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COMMISSION ON HUMAN RIGHTS

Sixtieth session

SUMMARY RECORD OF THE 26th MEETING

Held at the Palais des Nations, Geneva,  
on Monday, 29 March 2004, at 3 p.m.

Chairperson: Mr. GONZÁLEZ-SANZ (Costa Rica)

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The meeting was called to order at 3 p.m.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (continued)

(E/CN.4/2004/10 and Add.1 and 2, 37-40, 41 and Add.1, 42, 43 and Add.1, 44, 45 and Add.1 and 2, 46 and Add.1 and Corr.1, Add.2 and Add.3, 47 and Add.1 and Add.2, 48 and Add.1-3, 49 and Add.1 and Add.2, 120; E/CN.4/2004/G/9, 10, 13, 14, 16 and 27; E/CN.4/2004/NGO/9, 10, 12, 20, 27-29, 83, 93, 103, 116, 122, 135, 144, 152, 185, 193, 199, 223 and 230; E/CN.4/Sub.2/2003/12/Rev.2)

1. Ms. LIZIN (Independent expert on the question of human rights and extreme poverty) thanked the delegations of Yemen and the Sudan for having drawn attention to the positive aspects of her report. The Sudan's adoption of new legislation on birth registration was indeed timely. She hoped that the authorities would be able to secure the necessary funds to establish the registration system. While not directly related to her report, the question of genital mutilation was important and had been addressed during her visit to the Sudan. She encouraged the Sudanese Government to give serious consideration to adopting a law prohibiting such practices.
2. She noted that her mandate was coming to an end and expressed the hope that China would maintain its positive attitude in dealing with her successor. Should the Government of the United States of America invite her successor to visit that country, he or she would surely accept that invitation.
3. It was her duty to provide an explanation with regard to the Dominican Republic. The issue under discussion at the time of her visit to the country, namely whether computerized identity cards would prevent persons of Haitian origin from sending their children to school or gaining access to health services, had been resolved satisfactorily. The example of the Dominican Republic showed that a modern and computerized civil registry system could help overcome differences rather than accentuate them. However, it must be recognized that in some cases - for example, in Europe - the technology used to produce identity cards could be a vehicle for exclusion, and efforts should be made to prevent that from happening.
4. Replying to the representative of Ireland, who had asked what the three main factors of extreme poverty were, she said that the first was a lack of access to education and the second was the lack of a decent income; in that connection, she encouraged the adoption of legislation to introduce income supplements or a minimum wage, however low. Such "good practices" were not exclusive to rich countries, as the initiative of the Minister of Social Affairs of Yemen, who had established a system of financial assistance for destitute persons, illustrated. The fact of being a woman continued to aggravate situations of poverty considerably.
5. Her report also addressed the establishment of civil registries. She endorsed Rwanda's policy of removing any reference to ethnic origin from identity cards. Support should be provided for programmes to modernize civil registry systems, especially in Africa. Europe, among others, could provide such support through its comprehensive development programmes. In the Democratic Republic of the Congo, for example, the European Union might include the restoration of the civil registry system as one of its cooperation projects related to the electoral process.

6. The fact that women in Yemen now had identity cards as well as the rights that went with them - if only the right to be recognized as a person - illustrated the importance of the issue, which was often ignored.

7. Mr. RAMCHARAN (Acting High Commissioner for Human Rights) said that Ms. Lizin, who was the first person to be appointed independent expert on the question of extreme poverty, had broken new ground in carrying out her mandate. She had visited numerous countries and produced a number of reports on the question of extreme poverty, and he and his colleagues had greatly appreciated her cooperation, her work and her determination in accomplishing her task.

8. Mr. MUDHO (Independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights) said that his 2004 report focused primarily on the progress made under the Heavily Indebted Poor Countries (HIPC) initiative, which was widely regarded as the path to debt sustainability, economic growth and the release of resources for social expenditure leading to poverty eradication. Since its launching in 1996, many countries had come to believe that the initiative would provide a permanent exit from debt rescheduling and the poverty spiral. Many government officials in debtor countries acknowledged that qualifying for HIPC assistance was their main motivation when preparing their Poverty Reduction Strategy Papers (PRSPs), which were one of the basic prerequisites for HIPC assistance. Progress had certainly been achieved, particularly the establishment of an explicit link between the initiative and poverty reduction goals. However, the HIPC initiative should not be seen as an end in itself, but rather as a means to achieving those objectives and creating an environment conducive to the realization of human rights. The initiative was a limited instrument that essentially enabled debtor countries to have a fresh start in their development efforts; it needed combined reinforcement through measures taken by the countries concerned and the international community at large.

9. To increase the effectiveness of the initiative and other measures aimed at alleviating the negative effects of structural adjustment policies and foreign debt, he recommended above all focusing on building the capacities of affected countries to strengthen the national budget process. Considerations of such human rights principles as non-discrimination, equality and participation needed to be integrated into all stages of budget formulation, approval and implementation. The result should be not only an increase in assistance from donors but also more democratic, transparent and participatory mechanisms.

10. In that context, Uganda offered an encouraging example, and it had often been showcased by the World Bank and the International Monetary Fund (IMF). After extensive consultations, the country had formulated its own comprehensive strategy for combating poverty, the Poverty Eradication Action Plan, in 1997, well before the World Bank concept of PRSPs had come into being. The Ugandan Government had established a Poverty Action Fund to channel the resources obtained through HIPC relief into social services. It had also articulated a clear framework for Government/donor cooperation in the form of budget support and the opening up of its budget process to stakeholders, resulting in greater budget predictability and ensuring country-driven planning of external assistance. In spite of such progress, Uganda remained heavily dependent on external resources to offset its large fiscal deficit, and the Government had set strict expenditure ceilings to maintain macroeconomic stability. Furthermore, it had been felt that while the Poverty Eradication Action Plan was in itself a laudable initiative that took into account some human rights principles such as equity and participation, it could have benefited

from more explicit references to the Constitution or to the many important human rights instruments ratified by Uganda. In his report he had made several recommendations on the matter to the Government and the other stakeholders concerned.

11. The example of Uganda, whose debt servicing was heavily dependent on the price of coffee, the country's single most important export item, clearly illustrated the need to adopt a holistic approach to the problems of developing countries in terms of foreign debt and structural adjustment in a globalized world. He therefore strongly subscribed to the Monterrey Consensus, which acknowledged that ensuring enhanced and predictable market access for the exports of developing countries, and mitigating the volatility of commodity markets were crucial to the sustained growth and debt sustainability of developing countries. Although those issues were beyond the scope of the HIPC initiative and other debt relief measures, they nevertheless had important implications for the progressive realization of economic, social and cultural rights. He therefore intended to follow all those initiatives closely, especially the follow-up to the International Conference on Financing for Development and the high-level meetings of the Economic and Social Council and the Bretton Woods institutions.

12. Mr. IRUMBA (Uganda) thanked the independent expert for his report and said that his Government was currently considering some of the recommendations contained in it with a view to incorporating them in its programmes.

13. The economic reforms undertaken by Uganda since 1996 were based essentially on structural adjustment measures. They aimed at ensuring sustained economic growth and the enjoyment of economic, social and cultural rights for all citizens. For economic growth to benefit the population, it had to be both sustainable and rapid. As the independent expert had noted, Uganda had channelled the resources obtained through the HIPC initiative into social services, especially primary education.

14. Reference had also been made to Uganda's excessive dependence on foreign aid to balance its fiscal deficit. He thanked the independent expert for having pointed out that market access was at the heart of development, as had been affirmed in Doha, and that agriculture, on which the poor depended, played a crucial role. Addressing agricultural problems was a prerequisite for poverty eradication.

15. In his report the independent expert had noted that Uganda's initiative did not refer often enough to the country's Constitution or to human rights instruments. He wished to stress that all measures taken and all legislation made reference to the Constitution.

16. The independent expert had also referred in his report to Uganda's inability to meet its reporting obligations. That was not intentional, but rather the result of the fact that the necessary research could not be carried out on time. Uganda had submitted a report on civil and political rights to the Human Rights Committee at its current session in New York and planned to submit its periodic report to the Committee against Torture by the end of the year. Other countries also experienced difficulties in preparing reports, and it would be helpful to simplify the relevant procedures.

17. Mr. FERRER RODRÍGUEZ (Cuba) thanked the independent expert for the information provided and asked whether he thought it feasible to establish minimum standards for debt

servicing and adjustment programmes related to debt relief or debt cancellation. Such norms might establish certain requirements, such as growth in gross domestic product (GDP), the volume of exports or the degree of enjoyment of economic, social and cultural rights. Secondly, he sought the independent expert's views on the problem of servicing substantial foreign debt faced by developing countries that were experiencing rising poverty levels but did not benefit from the HIPC initiative. Thirdly, he asked whether it was possible for countries that had reached the maximum under the HIPC initiative to maintain economic growth and sustainable development and to guarantee the economic, social and cultural rights of their citizens solely through debt relief, or whether additional measures, such as official development assistance and concessional terms of credit, were required.

18. Mr. OWADE (Observer for Kenya) thanked the independent expert for his report and said that it showed how useful a special rapporteur's mandate was in helping developing countries establish poverty eradication strategies. The independent expert had clearly shown that while the HIPC initiative was important, it was a limited tool that needed to be strengthened by specific development measures on the part of the international community in general and the Bretton Woods institutions in particular. The capacity of indebted poor countries to establish national budgets must be strengthened. He endorsed in particular the recommendations contained in paragraphs 35 and 36 of the report (E/CN.4/2004/47/Add.1). The Commission should provide independent experts with support in the discharge of their mandate.

19. Mr. NATAMA (Burkina Faso) thanked the independent expert for the quality of his work and said that Burkina Faso, as a beneficiary of the HIPC initiative, had had concerns about the initiative for some time. Certain issues, especially the coordination of the relevant procedures, became stumbling blocks in discussions with development partners, who had agreed to cancelling some of the country's debt. The fact that many development partners followed their own procedures undermined the timely implementation of debt cancellation measures for beneficiary States. Burkina Faso, for example, had redirected all the resources it had obtained from the HIPC initiative into strategic poverty reduction programmes. Yet because procedures were inconsistent, some States had difficulties in obtaining the disbursement of funds in time to implement programmes as planned. He appealed to the independent expert to address his concerns by drawing attention to the need for a single disbursement procedure for the HIPC initiative.

20. Mr. MUDHO (Independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights) thanked the representative of Uganda for his comments. He was aware that all the activities undertaken by Uganda were based on the Constitution, and nothing in his report was intended to suggest otherwise. He also recognized that Uganda had not failed to meet its reporting obligations but that, like other countries, it experienced resource-related problems that explained the delay in submitting reports to various United Nations bodies.

21. Replying to the question raised by the representative of Cuba concerning the possibility of setting minimum standards for debt payment or cancellation, he said that anything was possible if there was political will. The Commission might wish to authorize him to consider that question. As to the possibility of complementing the HIPC initiative with other measures, his report had raised that possibility. The adoption of the complementary measures suggested by the representative of Cuba would indeed be appropriate.

22. He had not quite understood the other question raised by the representative of Cuba and suggested that the delegation should submit it in writing so that he could reply at a later point. As to the comments made by the representative of Burkina Faso, he agreed that better coordination among donor and debtor countries would be useful.

23. Mr. ZIEGLER (Special Rapporteur on the right to food), introducing the general report (E/CN.4/2004/10) requested in Commission on Human Rights resolution 2003/25 as well as his reports on Bangladesh (E/CN.4/2004/10/Add.1) and the Occupied Palestinian Territories (E/CN.4/2004/10/Add.2), said that world hunger remained a cause for grave concern, which meant that the right to food was not being implemented universally. What was worse, figures from the Food and Agriculture Organization of the United Nations (FAO) indicated that hunger was increasing. All that was taking place in a world that was richer than ever before, one that produced enough food to feed 12 billion human beings. Thus the fact that millions died of hunger each year was not a question of fate.

24. The report on Ethiopia, which he and his team had visited recently, had not yet been issued, but would reveal that developments there gave reason for hope: 7 million people still needed direct food aid, as compared with 16 million the previous year, and a development plan formulated jointly by the Government and 26 United Nations specialized agencies was being implemented.

25. The report on Bangladesh revealed the important progress made by that country, which had overcome the threat of famines through increased food production, even though extreme poverty still affected 30 per cent of its 130 million inhabitants. The problem in Bangladesh was no longer inadequate production, but the lack of access to food.

26. In the occupied Palestinian territories, a population of 3.8 million that had lived under military occupation for 37 years was concentrated on some 5,000 square kilometres. He wished to thank in particular both Israeli and Palestinian civil society organizations, including B'tselem, the Alternative Information Centre (AIC) and Rabbis for Human Rights, for their contributions.

27. Like his friend Michel Warshawski at AIC, he denounced the non-State and State terrorism carried out in the occupied territories as equally unlawful and unacceptable and called for the same degree of compassion for all victims. Yet that tragedy, according to Mr. Warshawski, concealed another: the humanitarian crisis. The World Bank reported that over 22 per cent of all Palestinian children under the age of 5 suffered from malnutrition; 61 per cent of all Palestinian households ate only once a day; 70 per cent were entirely dependent on international food aid and 15.6 per cent of all Palestinian children under the age of 5 suffered from acute anaemia. The restriction of movement imposed on the population, the confiscation of land and the destruction of water resources were the main causes of that situation. He had discussed the situation openly and at length with Israeli generals, who had confirmed those figures and attributed the measures to security needs. Although that concern was legitimate, the inadvertent corollary of the occupation - provoking hunger and malnutrition among Palestinians - amounted to collective punishment, which was proscribed under international law, especially international humanitarian law and the Fourth Geneva Convention.

28. Turning to two of the main issues addressed in his general report, the World Trade Organization (WTO) and food sovereignty, he explained the concept of food sovereignty, which

had been the stumbling block for the Doha Development Agenda at the Ministerial Conference of WTO in Cancún. Food sovereignty was a new concept emerging from civil society that had been espoused by 22 developing countries in opposition to the conditionalities imposed by the European Union and the countries of North America; it implied that no country could be forced to liberalize its economy beyond the requirements of the implementation of its right to self-sufficiency in food.

29. The report then considered the adoption of international human rights standards aimed at circumscribing the power of transnational corporations, which exceeded that of many States; such corporations had a direct impact on the lives of hundreds of thousands of people and symbolized the unprecedented control that a dozen countries exerted over food and water systems. In January 2004 an initiative had been launched in Geneva by the Presidents of Brazil, France and Chile and the Secretary-General of the United Nations, which envisaged the creation of a global fund to fight hunger. Experts were working out how to finance the project, which would be officially launched when the United Nations General Assembly met in September 2004 in New York. He welcomed that initiative, which represented significant progress with regard to the right to food.

30. He paid a tribute to President Wilson, who had arranged for a plaque bearing a quotation by Lamartine to be installed in front of the former Palais des Nations, now the seat of the Office of the United Nations High Commissioner for Human Rights, which read: “The happiness of the weak is the glory of the strong.” He wholeheartedly agreed with the former statesman: so long as the right to food had not become a reality for everyone, there could be no justice in the world.

31. Mr. ALI (Observer for Bangladesh) said that the report of the Special Rapporteur on the right to food included an overview of emerging issues related to that right that in fact provided food for thought. The report had set out the stark reality of the impact of multilateral trade negotiations on the right to food. Agricultural subsidies in industrialized countries had a major impact on the food situation in developing countries. Even if food-importing countries did receive aid on account of such subsidies, that did not seem a sustainable solution. A better solution would be to use some of the money spent on subsidies to build the capacity of food-deficit countries to feed themselves. In that regard, the concept of food sovereignty introduced by the Special Rapporteur was not only rational but eminently desirable.

32. The Special Rapporteur’s report also presented some fascinating perspectives on the role and human rights responsibilities of transnational corporations, particularly with regard to the right to food. In the context of the anticipated reform of the Commission’s methods of work, the introduction of a separate sub-item on the role of transnational corporations in the area of human rights might be considered.

33. A total of three special rapporteurs had visited Bangladesh and submitted reports about the country in the previous three years, which attested to the openness of its rapidly evolving society. Bangladesh had made significant progress in terms of food self-sufficiency: over the past three decades it had quietly transformed itself from a chronic food-deficit country into one that was generally able to feed itself. That had been confirmed in a report by the World Bank, an institution that was very involved in Bangladesh. The Special Rapporteur need not agree with the World Bank’s conclusions, but he should be aware of the perspectives of others who had studied the country.

34. One of the Government's greatest successes had been the mainstreaming of women's rights in the country's economic life, particularly through non-formal education and microcredit schemes. In turn, women had contributed to greater food security in the country. In general, the Government sought to encourage individual initiative and entrepreneurship, and had created space for entrepreneurs to take the initiative in providing social services that the State could not. Thus, the State authorities were working closely with non-governmental and civil society organizations. The institutions to which the Special Rapporteur had referred in his report, such as the National Human Rights Commission and the Anti-Corruption Commission, were in the process of being established; that would take time, but that was necessary to ensure that those institutions were meaningful and acceptable to all stakeholders.

35. Mr. LEVY (Observer for Israel) said that the documentation for the agenda item under discussion included the Israeli Government's response to the report of the Special Rapporteur on the right to food. He would therefore limit himself to disputing the claims that the population of the territories suffered hunger and that Israel had a deliberate policy of provoking hunger and confiscating water resources. In fact, in 2003 there had for the first time been indicators of economic improvement. The Israeli Government attributed that improvement to the transfer of 1.3 billion new shekels from Israel to the Palestinian Authority, donor country contributions totalling 1.2 billion United States dollars and initial structural reforms introduced by the Palestinian Authority's Minister of Finance. That progress must, however, be qualified by the recent tensions, which had had an unmistakable impact on economic activity.

36. It was the Palestinian leaders who were responsible for the economic difficulties in the territories, in particular through their decision to constantly attack Israeli industrial zones located along the demarcation lines, which provided employment for thousands of Palestinian workers on a daily basis, or the routes used by the trucks that transported merchandise and foodstuffs to and from Gaza. The Special Rapporteur's report made no mention of such facts, or of Mr. and Mrs. Arafat's diversion of funds intended for the Palestinian Authority, a fact that could easily be found in an IMF report. The best way to alleviate the economic difficulties that the Palestinians were facing was to stop the violence initiated by the Palestinian Authority. Only an end to that violence would allow Israelis and Palestinians to return to the negotiating table so that they could work together to create prosperous Israeli and Palestinian societies.

37. His delegation viewed the report submitted by the Special Rapporteur with serious concern, given both its substantive content and the politicized manner in which it was written, which indicated that the report was intended to be a purely political exercise. The report reflected partiality, inconsistency, an unprofessional approach and a failure to look critically at unsubstantiated allegations, all of which was particularly striking in the light of Israel's sincere efforts to cooperate as fully as possible with the Special Rapporteur and to establish an open and serious dialogue with him.

38. The Special Rapporteur possessed neither the information nor the qualifications to make a valid assessment of the nature, proportionate or otherwise, of the Israeli Government's reaction to the dangers that Palestinian terrorism currently represented. Moreover, he had gone beyond his mandate by prejudging issues that it had been agreed should be dealt with in the context of direct negotiations between Israelis and Palestinians. Lastly, his delegation condemned the Special Rapporteur's decision to release an advance copy of his report to the press and the media well before it had been transmitted to the State concerned, a move it considered unprofessional



and counter to the impartiality that ought to characterize the Special Rapporteur's mission, as well as his public admission of his membership of an NGO that sought to propose solutions to the Israeli-Palestinian conflict.

39. Mr. RAMLAWI (Observer for Palestine) said that the report under consideration attributed the food crisis facing the population of the occupied Palestinian territories to the restrictions imposed on their freedom of movement, the expropriation and confiscation of their land, which had been transformed into Bantustans, and the Israeli armed forces, who impeded delivery of humanitarian aid. The report emphasized the responsibility of Israel, as an occupying Power, to honour its international obligations by meeting the food needs of the Palestinian people. The report showed that Israel was behind most of the violations of the Palestinian people's right to food, especially by building a dividing wall that increased the hardship. The latest report supplemented reports by the Secretary-General of the United Nations, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, the Special Rapporteur on the realization of the right to adequate housing and all the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories. The report contained detailed information, which cast a new light on the human rights violations committed by Israel in those territories, and should therefore be considered with the utmost care and attention.

40. His delegation condemned the false accusation of partiality made against the Special Rapporteur by the Israeli delegation; such accusations were merely part of the strategy that the Israeli Government consistently used to justify its actions in the occupied territories.

41. Ms. PÉREZ ALVAREZ (Cuba) said that her delegation supported the recommendations contained in the Special Rapporteur's report (E/CN.4/2004/10), including the recommendation that the Commission should adopt at the current session the "Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights" developed by the Sub-Commission for the Promotion and Protection of Human Rights. She asked the Special Rapporteur to describe the desired characteristics of an international mechanism to monitor compliance with those norms. Her delegation also wished to know whether the Special Rapporteur intended to provide more detailed information about his contribution to the Intergovernmental Working Group for the Elaboration of a Set of Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security.

42. Mr. GAMAL ELDIN (Egypt) said that the Special Rapporteur's report on his mission to the occupied Palestinian territories, like those recently published by international NGOs, international humanitarian organizations and the International Committee of the Red Cross (ICRC), condemned the situation of the people living in those territories, which was a source of great concern because of the many obstacles to the delivery of humanitarian aid. The frankness with which the report described the food situation was appropriate and led his delegation to conclude that the occupying Power was not respecting its obligations under international humanitarian law and human rights law. The report should prompt the international community to ask questions and all States to intervene in order to remedy the humanitarian disaster that was currently being experienced by the population of the occupied territories. His delegation wished

to know what specific measures the Special Rapporteur thought should be taken to guarantee that population's right to food, based on the figures cited in his report and what he had seen during his visit to the territories.

43. Mr. VALADARES (Brazil) thanked the Special Rapporteur for having mentioned Brazil's "Zero Hunger" programme in his report. In four years some 44 million people would have benefited from that programme, which was designed to combat hunger, hardship and the structural causes of social exclusion through a range of policies implemented by the public authorities at the federal, State and municipal levels. An assessment of the programme at the end of 2003 had shown that more than 1.5 million people had already benefited from it, with priority being given to the poorest people living in urban and rural areas, marginalized groups and indigenous populations. President Lula was committed to combating poverty not only in Brazil but the world over and had campaigned actively at the highest political level for the adoption of creative international mechanisms to combat hunger. It was that effort which had led him to promote the idea of creating a fund to combat hunger, an idea that was gaining support in a growing number of countries and international organizations.

44. Mr. VIGNY (Observer for Switzerland) asked the Special Rapporteur what methods might be used to remind States specifically of their obligations with regard to the right to food and access to water. The Special Rapporteur's next report should include a list of legislative measures that States could take to ensure that no one, including private companies, violated the right to food.

45. Ms. WHELAN (Ireland), speaking on behalf of the States members of the European Union, requested an update on the status of the voluntary guidelines developed by the Intergovernmental Working Group for the Elaboration of a Set of Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security. She also wished to know what impact the Special Rapporteur thought good governance and democracy had on efforts to reduce malnutrition in the world.

46. Ms. LACASSE (Observer for Canada) asked the Special Rapporteur to provide further information about the specific outcomes of the 200 proposals relating to the voluntary guidelines that had been developed at an expert meeting held at the initiative of the Office of the United Nations High Commissioner for Human Rights in February 2003. She also asked him whether he thought those recommendations were ready for implementation at the national level.

47. Mr. HEYWARD (Australia) thanked the Special Rapporteur for having recognized that not all developed countries adopted protectionist policies in respect of agricultural products at the expense of the right to food. The Special Rapporteur should encourage WTO to persist in its efforts to further liberalize agricultural trade. Australia feared that the introduction of the concept of food sovereignty would be a step in the wrong direction.

48. He expressed regret that the Special Rapporteur had concentrated on the potentially negative effects of the activities of transnational corporations on access to food and water, and said that such companies should be encouraged to pursue human rights-based policies.

49. Mr. LEMINE (Mauritania) said that the Special Rapporteur's report shed an interesting light on the relationship between food security and world trade, and more specifically on the

difficulty of reconciling food security with international trade regulations. His delegation believed that dependable rules should be developed to protect the food security of developing countries affected by famine, environmental disasters or both. He asked the Special Rapporteur what measures should be taken to reach an agreement between States on ensuring food security.

50. Ms. JANJINA (Pakistan) said that she had found the section of the Special Rapporteur's report devoted to food security and trade, and more specifically the information that billions of dollars in subsidies had been paid by the agricultural sector in the countries of the Organization for Economic Cooperation and Development (OECD), extremely interesting. Her delegation was of the view that the precarious food situation in which the developing world currently found itself was due above all to the distortion of trade, and of agricultural trade in particular.

51. The link that the Special Rapporteur had drawn between the concept of food security and the right to food was particularly interesting. She agreed with the Special Rapporteur that, in an era when it was increasingly apparent that the existing system of trade was detrimental to the food security of the poorest and most marginalized and was creating unprecedented inequalities, it was time to consider alternative ways in which the right to food could be guaranteed. The concept of food "sovereignty" had also attracted her delegation's attention, but would need to be the subject of consensus in international forums, which would necessitate more extensive debate.

52. She asked the Special Rapporteur what could be done to get WTO to consider the concept of food sovereignty and to integrate the concept into its policies.

53. Mr. ZIEGLER (Special Rapporteur on the right to food) responded to the comments made by emphasizing, for the benefit of the Israeli delegation, that the NGO to which he belonged, the Alternative Information Centre (AIC), was a progressive Israeli-Palestinian organization committed to dialogue for peace. All special rapporteurs were fully and legitimately entitled to belong to the NGO of their choice.

54. Having thanked the observers for Bangladesh and Palestine for their statements, he also thanked the representative of Cuba, a country that, despite fighting for more than 40 years against an embargo that was ruinous for its economy, had succeeded in ensuring the food security of its population. Addressing the representative of Cuba, he said that the Intergovernmental Working Group would finish its proposals for voluntary guidelines in September 2004, and they would appear in his next report to the Commission.

55. Food security and the objectives and policies of WTO were in complete contradiction. The logic of WTO was based on the notion of unrestricted free trade, whereas food security implied the opposite because it involved a country's right to impose import duties on certain products that posed a threat to its domestic market, in particular the market for foodstuffs.

56. Mr. RAMCHARAN (Acting High Commissioner for Human Rights) said that although delegations had the right to express their disagreement with the points of view of the experts and special rapporteurs of the Commission on Human Rights, it was imperative that they should refrain from casting aspersions on their integrity and their motives. Personal insults were not in keeping with the spirit of the Commission.

57. Ms. HERNANDEZ BONA (Dominican Republic) drew attention to the question of access to medical care in the context of the HIV/AIDS pandemic and said that the Caribbean was the region second most affected by the pandemic. In 2001, the Dominican Republic had established a Presidential Council on AIDS, which took a cross-sectoral approach to the disease. In partnership with the Clinton Foundation, the Council had developed a project for the distribution of anti-retroviral medication to 20,000 persons infected with HIV. Although moral responsibility for combating HIV/AIDS lay primarily with States, the importance of regional and international cooperation for prevention, diagnosis, treatment and access to medication should not be underestimated. Several regional initiatives had been undertaken in the Caribbean - most recently in March 2004 - to define and put in place common strategies for combating HIV/AIDS.

58. Mr. GAMAL ELDIN (Egypt) stressed that human rights were universal and indivisible and said that developing countries could ensure full realization of those rights only if international cooperation was strengthened and economic reforms and policies for structural change took human rights, including the right to development, into account.

59. Although his delegation found the report of the Special Rapporteur on the right to food quite interesting, it believed that the Special Rapporteur should stick closely to his mandate. It was not desirable to innovate, in other words to conceive of new rights, while those that had already been written into law were still a long way from being fully realized. Moreover, concepts should not be used when they were not yet the subject of consensus.

60. Egypt favoured continuing the work of the open-ended Working Group to consider options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights and attached particular importance to the development of a related mechanism for the consideration of individual complaints submitted under the Covenant.

61. Ms. WHELAN (Ireland), speaking on behalf of the States members of the European Union, urged States that had not yet done so to sign and ratify as soon as possible the International Covenant on Economic, Social and Cultural Rights, which was a fundamental legal instrument. Certain provisions of the Covenant must be fully implemented without delay, including those on equality, non-discrimination, trade-union rights, working conditions, primary education and freedom of scientific research. However, the obligation to fulfil economic, social and cultural rights could only be applied gradually and within resource constraints.

62. Good governance, as exemplified by sound economic policies, solid democratic institutions and transparent decision-making, was a requisite for sustained economic growth, the eradication of poverty and employment creation, all of which helped to create a framework within which economic, social and cultural rights could be realized more readily.

63. The European Union welcomed the holding of the first session of the open-ended Working Group to consider options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, as well as the rich debate that had taken place within the Working Group, in particular with the special rapporteurs. The discussions on any mechanism for individual complaints should benefit from clear legal guidance that took into account the obligations of States parties with regard to economic, social and cultural rights. Work on that issue should be guided by consensus. The European Union

was in favour of strengthening the research and analysis capacities of the Office of the United Nations High Commissioner for Human Rights in the field of economic, social and cultural rights.

64. The links that existed between poverty and discrimination on any grounds must be better understood. As discrimination against women in particular constituted an important obstacle to the eradication of poverty, the European Union believed it was necessary to promote gender equality and women's education as an effective means of combating poverty, hunger and disease and stimulating sustainable development.

65. She urged all States to cooperate with the independent expert on human rights and extreme poverty, whose work the European Union supported. The European Union also wished to confirm its willingness to contribute towards the realization of the Millennium Development Goals, including the goal of reducing by half, between 1990 and 2015, the proportion of people whose income was less than one dollar a day.

66. The European Union encouraged the Special Rapporteur on the right to food to continue his work and invited Governments and United Nations agencies to cooperate with him in the exercise of his mandate. The European Union would also continue to participate actively and constructively in the work of the Intergovernmental Working Group for the Elaboration of a Set of Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security.

67. The work done by the Special Rapporteur on the right to adequate housing, which had included outlining the nature of States' obligations in relation to that right, had made it possible to clarify the complex legal and practical issues affecting that right. The European Union encouraged the Special Rapporteur to take full account of those issues in his recommendations.

68. The right to education contributed to the enjoyment of all other human rights and played a vital role in eradicating poverty, preventing conflicts and violence, fighting discrimination and promoting gender equality. The European Union therefore urged all States to take measures, including legal measures, to eliminate obstacles to the realization of the right to education.

69. Mr. HONG Jong-Ki (Republic of Korea) said that the realization of economic, social and cultural rights depended greatly on the implementation of civil and political rights. Those two sets of rights were not only closely related but mutually reinforcing. It was therefore necessary to promote and protect the first group to allow the full and complete enjoyment of the second. Despite their indivisibility and interdependence, economic, social and cultural rights had always attracted less attention, to the extent that some States had sometimes wrongly considered that only civil and political rights could be violated and be the subject of measures of redress.

70. Currently, however, the international community was considering what legal obligations States had in ensuring the enjoyment of economic, social and cultural rights. His delegation welcomed the fact that the open-ended Working Group had begun its work on the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. That work was constructive and would serve as a good basis for further discussion at future sessions. Many issues still needed to be clarified and analysed, particularly the question of whether the rights set out in the Covenant could be invoked at the international level. Before

creating a mechanism for examining individual complaints, it must be determined whether clear criteria could be established to define what constituted a violation of those rights by States parties. Further discussion on that central issue should focus not only on legal questions, but also on the current efforts of the High Commissioner's Office to enhance the overall effectiveness of the human rights treaty bodies by avoiding duplication of work.

71. Extreme poverty was a violation of human rights, particularly economic, social and cultural rights. It was therefore distressing to note that whole segments of the world's population were suffering from hunger, often as a result of poor economic and agricultural policies. All Governments should therefore endeavour, as a matter of priority, to guarantee the right to food to their population, particularly the most vulnerable groups.

72. Mr. MAUTNER-MARKHOF (Austria) said that, the notion of the universality, indivisibility and interdependence of all human rights had taken on concrete shape and practical meaning. The Vienna Declaration and Programme of Action had marked the start of efforts to strengthen the promotion and protection of economic, social and cultural rights, which had long been neglected in comparison with other rights.

73. He welcomed the convening of the Working Group to discuss the options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. It was essential to have a rigorous and in-depth discussion of all the legal aspects of the establishment of a complaints mechanism. During its first meeting the Working Group had demonstrated that it was capable of deepening understanding of the scope and nature of economic, social and cultural rights and narrowing the gap that persisted between the legal and political aspects of the implementation of those rights. It was to be hoped that the Working Group would continue in that direction.

74. The right to education was a fundamental right. Although its full realization could only be achieved progressively, certain elements of that right should be realized immediately, and human rights education should be made a priority.

75. Education was at the core of the Austrian Government's policies, at both the national and international levels. His delegation therefore noted with interest the High Commissioner's proposal to consider the possibility of drafting an international instrument on human rights education that would assist Governments in the clarification of their obligations under the Covenant and other relevant human rights instruments, and in taking concrete steps to fulfil them.

76. Ms. PÉREZ ÁLVAREZ (Cuba) said that her delegation supported the recommendation to renew for two years the mandate of the Working Group to consider options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. The realization of those rights was an essential prerequisite for the implementation of civil and political rights. Millions of people currently lived in conditions of extreme poverty, and illiteracy, unemployment, malnutrition and lack of access to safe drinking water and health care were violations of the most fundamental human rights. She denounced the aggressive plans of the United States of America, a super-Power whose hegemonic policies were

bolstered by a gigantic military arsenal, the maintenance of which required astronomical sums of money that could be used to solve some of the socio-economic problems that existed in many countries.

77. The constant hostility of the United States Government had disastrous consequences for the Cuban population. The declassified files on Operation Mongoose, including document 36 of 18 January 1962, were indisputable evidence of the United States authorities' diabolical intentions. Yet, that operation was only one of the countless measures taken by the United States in its overt economic warfare against the Cuban people. In addition to the physical and psychological suffering of the population, damage amounting to billions of dollars had been done to the country's economic and social sectors, damage that had been compounded by acts of sabotage and terrorism. Instead of heeding the increasing public opposition to the embargo, the Bush Administration had only hardened its position by imposing new restrictions that even violated the fundamental rights of United States citizens themselves. However, the United States would never succeed in ruining the Cuban people's socio-economic project of justice and equity. The Cuban authorities had achieved outstanding results in the fields of health, employment, social security and education. Those results refuted the propaganda and lies of Cuba's enemies, whom history would judge.

78. Mr. UBAKA AYALOGU (Nigeria) said that his Government recognized the importance of the rights to water, food and shelter, on which the living conditions of the population depended. In an effort to improve those living conditions, the Government had formulated a number of national policies in the areas of health, education and employment within the framework of an overall strategy for poverty alleviation and agricultural and industrial development. Political rights that did not translate into genuine economic empowerment of the human person were meaningless. His delegation therefore appealed to the Commission to ensure a correct balance between the two Covenants and to place emphasis on their complementarity. As to the possibility of establishing a complaints mechanism under an optional protocol, he noted that the Working Group entrusted with considering that issue had failed to adopt any conclusions or recommendations at the end of its first session, held earlier that month, because a number of delegations had rejected the idea of such a mechanism. The Nigerian Government was currently studying the implications of an optional protocol and had preliminary reservations concerning the elaboration of a complaints mechanism. It therefore requested that the Working Group's mandate should be extended for one year to allow for further debate on the issue.

79. Ms. ESTRADA (Mexico) said that her Government attached equal importance to economic, social and cultural rights and civil and political rights. In an effort to foster an economy with a human face, it had made combating poverty and protecting the most vulnerable groups priorities. A programme entitled "Oportunidades", which sought to alleviate the situation of the poorest families, provided for the allocation of grants and the implementation of a wide range of measures to improve the quality of education, promote adult literacy, strengthen health services and combat malnutrition. The health insurance reform that had taken effect on 1 January 2004 was intended to cover the health costs of persons who had no access to medical services.

80. The Mexican Government sought to involve all groups in society in its poverty alleviation programmes. To promote transparency, it had set up citizen monitoring mechanisms.

In January 2004, it had promulgated the General Social Development Act, which sought to foster an environment conducive to the realization of both individual and collective social rights and promote equal opportunities. The Act stipulated that the resources allocated for social programmes could not be reduced from one year to the next. The Government had also decided to establish an advisory body to analyse and propose measures for the implementation of the national social development policy.

81. The Mexican Government supported international initiatives aimed at promoting and protecting economic, social and cultural rights. It endorsed the Commission's studying of the possibility of elaborating an optional protocol to the International Covenant on Economic, Social and Cultural Rights that would create an individual complaint mechanism. The existence of such an instrument would encourage States to honour more effectively their obligations with regard to those rights, whose implementation was impeded by obstacles that were both diverse and complex. Her Government hoped that the international community would not miss a historic opportunity to respond to the hopes of millions of people.

82. Mr. LELAND (United States of America) said that his country was proud of its own record of advancement in the economic, social and cultural spheres. Respect for human rights was a factor for peace. Accordingly, the United States was committed to establishing the conditions necessary for individuals to achieve economic, social and cultural well-being at home and abroad. The role of Governments was to create an enabling environment that empowered individuals to take effective decisions about their lives, including in the areas of health, housing, food and education. During a recent international conference held in Brussels, several delegations, including those of Brazil and South Africa, had emphasized that only countries that respected democratic values and the rights of all their citizens would attract the foreign investment needed for economic progress. To create economic success, Governments must thus create favourable conditions for the realization of all human rights and fundamental freedoms.

83. His delegation saw a clear distinction between civil and political rights and economic, social and cultural rights. While all of those rights were universal, the way in which Governments met their obligations was different. Civil and political rights must be protected by all countries, and economic difficulties were no excuse for failure to do so. Economic, social and cultural rights, on the other hand, must be realized progressively. While they also required Government action, they did not constitute an immediate entitlement, and neither blaming the international community nor establishing a system for individual complaints would help to implement those rights. There was no doubt that countries that respected civil and political rights, democratic principles and the rule of law did a better job of allowing individuals to fully realize their economic, social and cultural rights. His delegation shared the goals of many delegations in that regard and would like to be able to support many of the resolutions pertaining to those rights. However, the language used in most of those resolutions raised a number of legal issues. His delegation therefore proposed that the following language should be included as a preambular paragraph in such resolutions: "*Bearing in mind* that sovereign States must determine from time to time through open, participatory debate and democratic processes the combination of policies and programmes they consider will be most effective in progressively realizing the achievement of economic, social and cultural rights and objectives; that each State must determine in accord with its own system the role of various institutions in its society in carrying out such policies and programmes; and that each State must define in a manner consistent with its own legal system the administrative and legal recourse available to those



seeking review of the implementation of those policies and programmes;”. In the twenty-first century, only those countries that adapted, opened up, showed initiative and took difficult decisions would prosper. The keys to prosperity were education, individual creativity and economic and political freedom. Countries where those conditions were present and that guaranteed respect for human rights and fundamental freedoms would unleash the potential of their people and ensure their future prosperity.

84. Mr. LIU Zhenghua (China) said that the international community should take measures to correct the prevailing imbalance between two categories of human rights, and he called on it to respond positively to the legitimate demand of developing countries by giving greater prominence to economic, social and cultural rights. Realization of those rights was closely linked to economic growth, and thus could only take place gradually. The task of creating an enabling environment by choosing appropriate development strategies fell to Governments. Enhanced international cooperation was also important in helping developing countries create conditions that were conducive to the realization of those rights and in supporting national efforts.

85. His delegation had followed with interest the debate on the possibility of setting up an individual complaints mechanism for economic, social and cultural rights. While a judicial remedy was desirable, the very nature of those rights made the adoption of a set of unified legal standards difficult. Moreover, in discussing the establishment of such a mechanism, ways of respecting the sovereign right of States to formulate their own economic and social development policies and the feasibility of quantitative criteria should also be considered. Any duplication of the mandates of other United Nations institutions must be avoided.

86. China's GDP had reached unprecedented levels in 2003. That development augured well for the enjoyment of economic, social and cultural rights in the country. On 27 June 2003 the Chinese Government had submitted its initial report on implementation of the International Covenant on Economic, Social and Cultural Rights. It looked forward to the comments and recommendations of the Committee.

87. He noted that the United States of America had still not ratified that Covenant and said that the situation with regard to economic, social and cultural rights in that country left much to be desired. Poverty, hunger and homelessness there had taken on worrying dimensions. The number of Americans without health insurances was also on the rise. The United States Government had always insisted that other countries should comply with international human rights standards and strengthen cooperation with the mechanisms of the Commission. The time had come for the United States to extend invitations to visit to the Special Rapporteurs on the right to health, the right to education and the right to adequate housing, as their reports would undoubtedly be edifying.

88. Mr. GUNARATNA (Sri Lanka) recalled that hunger and poverty killed tens of thousands of people each day, and said that extreme poverty was the most widespread human rights violation in the world.

89. Eradicating poverty and promoting social development had been concerns of successive Sri Lankan Governments, whose success in those areas had attracted international attention. The economic liberalization that had begun in the late 1970s had been accompanied by the

establishment of social safety nets. Important progress had also been made in the field of health, in part because of the activities of the Family Planning Association of Sri Lanka. Sri Lanka was well on its way to achieving the Millennium Development Goals with the participation of a wide range of partners and stakeholders. His delegation looked forward to the publication that was being prepared by the High Commissioner's Office on the links between the Millennium Development Goals and the implementation of economic, social and cultural rights. In addition, the study by the High Commissioner's Office on the fundamental principle of non-discrimination in the context of globalization should be widely disseminated within WTO and other organizations that dealt with issues of international trade and investment, which played a key role in the globalization process.

Statement in exercise of the right of reply

90. Mr. ZUNIGA REY (United States of America) said that countries were distinguished not by their size or their level of economic development, but rather by their respect for the rule of law and democratic principles and the degree of freedom granted to their citizens. Cuba, which relished making incessant accusations about his country, in fact set quite a bad example. The Cuban authorities pursued a true policy of segregation by preventing the Cuban people from using the beaches, hotels and stores reserved for foreigners and government officials. Also, only "revolutionaries" were granted access to higher education. Similarly, the cultural rights of the population were severely restricted, since only government-approved books or works could be published. Satellite dish antennas and foreign commercial television channels were prohibited, and the Internet was virtually unknown in Cuba. The economy was in shambles and Cuba had become one of the poorest countries in Latin America. Although, more than 1,500 persons emigrated legally to the United States each year, the housing shortage had become critical. Unlike foreigners, Cubans were denied the right to set up businesses in their country. When they worked for foreign companies, the State withheld 50 per cent of their income, in violation of the fundamental rules of international law. There was obviously a gaping difference between the Cuban authorities' words and their actions.

The meeting rose at 6.05 p.m.