and promote respect for religious and cultural diversity.

51. Ms. HERRERA (Cuba) said that the increase in racism, racial discrimination and xenophobia, particularly after 11 September 2001 in the industrial countries of the North, was of great concern. The dissemination of racism on the Internet, in public demonstrations and by

elected political parties was particularly worrying. Her delegation therefore wondered what concrete measures the Special Rapporteur could suggest to halt that negative trend, and whether he thought that the dissemination of ideas that discriminated against ethnic minorities could be justified in the name of freedom of opinion, expression, and association.

52. Ms. WHELAN (Ireland), speaking on behalf of the European Union (EU), said that at the Durban Conference, the importance of cooperation between the different national, regional and international bodies involved with racism and discrimination had been emphasized. That synergy was crucial for the formulation of a global plan of action against racism. It would be interesting to learn whether the Special Rapporteur had regular contact with those bodies, in particular the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE). The Special Rapporteur had also emphasized the importance of intercultural and inter-religious dialogue to end racism. It would be useful to have some practical examples in that area and advice on how to organize such dialogue so that it could produce positive results. He had made reference to racist material on the Internet. The EU was also concerned by the increasing use of that medium as a means of disseminating racism and xenophobia and had been reflecting on ways of dealing with it. She would therefore welcome more details on what concrete steps the Special Rapporteur envisaged to combat that new form of racism and how he thought the Internet, among other media, could be used to promote tolerance and diversity.

53. Mr. MEYER (Canada) said that his delegation was particularly interested in considerations of the intersectionality between racism and other forms of discrimination. Noting that CERD had adopted a background paper affirming that “many persons are suffering in a double sense as victims of accumulated discrimination: race and gender, race and sexual orientation, race and being handicapped, race and age, etc.” (E/CN.4/1999/WG.1/BP.7), his delegation agreed with the Special Rapporteur that the interrelatedness of human rights warranted particular attention, and would appreciate more details on how he planned to examine and document that issue in the coming year.

54. Mr. SAHA (India) said that the Government, civil society and media of India were all sensitive to the issue of the caste system in the country. Considerable financial resources were being invested to resolve it and the Government had already taken some measures in that direction. The caste system did not equate to racism, since it was a socio-cultural problem rooted in 3,000 years of history. Resolving the problem would be a slow process, but the issue was already centre-stage in India. It was, therefore, difficult to understand what was to be gained by highlighting it, and to do so was a waste of the Commission’s resources. The Special Rapporteur should focus instead on issues of which there was insufficient awareness nationally, in order to draw Governments’ attention to them.

55. Mr. DIÈNE (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) said it was his duty as Special Rapporteur to support Governments in their efforts to combat racism and discrimination. However, despite the Durban Declaration and Programme of Action, there had been no meaningful progress in combating racism in recent years. He was particularly concerned about the old forms of racism that were still prevalent in certain parts of the world. The caste system, which continued to exist not only in India, but also in countries such as Japan and Senegal, was one of the most harmful.

56. Although India had a well-defined legal and political strategy to put an end to its caste system, many of the problems related to that system were so entrenched in the country's culture and history that they could not be solved by legal and political measures alone.

57. It was becoming increasingly evident that there was a close link between intercultural and inter-religious dialogue and the elimination of racism and discrimination. In order to change the deep-rooted cultural values of a society, legislative measures alone were not enough. Intercultural and inter-religious dialogue would promote better understanding of the role of race in a particular value system and of how national identity was defined and promoted. It was crucial to focus on education.

58. Regarding the linkage between racism and other forms of discrimination, he had found that the majority of groups discriminated against saw themselves as victims of a unique and isolated problem. There was little understanding that, although the targets varied, racism and other forms of discrimination were the product of a general mentality. The link between the different forms of discrimination should be taken into account.

59. Mr. KASANDA (Chairperson-Rapporteur of the Working Group of Experts on People of African Descent), introducing the report of the Working Group (E/CN.4/2004/21), said that the third session of the Group had been attended by representatives of Governments, United Nations agencies and non-governmental organizations (NGOs). The appointment by the Group of Western European and Other States of the fifth expert member of the Group had been welcomed. The Group had now achieved its full complement.

60. The aim of the panel-based discussions at the session had been to identify the problems faced by people of African descent in three key areas of concern: the administration of justice, the media and access to education.

61. During the general debate on the administration of justice, it had been recognized that racial bias against people of African descent and other migrants in the criminal justice system was not confined to North and South America, but occurred also in Europe. Stereotyping and racial profiling had been identified as urgent problems requiring urgent solutions by Governments and other stakeholders. The Working Group had heard a number of accounts of the unfair treatment of indigent people that made a mockery of the concept of equal justice under the law.

62. It had also been recognized that the media played a vital role in promoting the human rights of people of African descent. Although the media could serve as a vehicle for prejudice, hatred and stereotypes, when properly used, they could be a powerful tool for positive change. Emphasis had been placed on responsible journalism, recruitment and training programmes. In one of its recommendations, the Working Group urged States to establish press ombudspersons or institutions to respond to stereotypes in the media.

63. The Working Group had also recognized that education was the engine that drove human progress. Education without discrimination was the first step to recognizing the worth of any human being. The impediments to education for children and young people of African descent

were mainly at the university level, where structural inequalities existed. The affirmative action agreed on by Governments in the Durban Programme of Action, including the provision of extra investment in educational infrastructure, provided in the main the answer to increasing the access to education of people of African descent.

64. The Working Group had also concluded that, given the magnitude and scope of its mandate, it would be useful to undertake field trips in order to gather information and learn from the experience of Governments and private-sector stakeholders. Such trips would not only enhance the Group's work, but would raise its profile and visibility. He appealed to the Commission to provide the Working Group with the financial resources it needed to carry out its mandate meaningfully.

65. In conclusion, he urged the Commission to refer to the other recommendations made by the Working Group, which were contained in the report.

66. Mr. MARTABIT (Chairperson-Rapporteur of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action), introducing its report (E/CN.4/2004/20), recalled the mandate of the Working Group and outlined the structure of the second session. The Group had focused on the follow-up to the Durban Declaration and Programme of Action, considering the topics of poverty and education, and on the analysis of reports, which had led to an exchange of views on the preparation of complementary standards.

67. Given the importance and technical complexity of the issues under debate, a number of experts had been invited to attend the Working Group as panellists. Their valuable contributions had led to stimulating debates with the participation of the delegates. He had endeavoured to reflect the contents of those debates in the report.

68. In its recommendations, the Working Group recognized the important role of education in combating racism and underscored the need for all societies to respect cultural diversity and to promote tolerance by formulating educational policies and programmes in conformity with the universal principles of equality and non-discrimination. It reaffirmed that poverty was closely associated with racism and encouraged States to take that close correlation into consideration when planning development policies. It further reaffirmed its mandate to prepare complementary standards to update and strengthen the existing instruments dealing with the elimination of racism, and had decided to undertake, at its next session, thematic discussions on the issues of health and racism and racism and the Internet.

69. All the recommendations had been adopted by consensus, illustrating that, despite the difficult atmosphere prevailing at the time when it had started its work, the Working Group had made significant progress in establishing a climate of confidence.

70. Mr. RAMCHARAN (Acting High Commissioner for Human Rights) said that OHCHR attached the highest importance to the issue of racism and racial discrimination. It had sought to cooperate closely with the Special Rapporteur and the Chairpersons of the Working Groups in

question and had invested as substantively as it could in the activities of those experts. He was pleased to announce that the Anti-Discrimination Unit within the Office was working at almost full complement. The Office would continue to support activities in that field to the maximum extent possible.

71. Mr. HERNANDEZ-BASAVE (Mexico) said that, despite the efforts of the United Nations to eliminate all forms of exclusion, it had been unable to make a reality of the statement that all human beings were born free and equal in dignity and rights.

72. With the resurgence of different forms of exclusion and collective discriminatory attitudes, the international community was once again facing the challenge of how to promote harmony both between and within nations.

73. It was essential to continue to work towards the elimination of racism, racial discrimination, xenophobia and related forms of intolerance. The Durban Declaration and Programme of Action were two very valuable documents that contained commitments by the international community in that regard. It was important to implement those documents in full, on the basis of international cooperation.

74. Mexico supported the mandates and the work of the follow-up mechanisms that had been established in Durban. Those mechanisms should pay adequate attention to the victims of racism and discrimination, in particular if those victims were women, children, migrants, indigenous people or refugees.

75. It was necessary to step up efforts in the field of human rights education, which was a fundamental tool for the elimination of racism, racial discrimination and xenophobia and for preventing racist and discriminatory practices from being passed down from generation to generation. Education also promoted the development of a culture of tolerance.

76. In Mexico, eliminating discrimination was a top priority. His country had an adequate legal framework and the competent bodies in place to prevent and punish such acts of discrimination as continued to occur in the country. The prohibition of all forms of discrimination had been incorporated into the Constitution in 2001. On 11 June 2003, a federal law aimed at preventing and eliminating discrimination had entered into force, creating for the first time in the history of the country a set of legal mechanisms to prevent and eliminate all forms of discrimination and to promote equal opportunities and equal treatment.

77. The new law had created the National Council for the Prevention of Discrimination, a body comprising Government representatives and citizens which was responsible for proposing and monitoring the implementation of a National Programme against discrimination. The Council also had the power to adopt positive, compensatory measures and had established a review mechanism to identify and propose the amendment of discriminatory public policies. Without respect for the fundamental principle of equality, the implementation of other human rights was impossible.

78. Mr. UMER (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said the OIC believed that racism, racial discrimination, xenophobia and related intolerance in all their forms constituted a serious violation and obstacle to the full enjoyment of all human rights. The eradication of racism and racial intolerance required a firm commitment by the international community.

79. The goal of a world free of racism hinged on the effective and timely implementation of the Durban Declaration and Programme of Action. The Islamic countries were concerned at the slow pace of implementation of those documents and of follow-up. However, they welcomed the appointment of five eminent experts by the Secretary-General and also the views of those experts on the issue of racism and racial discrimination contained in document E/CN.4/2004/112. The OIC hoped that the Anti-Discrimination Unit of OHCHR would make a timely contribution, as envisaged in the Durban Programme of Action.

80. The Islamic countries also welcomed the report of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action (E/CN.4/2004/20) and its recommendations on education, poverty and complementary standards. The Group's reports and recommendations should be widely disseminated.

81. The principles of non-discrimination and social equality were enshrined in the fundamental teachings of Islam. The OIC's position on the issue of racism and racial discrimination was consistent with Islamic values.

82. Regrettably, despite efforts by political and religious leaders to promote harmony among cultures and religions, Muslims and people of Arab and Asian origin were frequent victims of the spiralling trend of violence, discrimination and physical assault. They were also victims of discriminatory policies on account of their physical appearance and religious identity in the context of anti-terrorism measures. Such policies were ill-considered, especially in view of the contributions of Islamic countries to the war against terrorism. All States should take the necessary steps to eliminate discriminatory policies from their legal systems.

83. The Islamic world was seriously concerned that there had been no decline in the defamation of Islam and attacks against its values and followers. Islam was a tolerant religion that preached peaceful coexistence with other religions and cultures. Yet the media continued to portray Muslims as terrorists.

84. All persons should have the right and independence to observe their religious and cultural identity without interference. Interfering with the personal beliefs of individuals was tantamount to denial of basic rights.

85. Since its foundation, the United Nations had been involved in the fight against racism and racial discrimination. However, despite the progress and efforts by the international community, problems continued to persist. The Durban Declaration and Programme of Action provided a framework to combat racism and related intolerance. Concerted action was required by States and other actors for the effective implementation of the commitments enshrined in those documents.

86. Mr. SHALABY (Egypt) said that his country welcomed the report of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action and particularly its recommendations in the areas of education, poverty and complementary standards. He recalled the vital role of the Commission in monitoring the implementation of the Programme of Action in accordance with General Assembly resolution 57/195.

87. Egypt also welcomed the creation of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. He urged all Member States to step up their efforts to put an end to the hostility to which migrant workers had been subjected since the terrorist attacks of 11 September 2001.

88. Egypt welcomed the report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, which highlighted the gravity of the attacks being carried out against Muslims all over the world in their places of worship and cultural centres. Further efforts should be made in accordance with Commission resolution 2003/41 to update and expand the study on the issue of political platforms which promoted or incited racial discrimination (A/CONF.189/PC.2/21 and Corr.1 and 2). Member States should do all they could to promote the human rights of Muslims and Arabs.

89. Further efforts should also be made to implement the resolutions aimed at re-establishing peace and security in the Middle East and at promoting respect for humanitarian law and self-determination in that region. It was crucial to put an end to the Israeli violations in the occupied territories.

90. The Durban Declaration emphasized the importance of working together to bring about greater equality and respect for cultural diversity. There was clearly a need for greater political will and additional resources so that the United Nations could give priority to those States - particularly in Africa - that needed to face up to the challenges of development.

91. In conclusion, he reaffirmed that all persons were equal under Egyptian law, which strictly prohibited all forms of racial or other discrimination and guaranteed equal opportunities for all citizens. Any act of terrorism carried out against a place of worship was severely punished. Furthermore, Egypt had acceded to all international conventions and supported the outcome of the Durban Conference. With the assistance of civil society, the Government was doing its utmost to bring about greater tolerance and respect for others, placing particular emphasis on education.

92. Mr. LA Yifan (China) said that, in the past, racism had brought untold suffering to the peoples of many Asian, African and Latin American countries. The efforts of the international community to combat racism had been given fresh impetus by the 2001 Durban Declaration and Programme of Action, and by a series of constructive meetings designed to ensure its effective implementation. However, racism had re-emerged in new and threatening forms in many parts of the world. The failure to eradicate poverty, and the widening gap between North and South, were among the main reasons for that trend. It was primarily from Western countries that racism

had emerged in the past. In the contemporary world, those same countries were among the least effective in combating its re-emergence. He called upon the international community and upon Western countries in particular to take urgent and effective steps to eliminate racism. He urged them to strengthen international development cooperation, which would help to reduce poverty and, consequently, racism.

93. Mr. HAI VAN HA (United States of America) said that, as a Vietnamese who had found refuge in the United States, he truly believed that everyone in his adoptive country, irrespective of race, age, gender, religion or sexual orientation, enjoyed equality of opportunity. The recent election of Mr. Ralph Boyd to CERD was testimony to the success with which he and other human rights officials had avoided an ethnic backlash in the wake of the terrorist attacks of 11 September 2001. Like previous generations of immigrants, Vietnamese Americans had been allowed to pursue their own ambitions within a multi-ethnic society. Some had been elected to serve as representatives, while others, such as Mr. Dinh Viet, Assistant Attorney-General in the United States Justice Department, had been appointed to senior government positions. As an active member of a human rights NGO, he was free to express his opinions and to promote democracy throughout the world. He was grateful for the chance to live in a society based on tolerance, freedom and democracy.

94. Ms. WHELAN (Ireland), speaking on behalf of the European Union and associated countries, Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic, Slovenia and Turkey, said that racial and other forms of discrimination were among the root causes of internal and international conflicts. As the Durban Declaration had underlined, long-term peace and stability depended upon a climate of tolerance and respect for human rights. The follow-up to the Durban Declaration should be agreed by consensus. The recent Regional Expert Seminar for Western States had highlighted how important it was for States to use the Durban Declaration and Programme of Action to develop policies at the national and regional levels.

95. Racism, xenophobia and related intolerance were contrary to the principles on which the EU was founded. Article 13 of the Treaty establishing the European Community provided for action to combat discrimination on the basis of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Racial Equality Directive covered a wide range of areas in which unfair treatment might occur, such as access to jobs, working conditions, rates of pay, access to education and training, social security benefits and health care. Member States were required by law to designate national bodies to promote racial equality. Article 29 of the Treaty on the European Union called for cooperation among Member States in criminal matters concerning racism and xenophobia. The European Monitoring Centre on Racism and Xenophobia carried out research and data collection concerning all forms of racism, xenophobia and anti-Semitism. The EU supported regional cooperation to combat racism and discrimination, including the work carried out by the Council of Europe and OSCE. The European Council had reiterated its strong condemnation of anti-Semitism, a message reinforced at the recent Brussels seminar on “Europe against anti-Semitism for a Union of Diversity”.

96. Preventive strategies, such as education and training, were a vital component of national policies to combat racial discrimination. The EU promoted human rights education with a view to bringing about behavioural change. It made thorough use of synergies between all the relevant bodies to improve its monitoring of manifestations of racism. Regrettably, the

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had failed to make use of a wealth of recent information published by the United Nations and European monitoring bodies concerning political platforms that promoted or incited racial discrimination.

97. Ms. HERRERA (Cuba) said that the Durban Conference had been a milestone in the struggle for equal rights among all human beings. The international community had a moral duty to compensate the millions of victims of the abominable, racist practices of the past, such as the transatlantic slave trade, colonialism, and the genocide of indigenous peoples. In recent times, racism and xenophobia had re-emerged in new and more sophisticated forms, especially in the countries of the industrialized North. For example, racist political parties flourished, discriminatory immigration laws had been adopted, and anti-terrorist legislation was used to justify ethnic or religious persecution. Groups advocating white supremacy had begun to use the Internet to spread messages of racial hatred. The situation in the United States of America was the most exemplary case of systematic racism. African-Americans were vastly overrepresented in the national prisons and, in particular, among prisoners awaiting execution. Since 11 September 2001, hundreds of people had been arrested, deported or harassed on account of their physical appearance or ethnic origin.

98. Mr. ATTAR (Saudi Arabia) said that, in accordance with Islamic values, his Government supported efforts to eliminate all forms of racial discrimination. Islamic law contained a comprehensive system of human rights, as well as a set of noble moral principles that rejected racial intolerance. Saudi Arabia had acceded to all the relevant international treaties, and was implementing the necessary legal and administrative reforms to fulfil its obligations in that regard. He expressed concern at the increasing tendency to associate Islam with terrorism, in spite of the fact that Islam advocated peace, tolerance and solidarity. Strong action should be taken to thwart attempts to discriminate against Muslims on such grounds.

99. Mr. HONG Jong-ki (Republic of Korea) said that the international community should take more practical steps to promote a culture of peace and tolerance in the world. The Working Group on the effective implementation of the Durban Declaration and Programme of Action had drawn attention to three main issues: education, poverty and complementary standards. His Government had taken various measures to promote human rights education, including the production of animated films and textbooks. Its national human rights commission had been highly successful in addressing racism and xenophobia. It had recently introduced new labour legislation to put foreign and domestic workers on an equal footing, as well as regulations allowing the children of migrant workers equal access to local schools. It was currently drafting a new law on the prohibition of discrimination.

100. The CHAIRPERSON said that the United States delegation had asked to exercise its right of reply.

101. Mr. REYES RODRIGUEZ (Cuba), speaking on a point of order, said that, as his delegation had already indicated in a letter to the Chairperson, it could not accept the presence of a known terrorist in the United States delegation.

102. The CHAIRPERSON said that, according to the rules of procedure, sovereign States were entitled to select their own representatives.

103. Mr. ZÚÑIGA REY (United States of America) said, in exercise of right of reply, that the Secretary of State, Mr. Colin Powell, had recently stated the following: Cuba's notorious secret police had arrested dozens of Cubans for the crime of thinking and acting independently. Some of those arrested had compiled information about human rights abuses, while others were independent librarians and journalists. Many had worked to obtain signatures to urge a national referendum on basic rights. Within three weeks, kangaroo courts had sentenced 75 Cubans to an average of nearly 20 years' imprisonment after trials which were a travesty of justice. Amnesty International considered all 75 activists to be prisoners of conscience, making Cuba the country with the world's highest per capita percentage of political prisoners. They were serving out their draconian sentences under inhumane and insanitary prison conditions, and many experienced serious health problems.

104. Significantly, the overwhelming majority of prisoners in Cuba were black.

The meeting rose at 1 p.m.