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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-sixth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 4 August 2004, at 10 a.m.

Chairperson: Mr. SORABJEE

later: Ms. RAUOTOARISOA
(Vice-Chairperson)

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ECONOMIC, SOCIAL AND CULTURAL RIGHTS (continued)

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

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 4) (continued)

(E/CN.4/Sub.2/2004/13-14, 16-20, 22 and Add.1, 23-24, 25 and Add.1, 27 and Corr.1, 44 and 45; E/CN.4/Sub.2/2004/NGO/2, 6, 10, 14, 20, 23 and 27)

1. The CHAIRPERSON said that he had been informed that a Sub-Commission expert had been personally attacked by a representative of a non-governmental organization (NGO). Such behaviour was unacceptable.
2. Mr. QADRI (International Human Rights Association of American Minorities) said that three-quarters of the world population were still waiting to benefit from the fruits of globalization. By promoting the free movement of capital and giving priority to market-friendly measures, globalization had wrought havoc in developing countries' economies, thus creating a system of genuine economic apartheid between rich and poor countries. The situation was further exacerbated by the policies pursued by certain major developing countries which, as parties to international disputes, continued to amass weapons and fuel State terrorism. Political freedom was a precondition for economic emancipation. The Sub-Commission should therefore take into consideration the link between the right to development and the right to self-determination. For the people of Indian-occupied Kashmir and for Palestinians, the two were inseparable.
3. Mr. SHARUKH (Interfaith International) said that the people of Sindh province in Pakistan had their resources plundered, especially water. The planned construction of the Kalabagh dam on the Indus to produce electric power for Punjab province was a calamity for Sindhi farmers, who relied on river water for agriculture. Instead of giving consideration to their legitimate claims, the federal authorities of Pakistan had taken punitive measures against the Sindhi and Mohajir inhabitants of the region.
4. Also, the distribution of the country's financial resources was exclusively based on demographic criteria and thus deeply unfair. While Sindh province contributed 70 per cent of gross domestic product (GDP), it only received 23 per cent of the resources allocated to the provinces. Punjab, on the other hand, whose contribution to GDP amounted to a mere 27 per cent but which contained the majority of the population, received 56 per cent of provincial allocations.
5. The populations of Sindh and Balochistan were victims of discriminatory and exploitative policies imposed by the Government of Pakistan, which repressed any opposition effort with the help of the army, which comprised some 93 per cent Punjabis.
6. He called on the Sub-Commission to seek a commitment from the Government of Pakistan to engage in dialogue with the true representatives of Sindh and Balochistan provinces and to put an immediate end to the military operations in Balochistan.
7. Mr. MUSTAFA (European Union for Public Relations) said that the report prepared by Ms. Mbonu on corruption was both thought-provoking and well researched. Corruption was a serious concern, in particular in developing countries. Pakistan, for example, had seen a significant increase in corruption. According to a report published by the Berlin-based NGO

Transparency International, Pakistan remained among the 10 countries where corruption levels were described as “critically high”. The current regime, which had assumed power in 1999, had established the National Accountability Bureau (NAB) to rectify the failures of the previous, democratic Government, which had allegedly been unable to cleanse the deep-rooted culture of malpractice. The reality was quite the opposite. The National Human Rights Commission of Pakistan had pointed out that the NAB focused much attention on criticizing politicians, while sparing the armed services. However, an audit report on military expenditure of the past 10 years had revealed misappropriations and irregularities in the defence sector totalling some 70 billion Pakistan rupees. The pressure exerted on the Weekly Independent newspaper to prevent the publication of information on the extent of corruption in the country illustrated how the current regime sought to eradicate that scourge. The fact that corruption had slightly decreased during the time when Pakistan had been governed democratically showed once again that, in that as in other areas, democratic Governments were infinitely better than dictatorial regimes.

8. Mr. HAMID (World Muslim Congress) said that, despite a multiplicity of commitments taken at the international level, the right to development remained an unattainable objective for millions of people around the world. That was because a small minority of countries considered that right as an affront to their political and economic status in the global order.

9. Development was a comprehensive progress that involved the promotion of economic, social, cultural, civil and political rights and required the active and free participation of the populations concerned. Urgent measures must be taken at the international level to put an end to situations of occupation that were incompatible with the enjoyment of those rights. Such was the case in Palestine and Kashmir, where concrete action must be taken to protect the rights of the inhabitants. The absence of concerted action would generate further instability and underdevelopment, which undermined peace and security in those regions and throughout the world.

10. Mr. LECKIE (Centre on Housing Rights and Evictions, COHRE) said that his organization welcomed the Draft Principles on Housing and Property Restitution for Refugees and Displaced Persons (E.CN.4/Sub.2/2004/22) submitted by Mr. Pinheiro. For millions of people who had been driven out of their homes, the right to return home and rebuild their lives in dignity and peace was fundamental. In that regard, the Draft Principles represented an important contribution to post-conflict resolution. As the Special Rapporteur had rightly pointed out, the right to housing and property restitution constituted a form of restorative justice. He encouraged the Sub-Commission to adopt the Draft Principles.

11. His organization also welcomed the report by Mr. Guissé on the right to drinking water and sanitation. In the deprived areas where his organization operated, such a right was nothing more than a mirage. It was thus crucial that the competent ministries viewed access to water as a right, and not as an objective to be attained at some point in the future. To that effect, they must be given clear guidance on their obligations in the matter. His organization endorsed the proposal of the Special Rapporteur to develop guidelines, indicators and model legislation on the implementation of the right to water and sanitation and urged the Sub-Commission to encourage the High Commissioner for Human Rights to convene an expert seminar, in collaboration with the relevant specialized agencies, to develop those guidelines and legislation.

12. Mr. OZDEN (Centre Europe-Tiers Monde, CETIM) said that the Commission on Human Rights in its resolution 2003/83 had requested the Sub-Commission to prepare a concept document establishing options for the implementation of the right to development. The promotion of the right to development required the formal recognition of the inalienable, indivisible, binding and legally enforceable nature of all human rights. The existing relationships of exploitation and subordination must be replaced by relationships between equals. Those who denied the binding nature of the Declaration on the Right to Development overlooked the fact that the Declaration was the synthesis of all the human rights enshrined in the Covenants, the Universal Declaration of Human Rights and the Charter of the United Nations, all of which formed the very basis of international human rights law. In order to implement the right to development, international cooperation should be made mandatory and equity should be placed at the heart of any economic and political system. In that regard, the Washington Consensus, which proclaimed the virtues of the neo-liberal economic system, was one of the main obstacles to development. The other major obstacle was debt, which should be cancelled.

13. In order to assist the Commission on Human Rights in its task, the Sub-Commission should focus on examining the impact of global economic issues on the exercise of the right to development; ensure that human rights were given priority in all international trade or financial agreements; identify ways to strengthen international cooperation; and make recommendations to States and international institutions concerning the promotion of the right to development.

14. His organization agreed with the Special Rapporteur that the right to water must be guaranteed through regulation and control by the public authorities, with the participation of local communities, to ensure universal access to water and to prevent conflict over that common good of humanity.

15. Mr. PRAKASH (World Peace Council) said that the United Nations had successfully intervened in a number of recent conflicts, thus halting massacres that otherwise might have turned into genocide and facilitating a political settlement. That had not been the case for Rwanda, hence the proactive stance of the United Nations with regard to the situation in Darfur. A series of proposals aimed at establishing mechanisms to communicate information about ethnic conflicts to the Security Council as a priority were currently being examined. Many lives could have been spared if the violence had been reined in sooner in the Shan areas of Myanmar, in the Chittagong Hill Tracts in Bangladesh, in the Balochistan province of Pakistan and in the Tamil areas of Sri Lanka. A global information system on ethnic minorities should be established that showed their social, economic and political situation and informed of the nature and extent of any conflicts involving such minorities. That would require ongoing monitoring of sensitive areas. However, as the Commission on Human Rights had indicated in its resolution 2003/83, the best way to put an end to genocide was to eliminate its causes by combating poverty and inequality. The preparation of a concept document establishing options for the implementation of the right to development was part of that effort.

16. Mr. PINHEIRO, introducing the Draft Principles on housing and property restitution in the context of the return of refugees and internally displaced persons contained in his progress report, document E/CN.4/Sub.2/2004/22, said that there were currently over 12 million refugees and approximately 25 million internally displaced persons worldwide. While in past years hundreds of thousands of persons had been returned to their homes, the restitution of property to persons who had fled or been expelled from their homes continued to pose problems, partly

because restitution programmes were often not uniform in their approach in the absence of any clear universal standards based on international human rights law. Common obstacles to the successful implementation of those programmes included their often discriminatory nature, the loss or destruction of housing and property records, secondary occupation and the absence of effectual institutions. There was therefore a need to formulate a consolidated set of international standards, a task which he had taken on in cooperation with the United Nations High Commissioner for Refugees and the much appreciated participation of the Centre on Housing Rights and Evictions.

17. The Draft Principles incorporated a number of provisions contained in existing housing and property restitution programmes in countries such as Bosnia and Herzegovina, Cambodia, Cyprus, Guatemala, Kosovo, South Africa and Rwanda.

18. It was important to bear in mind that the aim was not to define new rights, but instead to apply existing internationally recognized rights to the specific question of housing and property restitution as a form of restorative justice. The rights contained in the various sections of the Draft Principles, including the right to housing and property restitution, the right to non-discrimination, gender equality and the right to protection from forced expulsion, were included in international human rights law and international humanitarian law.

19. He looked forward to comments from his colleagues and other participants.

20. Ms. KOUFA said that the work undertaken by Mr. Pinheiro was extremely useful and consistent with the Sub-Commission's mission, namely standard-setting. She welcomed in particular paragraph 11 in section IV of the Draft Principles entitled: "Adequate consultation and representation in decision-making". The participation of interested partners, in particular vulnerable groups, in decision-making processes that concerned them directly was vital. She was also pleased that, in section VI of the document, emphasis was placed on the role of the international community in implementing the right to housing and property restitution. The accompanying commentary on the Draft Principles was also praiseworthy.

21. She commended Ms. Mbonu on her report on corruption and encouraged her to persevere in her efforts.

22. Mr. KARTASHKIN said that he generally agreed with the provisions contained in the Draft Principles formulated by Mr. Pinheiro. However, he had noted that each section of the document started with the words "All refugees and displaced persons have the right to ...", which suggested that there were no exceptions. In his view, exceptions did indeed exist. Paragraph 1 of section I, for example, stipulated the right of all refugees and displaced persons to have restored to them housing and property of which they had been deprived during the course of displacement, or to be compensated for any property that could not be restored to them. That provision should not apply in cases where a refugee had committed a crime, in particular a terrorist act, or had placed his home at the disposal of terrorists. In many countries, legislation even provided for the confiscation of the property of a person who was guilty of such a crime. It would be useful to include in the Draft Principles a reference to both the rights and the obligations of refugees and displaced persons. Obligations consisted of respect for international law and host country legislation. Mention should also be made of the responsibilities of such persons in cases where they committed a crime or were involved in terrorist activities.

23. Mr. BOSSUYT, commending Mr. Pinheiro on his excellent work, said that the list of non-discrimination grounds contained in paragraph 2.1 of section I did not correspond to those mentioned in the Universal Declaration of Human Rights and the two International Covenants. It would be preferable to be consistent with existing references to non-discrimination grounds, an approach adopted by the Council of Europe in the formulation of the Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms. The Council had considered it unnecessary from a legal point of view to include additional non-discrimination grounds, since the list was not exhaustive.

24. Similarly, paragraphs 9.3 and 11.2 referred to racial and ethnic minorities, while the Covenants mentioned ethnic, religious or linguistic minorities.

25. The situation of secondary occupants who had taken up residence in a home after its rightful occupants had fled mentioned in paragraph 14 was a highly sensitive issue. It would be useful to know whether the Principles applied to all situations. The German Chancellor had recently affirmed that he did not support the claims of German citizens for the repossession of housing or property they had owned in Poland or the Czech Republic before the Second World War.

26. He asked whether the Principles were applicable to cases involving the massive displacement of populations, in particular in developing countries where the right to housing was still a distant reality for a large part of the population.

27. He wished to know whether the right to restitution was prescriptible or was passed on from generation to generation.

28. In the light of such considerations, the issue of the applicability of the Principles arose. If, in practice, only a small number of persons had had their housing restored to them successfully in the countries enumerated by Mr. Pinheiro, formulating rules knowing that they would not be respected was unlikely to strengthen international law.

29. It would be preferable to make the Draft Principles more concise and workable.

30. Mr. MOLLER said that he fully supported the fundamental notion that the return of refugees to their homes was one of the key factors of post-conflict reconciliation. Another element, which was not mentioned in the document, was the need to reintegrate refugees in their workplace.

31. With reference to Mr. Bossuyt's remarks, he said that a significant number of refugees and displaced persons in Bosnia and Herzegovina had had their former homes restored to them, admittedly after a number of years. However, that would not have been possible without the considerable financial support provided by the international community. In that connection, he asked how, in the event of their adoption, the mechanisms required for the implementation of the Principles would be financed. National authorities alone would be incapable of establishing the mechanisms required to assist hundreds of thousands, or even millions, of displaced persons. The role of the international community must go well beyond what was proposed in section VI of the Draft Principles.

32. It was important to ensure that legislation introduced by States to implement the Principles produced tangible results. In Bosnia, for example, the one- to two-week deadline for housing restitution claims had made it impossible for refugees to submit their claims on time. Establishing reasonable deadlines was crucial.

33. Paragraph 1 of section I provided for either the restitution of housing or compensation where restitution was not possible, but in practice, a combination of the two was often used.

34. Mr. DECAUX said that the 1951 Convention relating to the Status of Refugees mentioned the circumstances under which persons could lose their refugee status. It was unnecessary to go any further and, in particular, confiscate the property owned by a perpetrator of a crime, thus attributing some form of collective responsibility to his or her family.

35. Ethnic cleansing already carried out must not be condoned, although in practice it might appear expedient to facilitate an exchange of populations, as had been done in the case of Kosovo.

36. The sensitive issue of secondary occupants must not be ignored, even if it compounded an already complex situation.

37. Property restitution claims should not be prescriptible. The judicial decisions of the European Court of Human Rights, respecting in particular Central and Eastern European countries, might be of use to the Special Rapporteur. Mr. Decaux's alternate, Ms. Michèle Picard, who had presided over the Human Rights Chamber in Bosnia and Herzegovina for many years, might be able to provide Mr. Pinheiro with useful information.

38. Mr. SALAMA said that international financial cooperation in the issue under discussion was crucial. He requested clarification on the criteria for declaring the restitution of property impossible, as well as on the compensation provided in such a case.

39. Mr. PINHEIRO said that he agreed with Ms. Koufa on the need to involve all groups, including the most marginalized, in decision-making processes relating to housing and property restitution programmes. While he would take into consideration Mr. Kartashkin's comments on cases where refugees had committed an offence or a crime, he agreed with Mr. Decaux that their families should neither be held accountable for those acts, nor suffer the consequences. He would also take account of Mr. Bossuyt's comments on the list of non-discrimination grounds. The issue of secondary occupants was indeed highly sensitive as Mr. Decaux had pointed out, and was often a major obstacle to property restitution.

40. In several cases, the prescriptibility of housing and property restitution had been recognized. That question, among others, would be further examined during the relevant forthcoming expert seminars.

41. Mr. SALAMA said that the Draft Principles were closely akin to the Basic Principles and Guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law formulated by

Mr. Theo van Boven and Mr. Cherif Bassiouni. While the two texts did not duplicate each other, it would be useful to define the scope of the Draft Principles formulated by Mr. Pinheiro to guard against possible doubts on the part of the Commission on Human Rights.

42. Mr. PINHEIRO said that Mr. Salama's observation was highly relevant. He intended to explain the specific nature of the Draft Principles, not only in relation to Mr. van Boven's Guidelines, but also with respect to the Guiding Principles on Internal Displacement prepared by the Representative of the Secretary-General on Internally Displaced Persons, Mr. Frances Deng.

43. Mr. GUISSÉ said that Mr. van Boven's Guidelines and Mr. Pinheiro's Draft Principles might nevertheless be perceived as duplicating each other. It would be necessary to refer to those Guidelines, if only to show more clearly how the Principles formulated by Mr. Pinheiro complemented them.

44. Mr. PINHEIRO said that he concurred fully with the comment made by Mr. Guissé.

45. Ms. Rakotoarisoa, Vice-Chairperson, took the Chair.

46. Mr. BENGUA, introducing his report on the second Social Forum (E/CN.4/Sub.4/2004/26) held on 22 and 23 July 2004, said that he welcomed the active participation in the Forum of the members of the Sub-Commission, NGOs, Member States and intergovernmental organizations. One of the meeting's principal achievements had been to strike a balance between national responsibilities and international obligations relating to poverty. Specifically, poverty in rural areas had been at the heart of the discussions in the Forum. The rural sector suffered most from globalization and enjoyed the least protection.

47. The participants in the Forum had agreed on the overriding need to ensure the participation of persons living in poverty in decision-making at all levels. It might even be advisable to invite to the subsequent Forum representatives of organizations that defended the interests of those persons. One of the main recommendations of the Social Forum had been to encourage international human rights organizations to include poverty indicators in their human rights assessment criteria.

48. The Social Forum operated similarly to a pre-sessional working group on current global issues. It played a crucial role as a think tank, thus complementing the work of the Sub-Commission, and all participants strongly supported its continuation on an annual basis.

49. Mr. PINHEIRO said that the creation of the Social Forum had endowed the Sub-Commission with a specific forum for debate. He welcomed the decision by the Office of the High Commissioner for Human Rights to hold those meetings in spite of the scarcity of resources.

50. Ms. MBONU, thanking Mr. Bengoa for his report, said that she welcomed in particular the emphasis placed on the need to invite persons directly concerned, namely the poor themselves, to participate in the debates, just as indigenous peoples were invited to participate in the activities of the relevant working group. Given the high quality of the debate, it would be highly recommendable to convene the Forum annually.

51. Mr. KARTASHKIN said that he had participated in the Social Forum and had taken note of the numerous recommendations made, which were faithfully reflected in Mr. Bengoa's report. He had been surprised, however, at the recommendation contained in paragraph 92 of the report encouraging States to ratify the two International Covenants in addition to human rights treaties. Ratification of the International Covenant on Economic, Social and Cultural Rights must be the first priority, as civil and political rights were meaningless to someone who was starving. It was therefore regrettable that his proposal made at the Social Forum had not been reflected in the report. He had suggested establishing contact with countries that had not yet ratified the Covenant on Economic, Social and Cultural Rights and requesting information on the obstacles to poverty eradication or reduction they had encountered and on relevant assistance that could be provided by the United Nations. He hoped that his proposal would be taken into account during the Social Forum's succeeding session.

52. Mr. Sorabjee, Chairperson, resumed the Chair.

53. Mr. CHEN said that he welcomed Mr. Bengoa's report on the Social Forum. He had participated in the Forum and agreed with the previous speakers that it should be held on an annual basis. Each session should be dedicated to a different topic.

54. Mr. BIRO said that, given the high quality of the debate during the Social Forum, more time should be allocated to the meetings to allow for further dialogue on crucial issues.

55. Ms. O'CONNOR said that she fully supported Mr. Biro's view.

56. Mr. RAJKUMAR (Pax Romana) said that the Social Forum was more conducive to dialogue because, unlike the Sub-Commission, it did not have to draft any resolutions. In that respect, the Social Forum was complementary to other initiatives such as the partnership between civil society and the United Nations promoted by the Secretary-General. The Social Forum was also the most appropriate framework for developing and giving practical meaning to the idea that was the very basis of the right to development, namely that the human being was both the agent and beneficiary of change.

57. He agreed with previous speakers that the Social Forum should involve a larger number of persons who had direct experience with the harsh everyday reality, including representatives of the most disadvantaged sectors of society. Accordingly, additional time would need to be allocated to those meetings, preferably by the following year when the Forum would address the issue of poverty and growth.

58. Mr. VERZAT (ATD Fourth World) said that the Social Forum, which examined the question of poverty from a human rights perspective, played a crucial role. The statements made at its second session had illustrated the importance of listening to persons living in abject poverty for gaining a better understanding of their situation and their aspirations. The thought-provoking contributions of the delegation of Chile had shown how the fruits of a country's economic upsurge could be harnessed for the benefit of the most disadvantaged segments of society. In general, the discussions at the Social Forum had underscored the Sub-Commission's outstanding contribution to the debate on poverty, a contribution that had translated into legislative progress in many countries in the world.

59. Mr. BENGUA, speaking in reference to the remarks made by Ms. Mbonu, said that he intended to present a draft resolution that would address ways of funding the participation in the Social Forum of persons living in poverty. Mr. Kartashkin's observation was also highly relevant and he would do his utmost to ensure that emphasis was placed on the International Covenant on Economic, Social and Cultural Rights. He informed Mr. Chen that the 2005 Social Forum would focus its debate on poverty and economic growth. For budgetary reasons, the current time allocation for the Forum of two days per annum was unlikely to change.

60. Mr. SATTAR, making a number of general comments under agenda item 4, said that the 1968 International Conference on Human Rights held in Teheran had attached great importance to economic, social and cultural rights. It was gratifying to note that the Commission on Human Rights was devoting increasing attention to those rights, as illustrated by its decision to extend the mandates of the Working Group on the Right to Development, the Special Rapporteur on the right to education and the Independent Expert on human rights and extreme poverty. Another indication was the Commission's positive response to the excellent studies carried out by Sub-Commission special rapporteurs on such important issues as debt, extreme poverty and drinking water and sanitation. However, as the regional group coordinators had pointed out recently, poverty prevented the enjoyment of all other rights, and as it affected at least one quarter of the world's population, economic, social and cultural rights were far from receiving the attention they were due. He recommended that the Sub-Commission should consider undertaking studies on additional topics under agenda item 4 such as economic, social and cultural rights within the context of population planning. The Sub-Commission should also recommend the Commission on Human Rights to allocate the same number of days to the Social Forum as to the three working groups, namely five working days.

61. The Sub-Commission should examine the question of drafting an optional protocol to the International Covenant on Economic, Social and Cultural Rights, as had been done for the International Covenant on Civil and Political Rights. The Commission on Human Rights had established a working group to examine the different options, but the Sub-Commission should also consider the question. That might help to reverse the current trend of defending lofty ideals while poverty was increasing and international aid was in steady decline.

62. It appeared that, on the occasion of the most recent World Trade Organization meeting, rich countries had agreed to cut export subsidies and put an end to agricultural dumping, practices that had led to the impoverishment of developing country farmers in recent decades. Unfortunately, past experience had shown that such commitments must be treated with the utmost caution and continued vigilance was in order. The Sub-Commission, as a body committed to the protection of human rights, had an important role to play in that regard.

63. Ms. CHUNG, drawing attention to the reports prepared by Ms. Deepika Udagama and Mr. Oloka Onyango on globalization and its effects on the full enjoyment of economic, social and cultural rights, said that the Sub-Commission should move forward on another aspect of globalization, namely the uncontrolled movement of capital at the international level. Rather than ensuring the efficient use of resources, as was sometimes claimed, the free movement of capital, especially speculative capital, exposed developing countries and transition countries

especially to financial risk and was thus a source of destabilization. The Secretary-General had stated that fact clearly in his report contained in document A/58/369 concerning the international financial system and development. It was also manifest in the series of financial crises that had rocked Asia and Latin America in the recent past.

64. Unfortunately, few United Nations documents discussed the negative effects of financial globalization. She suggested that the Sub-Commission should examine the issue from a human rights perspective, in particular within the framework of the Social Forum.

65. Mr. ALFONSO MARTÍNEZ said that he was pleased with the excellent work undertaken by the Social Forum, especially considering the many questions and doubts the Economic and Social Council and the Commission on Human Rights had initially expressed with regard to the establishment of the new mechanism. He welcomed Mr. Sattar's reference to the first World Conference on Human Rights, which had for the first time confirmed the interdependence and complementary nature of civil and political rights and economic, social and cultural rights. By focusing on the analysis of poverty and poverty eradication programmes, the Social Forum had been instrumental in drawing increased, albeit insufficient, attention to that second category of rights.

66. Mr. DOS SANTOS said that the consolidation of peace and democracy was a prerequisite for combating poverty. Poverty was both a cause and a result of conflict. That genuine vicious cycle could only be broken by developing a culture of peace based on human rights, good governance, transparency, accountability and security.

67. The measures taken by developing countries in the early 1980s, including structural adjustment programmes, had created an attractive environment for private investment that should eventually lead to economic and social progress. While in some cases positive results had been achieved already, it had to be admitted that poverty remained a reality in most developing countries and debt relief measures and international cooperation were the only feasible solution.

68. The Millennium Development Goals, the Monterrey Consensus of the International Conference on Financing for Development and the Plan of Implementation of the World Summit on Sustainable Development provided the framework for such cooperation, which should comprise development aid, better terms of trade, debt relief and investment. In that context, he welcomed the efforts made by the Sub-Commission in general and the Social Forum in particular to create an enabling environment for the full enjoyment of all human rights, with emphasis placed on access to clean water, housing, health care and education.

69. Mr. KUMAR (Voluntary Action Network India) said that he welcomed the efforts of the Sub-Commission to identify more clearly the content of the right to development, thus turning an abstract notion into a legitimate right with universal applicability. Unfortunately, despite the many declarations made by the international community, the right to development was neither justiciable nor enforceable, especially in third world countries, where situations of chronic hunger, malnutrition and illiteracy continued to prevail. Moreover, when it came to implementing that right, countries' positions were determined by political agendas rather than the will to ensure access to food, work, education and health. While his organization did not

subscribe to the idea of sanctions, which were too readily manipulated in international diplomacy, it considered that the Sub-Commission should step up efforts to make the right to development legally enforceable at the national level and ensure that it was given priority when it came to allocating resources at the international level.

70. Development could not take place in the absence of peace. Intercommunity tensions and situations of armed conflict, even when pursued in the name of freedom, hampered the establishment of the infrastructure needed for development. Creating an enabling environment for the establishment and maintenance of peace required the cooperation of the international community.

71. Mr. BEERSMANS (International Movement for Fraternal Union among Races and Peoples, UFER) said that it was regrettable that factors such as ethnicity and religion, which should be a cause to celebrate the diversity of humankind, at present were instead a cause of conflict in many parts of the world. Such was the case in Jammu and Kashmir. Speaking of economic, social and cultural rights in that region, which had known nothing but terror over the past 15 years, was meaningless. Terrorist activities there had dealt a fatal blow to the economy, in particular the thriving tourist industry; countless Kashmiri people had been massacred or driven into exile, which had destroyed the social fabric of society; and terrorism had caused tremendous damage to the country's cultural heritage.

72. His organization believed that everyone in a position of power should use their influence to convince those who were using or supporting violence to put an end to their destructive activities and to use peaceful means to reach their objectives. Before real and lasting peace could be brought to the region, the issue of Kashmir must be resolved to the satisfaction of all three parties concerned: India, Pakistan and the people of Kashmir themselves. India and Pakistan should carry forward their dialogue within the framework of the 1972 Shimla Agreement, the 1999 Lahore Declaration and the commitments made on 6 January 2004.

The meeting rose at 1.05 p.m.