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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 12th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 4 August 2004, at 3 p.m.

Chairperson: Mr. SORABJEE

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The meeting was called to order at 3.05 p.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. Mr. GUISSÉ, presenting the report on the sixth session of the sessional working group on the working methods and activities of transnational corporations, held on 29 and 30 July 2004, said that the group had examined the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights, and also the implications of Commission on Human Rights resolution 2004/116 on the responsibilities of transnational corporations and related business enterprises with regard to human rights. The discussion had focused on numerous issues related to the Norms. Many non-governmental organizations (NGOs) had provided information on measures already taken by business enterprises and civil society to disseminate, publicize and implement the Norms.

2. With regard to recommendations for the working group's future work, proposals had included the development of a new approach to identifying appropriate mechanisms for monitoring the Norms; examination of other aspects of the group's mandate; collection and examination of information on good and bad practices of transnational corporations, the results to be forwarded to the Commission on Human Rights for further consideration; elaboration of a legislative model for the implementation of the Norms at the national level; and a contribution by the Sub-Commission to the report on the issue that the United Nations High Commissioner for Human Rights would submit to the sixty-first session of the Commission on Human Rights in 2005. It had also been suggested that it was unnecessary to renew the working group's mandate and that the Sub-Commission should include the examination of the working methods and activities of transnational corporations as a sub-topic of item 4 of its agenda. In that regard, he recalled that the working group was the only United Nations body examining the question of transnational corporations and human rights.

3. It would be appropriate to disband the working group if it had exhausted its agenda; but the drafting of the Norms was only part of its activities. Therefore, a draft resolution was to be submitted to the Sub-Commission requesting that the working group be allowed to continue its work by looking at implementation mechanisms. It had already initiated an interactive dialogue with the private sector and NGOs, which would lead to a better understanding of how transnational corporations adversely affected human rights in developing countries and how difficult it was to control them. Therefore, it was in the interests of the protection of the economic rights of individuals in the poorest countries to allow the working group to continue its work. The activities of transnational corporations remained a major source of concern to developing countries.

4. Mr. DECAUX said that the Sub-Commission should show its support for the working group. In that respect, the position of the Commission on Human Rights was a disappointment and it was to be hoped that the Office of the United Nations High Commissioner for Human Rights could intervene on the group's behalf. The Sub-Commission should endeavour to assure the entities concerned, particularly the transnational corporations and the trade unions, that it was not trying to exercise control over them and that it was in everyone's interests to have very clear rules.

5. He called into question the arrangements regarding the functioning of the sessional working groups: it would be more effective if the time used by those groups during the session could be spent in plenary meetings where all members of the Sub-Commission could discuss the different issues. He was not against any working group as such, but considered that the Sub-Commission could gain additional time by replacing sessional working groups by pre-sessional working groups.

6. Ms. TAKANASHI (Japanese Workers' Committee for Human Rights), referring to transnational corporations and human rights, said that recent developments in globalization had had extremely adverse affects on an increasing number of workers: in Japan, 35,000 workers had committed suicide and 10,000 had died from overwork in 2003. There were also many instances of wrongful dismissal. In one case, the AIG Star Insurance Company, on moving part of its head office functions from Tokyo to Nagasaki, had dismissed four short-term workers, even though, when recruiting them, it had led them to believe that they could work with the company until the fixed retirement age of 60. In another, the Hilton Hotel in Tokyo had dismissed 10 employees when their union had declined to accept a 15 per cent wage cut without negotiation. If such unreasonable dismissals were allowed, employers would be free to change wages and working conditions by intimidation. The basic human rights of workers were in crisis owing to global competition between transnational corporations. The Sub-Commission should collect relevant information on the situation of workers in transnational corporations and examine ways to protect their rights.

7. Ms. VEGA (American Association of Jurists) said that the preliminary report on corruption and its impact on the full enjoyment of human rights, in particular, economic, social and cultural rights (E/CN.4/Sub.2/2004/23) was excellent because it went to the root causes of the problem and indicated that the principal victims were poor people and poor countries; moreover, the recommendations underscored the fundamental role of civil society in the fight against corruption.

8. With reference to the progress report on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty (E/CN.4/Sub.2/2004/25), she questioned the use of the expression "extreme poverty", rather than merely "poverty". Unfortunately, the concept of eradicating extreme poverty had been abandoned and replaced by that of combating extreme poverty, a never-ending effort. The report appeared to skirt around the root causes of the problem, which included unequal distribution of wealth, external debt, wage reductions and declining social security. It was also worth reflecting on the fact that poverty and inequality were growing despite an increase in wealth.

9. Her organization, together with Europe-Third World Centre (CETIM), had presented a document (E/CN.4/Sub.2/2004/NGO/10), which spoke of the planet being wrapped in a thick web of international, regional and bilateral economic and financial instruments that had subordinated or taken the place of the basic tools of international and national human rights law, national Constitutions, and legislation directed to development and the alleviation of inequalities and exclusion. The document addressed the regression to a sort of feudal or corporative law, opposed to national and international public law, that worked in the exclusive interest of

transnational capital and rich States, to the detriment of the fundamental rights of the peripheral States and their peoples, and was accompanied by a strong coercive system to ensure its application. The Sub-Commission should examine that phenomenon.

10. Mr. WARIKOO (Himalayan Research and Cultural Foundation) said that there was a direct relationship between the enjoyment of economic, social and cultural rights and the type of governance, levels of corruption, health care and education and such external factors as transborder terrorism and drug and arms trafficking. Terrorism and religious extremism had systematically violated the economic, social and cultural rights of the people of Jammu and Kashmir over the past 15 years, during which time terrorists had destroyed much of the State's socio-economic infrastructure. The Government was injecting massive funds into the region in order to rebuild it; but the terrorists had changed their modus operandi and were now extorting protection money from those employed in the reconstruction effort, creating serious difficulties. Tourism had been increasing substantially in Kashmir recently and, in their bid to disrupt the process of normalization and peace, the terrorists had started to attack tourists. Unless terrorism was curbed, sustainable economic and social development could not be achieved.

11. Ms. SALOMON (Minority Rights Group International) said that her group was committed to seeing the normative content and operational elements of the right to development elaborated and implemented. In particular, the rights of minorities and indigenous peoples were essential to any sustainable development process, but certain key elements of such rights were largely absent from the work on the right to development.

12. The conference working paper on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty (E/CN.4/Sub.2/2004/25/Add.1) recognized that certain groups, such as minorities and indigenous peoples, were more vulnerable than others, owing to the discrimination they faced. However, it did not go far enough in addressing other key aspects such as the right to recognition, identity, culture and land. The eventual cross-cutting analysis should examine the full range of rights in place for minorities and indigenous peoples, including the right to effective participation.

13. The paper on the legal nature of the right to development and enhancement of its binding nature (E/CN.4/Sub.2/2004/16) referred to refining the right to development by focusing on gender inequalities; such refinement would also be achieved by focusing on minority and indigenous rights. Consideration should also be given to issues of multiple discrimination suffered by women as members of minority or indigenous communities. Other areas of the paper that could have explicitly incorporated legal standards on minorities and indigenous peoples were those relating to the coverage of human rights impact assessment and to human rights mainstreaming in the Millennium Development Goals. Since the latter did not require disaggregated data, it would be possible to achieve all the Goals without having a positive impact on the lives of minorities and indigenous peoples and, without such data, it was impossible for national Governments or development agencies to elaborate informed policies to benefit them.

14. The paper also raised the important issue of accountability and remedies for the violation of the right to development. The human rights obligations of duty-bearers needed to be specified so that accountability was clear.

15. Mr. ANGELIDES (International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities) said that economic, social and cultural rights were not adequately safeguarded in areas of Cyprus outside Government control. Since Turkey had illegally invaded and occupied the northern part of Cyprus in 1974, approximately 150,000 people had been internally displaced and deprived of the right to return to their homes. Greek-Cypriot families residing in the occupied territories had no access to social or welfare services and there were no Greek-speaking secondary schools. Furthermore, following the displacement of the Turkish-Cypriot population, the occupied territories were being colonized by settlers from mainland Turkey, who had a different cultural background from that of the people of Cyprus.

16. After the 1974 ceasefire, approximately 20,000 people had been cut off behind the Turkish military lines. They were subjected to a policy of oppression, harassment and violation of their economic, social, cultural and human rights and, today, only 500 of those persons remained in the occupied areas.

17. The occupation had had a disastrous effect on the cultural heritage of Cyprus. A number of archaeological sites and monuments had been destroyed and around 250 churches and monasteries had been affected. The methodical and institutionalized destruction of cultural monuments was part of a premeditated policy to eradicate every trace of history and culture and change the character of the island. He urged the Sub-Commission to take a clear stance on the need to respect the human rights of the people of Cyprus.

18. Ms. SRIVASTAUB (International Institute for Non-Aligned Studies) said that the right to clean drinking water was a basic economic and social right. Over the past two centuries, most water utilities had been publicly owned and managed. The fact that over 1 billion people throughout the world did not have access to a clean and affordable water supply was due largely to inefficiency, corruption and a shortage of resources. Nevertheless, publicly owned utility companies had been able to provide relatively clean water at affordable prices to the majority of the world's population.

19. According to a report by an independent news agency, the International Monetary Fund's loan agreements with certain sub-Saharan African countries, including Angola, Benin, Guinea-Bissau, the Niger and Tanzania, included conditions imposing water privatization or full cost recovery. Furthermore, a report by British academics on water privatization in Africa indicated that Western Governments were to make aid for development conditional on water privatization, an approach that had already been adopted by the United Kingdom Government. However, market principles should not be applied where basic necessities like water were concerned. The poor should be supplied with water at an affordable rate. Water services should remain under Government control, so that they could be reformed and improved. Even if privatized, water services should be made available to poor people at lower rates. The Sub-Commission should conduct a study into the impact of water privatization in countries outside Africa as well.

20. Mr. KHOURI (Union of Arab Jurists) said that human rights could not be enjoyed in a context of war, conflict or violence and that there should be a collective responsibility for breaking the vicious circle of conflict and human rights violations. Two major world Powers

had resorted to lies and fabrications in order to justify the war against Iraq. By declaring war, they had violated the Charter of the United Nations and the various human rights instruments. However, they could not be held solely responsible, as they could not have acted without the backing of other States. The economic embargo against Iraq, which had caused the deaths of approximately 1.7 million people, would not have lasted for 13 years without the support of the international community.

21. The restoration of security to Iraq and the reconstruction of the country was an international responsibility. The stability needed to guarantee human rights to all people, not only in Iraq but also in other countries in the Middle East, could only be achieved through the withdrawal of occupying forces. The Sub-Commission should adopt a resolution, similar to that adopted at its fifty-fourth session (E/CN.4/Sub.2/2002/L.3/Rev.1), calling on all countries to refrain from using military means to bring other nations to account and urging occupying powers to compensate the countries that were the subject of military intervention.

22. Ms. SIKORA (Transnational Radical Party) said that, since its establishment four years previously, the Permanent Forum on Indigenous Issues had never addressed the vital role played by coca in the tradition, culture, religion and economy of indigenous peoples in the Andean region, mainly because the use and production of coca was strictly regulated by the United Nations Single Convention on Narcotic Drugs of 1961 and other international instruments. Over the past decade, the international community's efforts to reduce coca production had been largely unsuccessful. Many eradication programmes had adversely affected the health of those living in affected regions and the environment. While the idea of substituting coca with licit crops as an alternative means of development was, in theory, a good one, in practice substitution efforts had been unsuccessful in the medium and long terms. Consequently, the situation in the Andes had become untenable for hundreds of communities. Various illegal groups, including drug traffickers, terrorists and paramilitary groups, found it easy to exploit those communities. Such problems were always addressed using the same formula: prohibition.

23. The time was ripe for the United Nations to carry out a feasibility study into the legalization of coca production for traditional uses such as medicine, tea, flour and toothpaste and to consider alternative ways of alleviating the abuse of the chemical substances processed from coca leaves. Alternative development projects should address the broader economic situation of the farmers who cultivated illegal crops and take into account the fact that coca was an integral part of their culture and tradition. The Sub-Commission was perhaps the most appropriate forum for the initiation of a debate on coca-related issues.

24. Ms. MOURAVIEFF-APOSTOL (International Federation of Social Workers) said she hoped that the discussion at the 2004 Social Forum had convinced all participants that the poor had a crucial role to play in poverty reduction activities. Efforts to help marginalized groups or individuals should be personalized, patient and persistent and should ideally be conducted by members of civil society in close cooperation with local authorities. Such an approach required solidarity, empathy and long-term commitment. Even though many Governments lacked the means to provide adequate care for their indigent populations, even the poorest countries could reduce exclusion and marginalization by setting the right priorities and finding the right balance. Education and health were powerful tools in any country's development and should be available in some form or another for all citizens. The primary objective of any Government should be to

ensure, within its means, the best possible standard of living for its population. Economic development was the principal means of achieving that goal. Regrettably, however, in many countries, economic development had become the primary and overriding objective. Even in affluent countries, the poor suffered greatly, largely as a result of stigmatization. A rights-based approach to poverty would help the international community to understand and counter the phenomenon. The working paper submitted by Mr. Bengoa on draft initial elements for discussion on possible guiding principles on human rights, poverty and extreme poverty (E/CN.4/Sub.2/2004/25/Add.1) contained some useful ideas on how to adopt such an approach. It was hoped that people living in poverty would soon be able to participate at all levels of the decision-making process.

25. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that her organization had witnessed the adverse effects of corruption on the economic and social activity of various groups of people in poor countries. It was worth considering that, if the Enron saga had affected thousands of individuals across the United States of America, corruption in developing countries had the potential to plunge entire communities into extreme poverty.

26. Although she welcomed the recent adoption by the General Assembly of the United Nations Convention against Corruption, the slow pace of accessions to it suggested that it would be some time before the instrument entered into force. The Sub-Commission should call on all Member States to become parties to the Convention without delay.

27. In her report on corruption and its impact on the full enjoyment of human rights, in particular, economic, social and cultural rights (E/CN.4/Sub.2/2004/23), Ms. Mbonu emphasized the importance of involving civil society in the fight against corruption. Such an approach would inevitably take time. Efforts should be directed towards raising the awareness of the younger generation, particularly at the secondary school level.

28. Mr. BALTI (ATLAS - Association Tunisienne pour l'Auto-Développement et la Solidarité) said that the fight against poverty was an ongoing process and called for solidarity at the international level. Although, in recent years, increased attention had been devoted to promoting economic, social and cultural rights at the international level, further efforts were needed, in particular in terms of international cooperation to eliminate poverty and scourges such as famine, malnutrition and disease. If the world could rally together in the fight against terrorism, it should show the same commitment towards eliminating poverty, exclusion and injustice.

29. The efforts of the countries of the South to reduce debt and promote fair trade had been unsuccessful, due to a lack of international support. Unless precautionary measures were taken, the economic liberalization process would undermine the tools designed to protect economic, social and cultural rights. His organization supported the request by several NGOs to obtain observer status within the World Trade Organization (WTO). Unless efforts were made to promote cooperation, partnership and dialogue, there was a risk that poverty, which had already reached alarming levels, would worsen. The second phase of the World Summit on the Information Society, due to take place in Tunis in 2005, would be a good opportunity for the North to engage in dialogue with the South with a view to adopting a new strategy on development issues and reducing the ever-widening digital gap.

30. Ms. SAHUREKA (International Association of Democratic Lawyers) said that the right to development and other economic, social and cultural rights could not be enjoyed in situations of war and conflict. Since 1999, the rights of the Moluccan people had been seriously impaired by the Indonesian army, which enjoyed impunity and was not held accountable for its war crimes and crimes against humanity. Its crimes included the forcible eviction of Moluccan families from their ancestral lands, the conversion of areas of tropical forest into rice plantations and the destruction of schools and universities. Furthermore, the freedom of religion of the Moluccan people was challenged on a daily basis. The Indonesians had forced thousands of Moluccans to convert to Islam and promoted a policy of religious segregation. Freedom of speech was also restricted. The Moluccan people were not only losing their land and identity, but also their language, customs and heritage. In Maluku and other war-torn areas, killings had to be acknowledged and stopped and the perpetrators had to be identified, apprehended and indicted before an international tribunal. The Sub-Commission should continue to gather information on the situation of the Moluccan people and pursue its efforts to promote the right to development.

31. Mr. KOHLI (Indian Council of Education) said that, thanks to the Internet revolution, civil society now had the means of negotiating with transnational corporations and other organizations, publicizing improper employment practices on their part, and lobbying national Governments. But there was still a need for the United Nations to expand its activities into new areas such as information management and the creation of consumer forums to help civil society to moderate the new power acquired by businesses. In 1999 alone, Internet business had been worth \$9 billion. In that new situation, businesses could bypass many former checks and balances and the Third World stood to be marginalized even further because of its poor Internet access. For example, decisions taken on the Internet to increase oil prices had affected all poor people.

32. Paradoxically, the new information technologies were increasing the demand of the poor countries for capital loans and consumer credit. Stimulated by the Internet, the demand for consumer goods was growing faster than the purchasing power of the developing countries, and the gap could only be filled by borrowing: in the period 1982-1992, the Third World's debt had doubled to \$1.34 billion, but its purchasing power had been further eroded by the activities of transnational corporations and the reduction in customs duties produced by the WTO negotiations. Unless manufacturing was shifted to the Third World, it would generally suffer de-industrialization and further marginalization. When Third World countries had grouped together into sellers' organizations such as the Organization of the Petroleum Exporting Countries (OPEC), the benefits had been undermined by the military activities of the United States, which would do nothing, however, to remove agricultural subsidies in developed countries. The Sub-Commission should initiate studies on the question of agricultural subsidies and compensation of Third World countries for the losses they were suffering.

33. Mr. GONZALMES (International Indian Treaty Council (IITC)) said that there was a need to integrate traditional values with sustainable economic development. IITC was profoundly concerned in particular about the lack of respect for plant and other life forms under various "intellectual property regimes" and about the false terms of economic support provided under "free trade" agreements, which deliberately excluded indigenous peoples. It called upon the Sub-Commission to help indigenous peoples to protect their sacred places, plants and animals by challenging globalization and regional trade treaties which excluded indigenous peoples.

34. After citing several examples of the violation of the rights of indigenous peoples by big business in the United States, Canada and Argentina, he stressed the importance of applying the principle of free, prior and informed consent to such cases and for a universally agreed definition of that principle, as mentioned in the preliminary working paper by Ms. Motoc (E/CN.4/Sub.2/AC.4/2004/4) and in several legal instruments produced by United Nations agencies. IITC had also received information about the destruction of indigenous peoples in Ogoniland in Nigeria and the similar danger now threatening the Teyor-Kaani peoples. It called for the resettlement of displaced peoples and the prosecution of the perpetrators of the outrages. In general terms, it also urged WTO and other institutions to impose a moratorium on the patenting of life forms, including the seeds and farming techniques of indigenous peoples, until the issues of free, prior and informed consent had been settled.

35. Mr. BARNES (Indigenous World Association) said that his organization protested once again at the colonial domination of the indigenous peoples of Alaska and the exploitation of their sovereign natural resources by the United States in contravention of the provisions of articles 2 and 21 of the Universal Declaration of Human Rights. The indigenous peoples of Alaska had never exercised their right to self-determination or ceded their natural resources.

36. Transnational corporations often had the power to change or block legislation on protection of indigenous peoples, sometimes through recourse to political and economic corruption. On the other hand, they had also acquired rights to protect their fraudulent acquisitions. The debate on the draft United Nations declaration on the rights of indigenous peoples was not preparing the way for protection against abuses; it seemed more like a declaration to protect the fraudulent acquisition of indigenous resources. The Special Rapporteur made that point clearly in paragraphs 34 and 39 of her preliminary report on corruption (E/CN.4/Sub.2/2004/23). The Indigenous World Association called upon the Sub-Commission to examine the situation and for the Special Rapporteur to address the practices of administering Powers in colonial situations.

37. Ms. CHAMSUWAN (Pax Romana) said that Pax Romana wished to draw attention to the situation of hill tribes in Thailand, some 400,000 of whose members were classified as non-citizens and suffered discrimination and deprivation which led to extreme poverty. In particular, they could not fully exercise their right to education, and as non-citizens and often illiterate they had few employment opportunities. As a result, many of them were forced into the underground economy, even the trafficking in women and children. Their access to health care and other public services was also restricted.

38. The living conditions of the hill tribes had been aggravated by forced relocation from land which they had cultivated for generations: as recently as July 2004, villagers in Chiang Mai province had been imprisoned on charges of encroachment on a forest conservation area; but no action was taken against encroachment by the operators of golf courses, spas and other resorts. As stressed in paragraph 17 of Mr. Bengoa's progress report (E/CN.4/Sub.2/2004/25), poverty reduction must be explicitly based on international human rights norms.

39. Pax Romana urged the Thai Government to guarantee the human rights of non-citizens, to guarantee all children access to education, and to take the approach to poverty reduction endorsed by the Sub-Commission. It urged the Sub-Commission to take up the study of

vulnerable groups, including non-citizens, in the final report to be coordinated by Mr. Bengoa and to include the situation of such groups under the topic "Poverty and economic growth" at the next session of the Social Forum.

40. Ms. PARKER (International Educational Development) said that the catastrophic situation of Assyrian Christians in Syria, Turkey, Iran and Iraq illustrated the need for the draft principles prepared by the Special Rapporteur on housing and property restitution in the context of the return of refugees and internally displaced persons. During the "Safe Haven" years and the post-Hussein period, Assyrians in northern Iraq had been subjected to a terror campaign by Kurdish groups, which had forcibly occupied up to 250 Assyrian villages and destroyed a number of others. The campaign had now spread to southern Iraq, targeting Chaldeans as well. The Assyrian Christian population of Iraq, which had numbered 2 million before the first Gulf War, had dwindled to only 750,000. There was a possibility that genocide or near-genocide had taken place in Iraq under United States occupation. Despite its responsibilities under the Geneva Conventions, the occupying authority had done little to protect the Assyrians. The international community, acting on the basis of the Special Rapporteur's draft principles, must prevent the annihilation of the Assyrians and secure full restoration of their property.

41. Her organization was also committed to the full restoration of the 3,848 Kurdish villages in Turkey destroyed by the Turkish authorities. Much of the funding provided by European donor groups for that purpose had been mismanaged, and the Turkish restoration programme was grossly inadequate. The draft principles could usefully be applied to the situation.

42. It might also be useful for the Special Rapporteur to address the question of the specific obligations of States which had used depleted-uranium weapons, cluster bombs or anti-personnel mines that had rendered land unusable. It was to be hoped that the people of Iraq, in particular, would not have to pay for the restoration of such land to a habitable condition. A similar situation was found in Laos, where much land still held unexploded cluster bombs dropped by the United States during the Viet Nam war; and Mozambique still had to deal with the many landmines left by opposition forces. Neither the United States Government nor the opposition forces in Mozambique had complied with their duty to clean up such land.

43. Ms. KOUKAB-UL-SABA (International Islamic Federation of Student Organizations) said that her organization welcomed the establishment of the High-Level Task Force on the Right to Development. However, Governments, human rights movements and the Commission on Human Rights itself must do more to develop a better understanding of economic, social and cultural rights and guard against violations. Democracy, accountability and transparency were irrelevant in regions stricken by poverty and foreign occupation.

44. In Kashmir, the denial of the right to self-determination was the root cause of all the problems: the violation of the economic, social and cultural rights of 13 million Kashmiris was due solely to the denial of their right to self-determination. The Kashmiri people certainly deserved international financial and humanitarian assistance rather than international apathy.

45. The Declaration on the Right to Development stated that progress in disarmament would promote progress in development. But the planet's largest concentration of armed forces, in Indian-occupied Kashmir, continued to threaten regional security in South Asia and draw

resources away from the region's pressing economic needs. The Sub-Commission must recognize India's occupation of Kashmir as an impediment to the exercise of the rights of the Kashmiri people and use its influence to remedy the situation.

46. Ms. SHUMIAN (International Institute for Peace) said that economic, social and cultural rights included the right of all people to education. Fortunately, literacy rates were rising, and enrolment in primary education had increased in all regions in the 1990s. However, 175 million of the 680 million children of primary school age in the developing countries did not attend school, and many children did not complete their primary education. It was not surprising that children were subjected to violence, child labour, sale, prostitution and pornography. Education should prepare children to deal with an increasingly complicated world, but one quarter of adults in the developing world could not read or write.

47. The quality of education also mattered. The World Bank reported that in Pakistan and many other developing countries education was not compulsory and many rural areas lacked public schools. In contrast, Islamic religious schools were found all over Pakistan, and parents were sometimes paid for enrolling their children. Some of these schools encouraged their graduates to fulfil their "spiritual obligations" by fighting against Hindus in Kashmir or other Muslim sects in Pakistan.

48. The main obstacles to the expansion of primary education in developing countries were limited resources and inefficient spending: rich countries rarely spent less than 4 per cent of gross domestic product on public education, but in poor countries the figure was 2.8 per cent. One way of increasing the funding of education was to spend less on military activities; military spending worldwide had fallen in the 1990s except in Latin America and South Asia. And it must be remembered that, in general terms, education must not alienate people from their moral and spiritual values and should inculcate the values of tolerance, coexistence and humanity.

49. Mr. LÖNN (International Youth and Student Movement for the United Nations) said that economic liberalization and globalization had led to the erosion of economic and social rights on all continents. Increasingly, States handed over responsibility for the supply of drinking water to private companies and transnational corporations, which threatened the right to water for billions of people. His organization was deeply concerned by the decision of the Commission on Human Rights not to request the Sub-Commission to monitor compliance with its Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights, on the grounds that they had no legal standing. In fact, the Sub-Commission had been censured for trying to hold corporations to account for human rights violations. It would be a long and difficult battle to restore a proper and effective role for the United Nations in the supervision of transnational corporations.

50. Mr. INGRAM (World Bank) said that he would address three issues: the right to development, the Social Forum, and the working paper by Mr. Guissé on the effects of debt on human rights (E/CN.4/Sub.2/2004/27). The World Bank was participating in the task force on the implementation of the right to development, set up by the Commission on Human Rights. It strongly believed in the five basic principles: participation, transparency, accountability, equity, and non-discrimination. Increasingly, those principles were being integrated into national poverty reduction strategies supported by the World Bank. The failure to do so in the past had been one of the major obstacles to social and economic development.

51. During the recent session of the Social Forum, devoted to the theme of poverty and extreme poverty, the World Bank had been disappointed by the general lack of reference to the Poverty Reduction Strategy Papers (PRSPs), currently applied in more than 40 countries. In contrast, the important role of PRSPs in formulating and implementing economic and social policies in some of the world's poorest countries had been highlighted during recent meetings of the Economic and Social Council. The World Bank shared the view that human rights could play an important role in poverty reduction. It supported the call by Dr. Hunt, Special Rapporteur on the right to health, to operationalize the human rights approach to poverty in the context of local realities. A transparent, participatory approach was required to ensure that government policies captured local realities. Slogans and campaigns, although useful for advocacy, were not enough to implement the multidimensional fight against poverty. The Sub-Commission could contribute by making practical, operational recommendations.

52. Conspiracy theories that portrayed debt as a form of quasi-colonial domination were inaccurate and unhelpful. The experience of many countries, such as China, India, Sri Lanka, Thailand, Uganda, Botswana, Ghana and others, demonstrated the positive impact of structural reforms, effective use of debt, and good governance. The World Bank was committed to solid strategies and practical instruments for empowering the poor and disenfranchised.

53. Mr. AL RASHEED (Observer for Iraq) said that the previous regime in Iraq had wasted the revenue from natural resources on selfish projects and wars, leading to enormous debt and a comprehensive economic embargo. As a result, transport, health and other basic services had been destroyed, with a disastrous impact on the enjoyment of economic and social rights. The cultural situation had suffered because of censorship, poor education, and the brain drain. In spite of its current difficulties, the new Government was trying to make up for the failures of the past regime. With the support of the United Nations, Iraq was determined to improve the economic, social and cultural situation for its people, and to take up its rightful place in the international community.

54. Ms. GONÇALVES DE MELO (Observer for Brazil), welcoming the report by Mr. Guissé on the right to drinking water supply and sanitation (E/CN.4/Sub.2/2004/20), said that her Government had proposed to include the issue of access to safe and clean water in the resolution on the right to health, adopted by the Commission on Human Rights at its sixtieth session. The right to drinking water supply and sanitation did not create new obligations for States, and was essential to the full enjoyment of economic and social rights. Her delegation supported the proposed study on developing guidelines for implementation of the right to water.

55. Brazil welcomed the decision by the Economic and Social Council to establish the Social Forum as a regular annual meeting. It had integrated a human rights perspective into its domestic strategies to combat poverty and hunger. With the support of the Secretary-General of the United Nations, President Lula da Silva had proposed the establishment of an International Fund against Hunger, and was calling for a meeting of heads of State and Government to discuss related measures. Almost 40 heads of State and Government had already confirmed their attendance at the meeting, set to take place in New York on 20 September 2004.

56. The working group established by the Food and Agriculture Organization of the United Nations (FAO) to elaborate voluntary guidelines on progressive realization of the right to

food required the unwavering support of the international community. An enabling environment for implementing the guidelines would be vital to the final document adopted by FAO. Her Government also supported the open-ended working group on an optional protocol to the International Covenant on Economic, Social and Cultural Rights.

57. Mr. ALMAGLY (Observer for the Sudan) said that the right to water was one of the most basic human rights because, in the words of the Holy Koran, there was no life without water. Many armed conflicts, such as the one currently taking place in Darfur, were caused by drought and desertification, as pastoral and agricultural communities fought over vital water resources. He called upon Governments to implement the measures recommended by Mr. Guissé in his report (E/CN.4/Sub.2/2004/20), in order to combat conspiracies to seize control of water resources.

58. The history of Third World debt was one of blackmail of poor countries by international financial institutions. Prevailing debt management structures were used to restrict the sovereignty of developing countries and to protect the interests of transnational corporations. Structural adjustment plans and other prescriptions were of no benefit to developing countries; only the cancellation of debt could compensate for the failure of the Bretton Woods system. Debt had been a devastating burden on developing countries ever since their emergence from colonial rule. Mr. Guissé should be encouraged, in his next report on debt, to consider how former colonial powers could compensate for the domination and enslavement they had inflicted upon developing countries. Other developed countries should follow the example of France in taking a more responsible approach to debt cancellation.

59. The Sub-Commission was the most appropriate forum for addressing issues such as the right to water and the negative effects of debt on human rights. He encouraged it to look for solutions to the problem of protecting those rights. Finally, he supported the conclusions of the report on corruption (E/CN.4/Sub.2/2004/23), and encouraged Ms. Mbono to look further into the complicity of decision makers in the so-called free and democratic world.

60. Mr. BÍRÓ said that realization of the right to drinking-water supply and sanitation was the most urgent priority arising from the reports introduced under agenda item 4. As Mr. Guissé had pointed out in document E/CN.4/Sub.2/2004/20, water and sanitation were crucial factors in the viability and success of civilizations. Since the problems were universal, urgent action was required. The increasing tendency to treat water as a commodity was a dangerous one, which the Sub-Commission should address by elaborating the guidelines suggested by Mr. Guissé. People living in poverty and extreme poverty suffered most from poor access to safe water. In fact, extreme poverty led to the denial of all human rights, and to inevitable social exclusion.

61. The globalization of corruption had negative consequences for water supply and the fight against poverty. Corruption in all its forms was likely not only to disrupt the social fabric of a given country, but to lead, in some cases, to failed States. Democracy, social programmes and international action would come to nothing if corruption remained endemic. In the short term, the situation regarding safe water, poverty and corruption was likely to deteriorate further, especially in view of climate change and parallel environmental degradation. All the Sub-Commission could do was to keep those issues high on its agenda, with a special emphasis on the human rights perspective.

62. Mr. DECAUX, replying to comments made concerning the working paper on non-discrimination (E/CN.4/Sub.2/2004/24), said that he had tried hard to avoid a Eurocentric approach. In the section on comparative law, he had referred to the various regional mechanisms in chronological order, starting with the American Declaration of the Rights and Duties of Man of 1948. He had not referred to steps taken by the European Union or the Organization for Security and Cooperation in Europe, which were purely regional in scope. He also welcomed the suggestions made by Ms. Koufa and Ms. Hampson concerning customary law.

63. Greater attention should be paid to discrimination that took place on grounds other than those typically addressed by the United Nations, such as race and colour. He had focused on vulnerable groups, such as the elderly, persons with disabilities and migrant workers. He recognized the sensitive nature of the considerations set out in paragraph 22, on gender discrimination. Consequently, he had tried to restrict his comments to the legal situation. He had not made the case for incorporating discrimination on grounds of sexual orientation within the scope of the Convention on the Elimination of All Forms of Discrimination against Women. Lesbians tended to be victims of double discrimination, on account of their gender and sexual orientation. Nevertheless, the problems were far broader than allowed by the scope of the Convention. He might also have referred to article 9, paragraph 3, of the Constitution of South Africa, prohibiting discrimination on grounds of sexual orientation. He had referred to interpretations issued by human rights treaty bodies, because treaties continued to evolve long after their original text had been adopted. He had not intended to close the debate one way or another, but merely to bring all the relevant legal elements into the open.

64. His paper had been structured around three main themes: identification of grounds for discrimination; determination of the relative fairness of those grounds; and assessment of adequate responses. It was crucial to differentiate between acceptable forms of discrimination, on the one hand, and areas in which no discrimination could be tolerated, on the other. In conclusion, he highlighted the social dimension to the effective enjoyment of economic, social and cultural rights. The social standing, economic status or cultural isolation of an individual or group constituted the main obstacle to genuine equality of rights. National human rights institutions, two of the most effective of which were to be found in Canada and South Africa, as well as voluntary associations, should receive greater assistance in promoting the rights of the most vulnerable groups.

The meeting rose at 6.05 p.m.