



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/SR.2
22 March 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Sixtieth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 15 March 2004, at 10 a.m.

Chairperson: Mr. SMITH (Australia)

CONTENTS

STATEMENT BY THE CHAIRPERSON

STATEMENT BY THE ACTING UNITED NATIONS HIGH COMMISSIONER FOR
HUMAN RIGHTS

ADOPTION OF THE AGENDA

ORGANIZATION OF THE WORK OF THE SESSION

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.04-12019 (E) 170304 220304

The meeting was called to order at 10.10 a.m.

STATEMENT BY THE CHAIRPERSON

1. The CHAIRPERSON, on behalf of the Commission, paid tribute to the late United Nations High Commissioner for Human Rights, Mr. Vieira de Mello, whose vision, integrity and experience would be sadly missed by the Commission. He praised the skill with which Mr. Ramcharan, the Acting High Commissioner, had discharged his heavy responsibilities in particularly difficult circumstances, and welcomed the appointment of Justice Louise Arbour as the next High Commissioner.

2. The main focus of the Commission's work had shifted from adopting human rights standards to monitoring and implementing those standards. Partly by implementing the Secretary-General's reform proposals, the treaty-monitoring bodies had developed a more consistent and effective approach. Yet an even greater challenge was how to improve national human rights protection systems. The Commission should offer technical support to countries wishing to strengthen governance structures and work more closely with national human rights institutions. Given the resource constraints under which they operated, the Commission's special procedures mechanisms could not be expected to serve as a substitute for effective national institutions.

3. During the current session, new proposals would be made to improve time management and, in particular, to avoid clustering agenda items at the end of the session. In the longer term, it might be necessary to review the agenda, in order to find room for new challenges, without neglecting core issues. One such challenge was the scourge of terrorism. Over the past few days, horrendous bomb blasts in Kabala, Madrid and Ashdod had provided a graphic reminder of the destructive potential of terrorism. The Commission needed to consider how to respond to that threat and, in particular, how to protect the victims of terrorist attacks.

STATEMENT BY THE ACTING UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

4. Mr. RAMCHARAN (Acting United Nations High Commissioner for Human Rights) said that, on the tenth anniversary of the Rwandan genocide, it was fitting for the Commission to consider what more it could do to prevent genocide in the future. Two ideas under consideration were the appointment of a Special Rapporteur and the establishment of a Committee on the Prevention of Genocide. He urged the Commission to pay special attention to the reports of thematic and country special procedures that contained evidence of gross human rights violations. A few members might be entrusted with special responsibility for advising the Commission on how to ensure adequate follow-up to those reports.

5. The Commission should make a distinctive contribution to worldwide efforts to combat poverty. It might seek to apply the principle of non-discrimination in the allocation of national resources. As a fundamental principle of good governance, country and international resources should be deployed equitably, with a view to ensuring that everyone enjoyed the means for a dignified life. At the same time, it should be recognized that globalization was making it difficult for developing countries to meet the basic needs of their people.

6. With racism, racial discrimination, xenophobia and related intolerance still rife in many countries, and a crisis of governance affecting many parts of the world, full implementation of the Universal Declaration of Human Rights was still a distant prospect. The world's peoples looked to the Commission to translate the Universal Declaration into reality. The Secretary-General had called for greater attention to be paid to strengthening the effectiveness of national human rights protection systems. The Office of the United Nations High Commissioner for Human Rights (OHCHR) had submitted a report to the Commission containing information supplied by over 30 Governments concerning their national protection systems.
7. He urged States to consider the proposal for an international convention on human rights education. The process of drafting such a convention would help to clarify government responsibilities and give fresh impetus to human rights education. Later in the session, the Commission would hear contributions from the national human rights institutions of almost 50 countries. It should reflect on how to develop and enhance its relationship with national institutions. Judges should be provided with materials in their own languages concerning international human rights standards, and be given the opportunity for an exchange of views on human rights issues at the regional and international levels.
8. He called for ever-more stringent measures to curb human trafficking, especially in relation to prostitution, slavery or slavery-like practices. Given that the international community seemed to have underestimated the gravity of the problem, the Commission should try to make a practical contribution beyond the adoption of resolutions.
9. Since 11 September 2001, terrorism had transformed the world in unprecedented ways. Condemning the recent attacks in Madrid and Ashdod, he extended his solidarity to the people and Governments of Spain and Israel. At the same time, given that the Palestinian people had suffered grievously for many decades, he appealed to those in a position to do so to step up their search for peace and justice between Israel and Palestine. OHCHR had published a Digest of Jurisprudence concerning the protection of human rights in counter-terrorism strategies. He asked the Commission to reflect carefully on how to sharpen its contribution to the monitoring of human rights protection in the context of intensified efforts to combat terrorism. Irrespective of political considerations, the Commission's essential task was to uphold international human rights norms.
10. His experience had taught him that the main responsibilities of a High Commissioner were provision of moral leadership, crisis response, human rights diplomacy, integration of human rights into the various activities of the United Nations system, and strengthening the role of OHCHR. In that context, the quest for justice for the victims of gross human rights violations was particularly important. The Commission was designed to be a temple of justice and human rights. He urged participants to seek inspiration from those principles, and to help make human rights a reality.
11. He welcomed both the inauguration of a new African Parliament and the progress made in concluding an Arab Charter on Human Rights. He was encouraged by the Twelfth Asia-Pacific Workshop on Human Rights Issues, held in March 2004, which had made important proposals for strengthening national institutions and improving human rights education. It had also put forward the idea of an international convention on human rights education.

12. The United Nations was trying to work effectively through its country teams in nearly 150 States. Constructive international cooperation was the key to achieving universal enjoyment of human rights.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/2004/1 and Add.1 and Add.1/Corr.1)

13. The CHAIRPERSON drew attention to the provisional agenda (E/CN.4/2004/1) prepared by the Secretary-General pursuant to rule 5 of the rules of procedure.

14. The agenda was adopted.

15. The CHAIRPERSON invited the Commission to approve the draft timetable of work appearing in the order of the day, which the Expanded Bureau had prepared on the understanding that revisions thereto would be proposed should circumstances so require.

16. The timetable was approved.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3)
(E/CN.4/2004/110/Rev.1)

17. The CHAIRPERSON invited the Chairperson of the fifty-ninth session of the Commission to report on the activities of the Expanded Bureau of that session.

18. Ms. AL-HAJJAJI (Libyan Arab Jamahiriya) said that the Chairperson of the Commission at its current session had proved himself, as Vice-Chairperson during the previous session, to be a man of lofty moral character, whose quiet and even-handed approach had assisted the Bureau in reaching consensual recommendations on sensitive issues under difficult circumstances. She was confident that he would bring the same qualities to bear on the work of the current session.

19. The previous year had been one of great personal sadness, since she had lost a father to whom she owed everything she had achieved in life, who had encouraged her to continue her education to the highest level and who had endowed her with the faith and self-confidence that had eventually spurred her to become a defender of human rights.

20. The current session of the Commission was also opening in the absence of a highly esteemed friend and colleague, the late High Commissioner for Human Rights, Mr. Vieira de Mello, who had left an indelible stamp on the Commission's work in a short period of time. His death in August 2003 had been a loss for the whole of humanity and for the cause of human rights.

21. She drew attention to recent positive developments in her country, which had undertaken to end all programmes to develop weapons of mass destruction, signed an Additional Protocol to its Nuclear Non-Proliferation Treaty safeguards agreement, restored normal relations with some Western States, released many political prisoners and prisoners of conscience, opened frontiers to regional and international non-governmental organizations (NGOs), launched a campaign against torture, improved prison conditions and initiated a public awareness campaign on human rights.

22. The high-level segment for guest speakers and dignitaries and the interactive dialogue for representatives of the special procedures were two of the main success stories of the previous session. Real dialogue had taken place for the first time between States and special procedures mandate-holders.

23. Reporting on the activities of the Expanded Bureau since September 2003, she said that a considerable amount of time had been spent, as requested in decision 2003/116, on developing recommendations for further improvements in the organization of the Commission's work. The recommendations were contained in document E/CN.4/2004/110/Rev.1. Some involved fine-tuning but others, such as those concerning the format, length and consideration of resolutions, could have a major impact on the Commission's effectiveness. It had been recommended that resolutions should be shortened and that some should be biennialized or triennialized. Other recommendations concerned rights of reply and time management in general. She encouraged the Expanded Bureau of the sixtieth session to work with sponsors of resolutions and regional coordinators to ensure their implementation.

24. During her period as Chairperson, she had appointed Ms. Ertürk of Turkey as Special Rapporteur on violence against women, its causes and consequences, Mr. Despouy of Argentina as Special Rapporteur on the independence of judges and lawyers, and Ms. Abaka of Ghana as independent expert on technical cooperation and advisory services in Liberia. She had also filled four positions in working groups.

25. As Chairperson of the Commission, she had addressed the European Parliament in May 2003 in response to an invitation. She had officially opened a regional human rights training course organized by the Arab Institute for Human Rights in Tunisia in July 2003. She had attended an International Peace Conference in Malaysia in August 2003. In late September 2003 she had taken part in a regional workshop in Morocco on Arab States and mechanisms for the protection of human rights.

26. At the invitation of the International Criminal Tribunal for Rwanda, she had visited the Tribunal, attended hearings and met several detainees accused of genocide at the prison established by the United Nations. She had delivered a lecture on the Commission's work and discussed with tribunal officials ways of increasing cooperation between the Commission and the Tribunal. As Chairperson of the Commission she had announced the establishment of a voluntary fund for assisting victims of genocide, war crimes and crimes against humanity in Africa. She was currently drawing up the statutes and terms of reference for the fund.

27. In January 2004 she had attended a regional Arab conference on human rights and democracy in Yemen at the invitation of the Government. At the invitation of the National Council on Canadian-Arab Relations, she had visited Canada in early February 2004 and met, inter alia, the Minister for Foreign Affairs, the Minister of Justice and Members of Parliament. Later in the month she had chaired the working group of a seminar organized by the University of Lugano in Switzerland on "Women as Agents of Change: a Mediterranean Perspective".

28. She had travelled twice to New York, once to address the Commission on the Status of Women in March 2003 and again to address the Third Committee of the General Assembly on the selection of the winners of the 2003 United Nations Human Rights Awards.

29. As Chairperson of the Commission and on her own initiative, she had approached the Gaddafi International Foundation for Charity to undertake a goodwill mission aimed at the release of Moroccan prisoners of war held by the Polisario Front. As a result, 300 prisoners had been released on 8 November 2003. She thanked President Bouteflika of Algeria, and the Chairman of the Foundation, Seif-el-Islam Gaddafi, for their assistance in that regard.

30. Her experience as Chairperson of the Commission had been varied and enriching. Much of the success of her tenure was due to the support and encouragement she had received, even from those who had voted against her candidacy. The Commission's methods of work had to be kept under constant review. Some speakers found themselves allotted one or two minutes to speak on issues that materially affected the lives of many people around the world. The apportionment of time was a challenge facing the Chairperson and the Secretariat and a source of increased tension in the Commission.

31. Despite its commitment to objectivity, neutrality and non-selectivity, the Commission often turned into a platform for mutual accusations and aspersions leading to conflict and confusion. Many serious issues were not rationally addressed, the greatest losers being the victims who looked to the Commission as their guardian and saviour. Stressing the universality of human rights and the importance of the right to be different, she expressed her firm belief in the advantages of quiet, rational dialogue. People were not born with a grudge against their fellow human beings but were shaped by education, the media, the circumstances in which they lived and the dominant culture in their society.

32. The CHAIRPERSON said that the former Chairperson of the Commission had set an example of activism that he would have difficulty in matching. He thanked her on behalf of the Expanded Bureau and the plenary for her commitment and achievements.

33. Document E/CN.4/2004/110 constituted a perfect example of what could be achieved by systematically encouraging a consensual approach to difficult issues. The Bureau of the sixtieth session had endorsed it with a small number of revisions and recommended it to the plenary for adoption.

34. Mr. UMER (Pakistan), speaking on behalf of the Asian Group, said that the Commission should be allowed to function in an environment worthy of its stature and role. The Group thanked the Expanded Bureau of the fifty-ninth session for compiling document E/CN.4/2004/110 and the Bureau of the current session for incorporating the concerns of all regional groups in the revised version without encroaching on its core features. Compliance with the proposed measures would doubtless ensure greater efficiency and economy in addressing the Commission's heavy agenda.

35. The Asian Group had consistently stressed the need to streamline working methods through effective time management. Lack of discipline in observing time limits led to the clustering of agenda items towards the end of the session. Self-discipline on the part of all participants was essential and he commended the Chairperson's intention to start all proceedings on time.

36. The Asian Group would not encourage changes to agenda items 5 and 8. Moreover, the rules of procedure, also regarding rights of reply and points of order, should conform to those of the functional commissions of the Economic and Social Council.
37. The Group welcomed the continuation of the high-level segment, which provided dignitaries with an opportunity to articulate their policies and perspectives on human rights issues.
38. Dialogue, cooperation, consultation and consensus-building played an important role in enhancing effectiveness and avoiding politicization, also under agenda item 9. There should be more organized, transparent and wider consultations on all draft resolutions before their introduction. In view of the constraints on smaller delegations, parallel consultations should be avoided to the extent possible and the time slots for informal consultations should be notified in advance.
39. The delayed submission of lengthy reports deprived small delegations of the opportunity to study them properly. Relevant Economic and Social Council resolutions in that regard should be complied with.
40. The participation of NGOs in the Commission should be regulated in accordance with the rules of procedure of the Economic and Social Council and the Commission. Circumvention of the rules generated avoidable controversy. The practice of providing individuals or NGOs without accreditation with a platform through NGOs with consultative status must be halted. The NGO Committee should take action against NGOs that breached the rules.
41. The issue of the length, format and number of resolutions to be adopted should be addressed through dialogue and consultation.
42. The Asian Group was convinced that consensus-building should be the preferred method of decision-making in order to enhance the Commission's credibility and to check the trend towards politicization of human rights. Dialogue, consultation and transparency should be promoted, and the practice of "naming and shaming" should be stopped. Instead, consideration should be given to the progress achieved by a country and the cooperation it extended to human rights mechanisms.
43. Mr. MENGA (Congo), speaking on behalf of the African Group, said that the Group had unfortunately been unable to reach a consensus on document E/CN.4/2004/110 and wished to reiterate the comments and proposed amendments that it had communicated to the Chairperson.
44. The Commission should have the last word on all matters relating to the organization and rationalization of the work of the session. All suggestions and recommendations on the subject should, as a matter of principle, be in conformity with the rules of procedure of the functional commissions of the Economic and Social Council.
45. The right of States to raise points of order was inviolable.
46. The apportionment of speaking time should not depend on the number of speakers. That practice under different agenda items was contrary to the principle of the equal importance of all items. An equal amount of time should therefore be assigned to each item.

47. The accreditation procedure for NGOs should be handled very carefully by the Secretariat to ensure that no individual could represent several different NGOs.

48. The African Group therefore proposed:

Replacing the phrase “The time available under each item in accordance with the timetable will be divided by the number of speakers” in paragraph 4 (d) (i) by “The time will be divided equally among the agenda items”;

Inserting a reference to “time limits” in the first phrase of paragraph 4 (h);

Deleting paragraph 4 (i), which limited the number of statements by States;

Deleting “by the Chairperson” in paragraph 4 (l) or deleting the entire provision;

Replacing “All efforts should be made” at the beginning of paragraph 8 (a) by “All States are encouraged”.

49. The CHAIRPERSON, referring to the proposed amendment to paragraph 4 (d) (i), asked whether the African Group was suggesting that speakers under each agenda item should be allotted the same amount of time or that discussion on each agenda item should last for the same amount of time.

50. Mr. FERNÁNDEZ PALACIOS (Cuba) said that the Commission lacked credibility as it was controlled by a small but powerful group of countries that were interested in combating human rights violations only in the developing world. The Commission had always disregarded violations that had taken place in the rich, industrialized North, and any attempt to draw such abuses to the Commission’s attention was doomed from the outset. The coercion and threats used by the world power centres to impose their views should be countered by a united front of smaller countries to combat the political manipulation of the Commission.

51. The organizational and procedural difficulties the Commission had experienced were but the practical expression of that manipulation, and the proposed solutions (E/CN.4/2004/110/Rev.1), representing a serious threat to the integrity of the Commission, revealed an attempt to further limit the intergovernmental nature of the Commission, reduce the rights of member and observer States, and reinforce domination by the industrialized States.

52. Of particular concern was the attempt to restrict the scope of the rules of procedure of the functional commissions of the Economic and Social Council. The invitation to members to further limit the number of their statements was unacceptable, particularly in the light of the 30 per cent reduction in speaking time over the previous three years. While the representatives of observer States often spoke for populations of many millions, the benefits which the Bureau proposed to grant them were the same as those given to bodies representing very few people. A disproportionately large amount of time had been set aside for interactive dialogues with special procedures mandate-holders, and in the interests of due process and self-defence, concerned countries should be given special consideration and more time to respond. While the Cuban delegation was willing to take part in extensive, transparent negotiations with a view to reaching agreement, it could not endorse the proposals as they stood.

53. Mr. UMER (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said that the Commission's objectives conformed to the requirements of the fundamental Islamic tenets of equality, justice and freedom. The OIC welcomed the appointment of Ms. Arbour as United Nations High Commissioner for Human Rights and assured her of its full cooperation, trusting that, in accordance with her mandate, she would be the spokesperson for all cultures, religions and value systems.

54. The OIC appreciated the efforts to improve working methods made by the Expanded Bureaux of the fifty-ninth and sixtieth sessions of the Commission and was ready to join a consensus on document E/CN.4/2004/110/Rev.1, which represented a good balance between the concerns of all parties.

55. The OIC was, however, concerned at the increasing polarization and confrontation within the Commission and stood ready to strive for agreement, conciliation and harmony with other groups of countries. Common understanding and mutual respect were the foundations necessary for decision-making in that crucial body of the United Nations system. Within that context, country-specific resolutions, most of them critical of Islam and developing countries, had been the main source of confrontation and had engendered a North-South dimension in debate within the Commission, which had become counterproductive. While the resolutions sponsored by the developing and Islamic countries on such issues as the defamation of religion, globalization and the right to development had frequently been subjected to a vote, consensus on other resolutions had often been reached thanks to the responsible and non-partisan approach of those countries. He therefore invited members to reconsider their positions on issues of vital interest to the OIC.

56. While the OIC welcomed the contribution of the special procedures mandate-holders, its members were concerned at the interpretation of some of those mandates. It therefore recommended a thorough review of special procedures, including issues relating to the appointment of mandate-holders and working methods, in order to clarify the role of the mandate-holders in the promotion and protection of human rights in a transparent and constructive manner.

57. While recognizing the important role of the NGOs, those bodies should ensure that only their genuine representatives participated in discussions. The Commission should be careful to avoid the infiltration of questionable groups under the guise of NGOs. The OIC called on OHCHR to increase the representation of nationals of developing and Islamic countries among its staff and to ensure that the established procedure for individual complaints was observed, since the use of media reports as the basis for communications to concerned countries regarding human rights violations was unacceptable. Likewise, he reiterated the OIC's concerns over the exchange of classified information between OHCHR and the secretariat of the Commission on the Status of Women under the 1503 procedure. Similarly, the impact that earmarking voluntary contributions had on appointments to OHCHR should be reduced, as it had created a serious imbalance in the composition of the Office. The OIC therefore encouraged donors to make un-earmarked contributions as far as possible.

58. He reiterated the need to address human rights issues within internationally agreed and acceptable parameters. In the case of the Commission, those were the Universal Declaration of Human Rights, the International Covenants on Human Rights and the other treaty regimes that had been developed over the years. That already constituted a significant challenge, requiring

cooperation and understanding, and any efforts to create new rights not sanctioned by existing treaty law would be counterproductive. The Commission should bear in mind that no Islamic society would be able to accept any obligation that directly contradicted the basic tenets of Islam.

59. Ms. GABR (Egypt) said that any recommendations for amendments to the Commission's working methods should be in accordance with the rules of procedure of the functional commissions of the Economic and Social Council and should be agreed to by all regional groups. Speaking time should not be divided between items to the detriment of debate, and all human rights should be considered. She supported the call by the Asian Group not to alter items 5 and 8, and said that the proposal on the length of draft resolutions should not have negative consequences. No one person should be allowed to represent more than one NGO, and proposals on countries should be implemented within a period of two to three years. Regarding special procedures, mandate-holders should ensure they worked in a transparent fashion, and following consultation with the regional groups concerned. Care should also be taken to guarantee equitable geographical representation and to ensure that mandate-holders worked within the Commission's framework on communications. All proposals considered in the Commission should be based on constructive dialogue with all members and regional groups so as to enhance the Commission's role in protecting human rights effectively.

60. The CHAIRPERSON, summarizing the discussion, reaffirmed that any document related to the practices, procedures and working methods of the Commission should be adopted by consensus, in line with previous practice. Given the objections expressed by some members, document E/CN.4/2004/110/Rev.1 could not therefore be adopted at the current stage. However, the agenda was extensive and given that time was short, a mechanism to limit speaking time was necessary. He proposed that the document should be referred back to the Expanded Bureau for consideration although, given that the document had previously been under negotiation for 12 months, it was unlikely that consensus would be reached rapidly. He observed that the Commission was governed by the rules of procedure of the functional commissions of the Economic and Social Council, so that even if document E/CN.4/2004/110/Rev.1 was adopted, those rules would still pertain, as would documents E/CN.4/2002/16 and E/CN.4/2003/118 unless the Commission decided to amend them in the course of the current discussions.

61. Mr. SHA Zukang (China), speaking on behalf of the Like-Minded Group (LMG) of States - Algeria, Bangladesh, Bhutan, Cuba, Egypt, India, Indonesia, Islamic Republic of Iran, Malaysia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka, Sudan, Viet Nam, Zimbabwe and China, - said that regional rotation for the post of chairperson was a time-honoured principle which had been observed for more than 50 years in the Commission and other United Nations bodies. For the sake of the Commission's credibility, he urged that it should be respected in future.

62. While recognizing the efforts made by the outgoing Bureau to improve the organization of work of the Commission, the LMG had several concerns about issues raised in document E/CN.4/2004/110/Rev.1. In particular, more speaking time should be allocated to observer States than to NGOs. He hoped that the document on the prevailing rules and practices of the Commission would be compiled and distributed promptly, while bearing in mind that the rules of procedure of the functional commissions of the Economic and Social Council should be the cornerstone of those rules and practices.

63. The Commission had become a forum for “naming and shaming”, which made a mockery of the Charter of the United Nations and the Vienna Declaration and Programme of Action. Some countries practised double standards, insisting on pressurizing developing countries and interfering in their domestic affairs under the guise of protecting human rights. The Commission should reflect on that state of affairs and strive to return to its original role as a forum for dialogue and cooperation.

64. Regarding special procedures, particularly in the light of the report of the Secretary-General on “Strengthening of the United Nations: an agenda for further change” (A/57/387), all mandate-holders should be elected in future, not appointed by the chairperson of the Commission. Similarly, a code of conduct for mandate-holders was necessary in order to avoid irresponsible behaviour such as had sometimes been witnessed in the past. The proliferation and duplication of communications should be avoided by establishing admissibility criteria. The LMG fully supported the work under the special procedures and suggested those measures in the hope that they would improve the work and credibility of the mandate-holders. The LMG also welcomed the constructive participation by NGOs, as long as their activities were conducted in accordance with the relevant rules and regulations.

65. The CHAIRPERSON said he understood the Commission wished to adopt the list of persons invited to address the Commission.

66. The list was adopted.

The meeting rose at 12.15 p.m.