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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 13th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 5 August 2004, at 10 a.m.

Chairperson: Mr. SORABJEE

later: Ms. MOTOC
(Vice-Chairperson)

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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.2/2004/13-20, 22 and Add.1, 23-26, 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 the NGO Association for World Education had put a declaration on the experts' table, which was unacceptable, particularly since the text personally attacked a Sub-Commission expert, Ms. Warzazi. He hoped that such an incident would not recur.

2. Mr. YOKOTA, speaking in reference to the working paper on extreme poverty and human rights prepared by Mr. Bengoa, said that the relationship between the two could be divided into three categories. Firstly, extreme poverty itself was a violation of human rights, as it constituted a denial of fundamental rights such as access to drinking water, food, housing and employment. Secondly, poverty induced human rights violations such as human trafficking for the purpose of sexual exploitation, armed conflict and terrorism which, in turn, engendered violations of human rights. Thirdly, the grave violations of the human rights of certain groups and individuals, including indigenous peoples, minorities and all other victims of discrimination, resulted in the marginalization of those groups and drove them deeper into poverty. That vicious cycle of cause and effect could only be broken if international organizations tackled poverty and human rights protection concurrently, instead of continuing to treat them separately. He was pleased that the Social Forum had recognized that link by dedicating its 2004 session to poverty and human rights. The theory which held that developing countries should make economic development their priority and that the enjoyment of human rights would follow naturally was mistaken. Attempts to justify the absence of democracy by the need to eradicate poverty first - a concept known as "development dictatorship" - were equally misguided. Cooperation within the United Nations system between human rights agencies and those working in the field of development aid must be improved as a matter of urgency.

3. Ms. Mbonu's preliminary report on corruption was very useful. Corruption was indeed a general social evil that undermined democracy by giving substance to the idea that only those who had money could enjoy power, privileges and rights.

4. He also welcomed the comprehensive information contained in Mr. Pinheiro's report on housing and property restitution in the context of the return of refugees and internally displaced persons and the important work undertaken by Mr. Guissé on the crucial issues of access to drinking water and sanitation, developing countries' debt and the activities of transnational corporations. He encouraged Mr. Decaux to continue his research on the implementation of the principle of non-discrimination.

5. Ms. MBONU thanked the experts and Government delegations, including the delegation from Sudan, for their comments on her preliminary report on corruption.

6. She fully agreed with Ms. Motoc that there was still no universally accepted definition of corruption, but was convinced that the progress made in international law would eventually produce such a definition. She had taken note of Ms. Motoc's suggestion to give further

consideration to the different types of corruption affecting the everyday lives of citizens and intended to address corrupt practices, in particular political corruption and corruption in the judiciary, in her next report.

7. Mr. Alfredsson's suggestion to undertake an in-depth analysis of ways to combat corruption in the framework of international human rights mechanisms would also be taken into consideration. She would focus in particular on the corruption of law enforcement officials, which had already been touched upon in paragraph 16 of her preliminary report. Furthermore, she would study the phenomenon of influence-peddling by well-connected individuals; place further emphasis on the role of civil society and the media in combating corruption; and assess the possibility of establishing an international corruption monitoring mechanism, as suggested by Mr. Alfredsson.

8. She agreed with Mr. Sattar on the importance of international cooperation in fighting corruption. She would further develop that idea in her next report and focus in particular on the repatriation of the enormous sums siphoned abroad by corrupt leaders, an issue that was often mentioned by Sub-Commission experts.

9. Although she agreed with Mr. Sattar that corruption existed in both democratic governments and dictatorial regimes, she remained convinced that it was more prevalent in the latter. She had touched on the question of measures to be taken to compensate victims of corruption in paragraph 56 of her preliminary report and planned to give further consideration to the matter, as suggested by Mr. Sattar.

10. Replying to Ms. Chung, she said that she intended to undertake an in-depth analysis of the effects of corruption, which perpetuated discrimination, hampered the full realization of economic, social and cultural rights and violated civil and political rights. Such an analysis should help in designing preventive measures. Ms. Chung had also denounced the immunity enjoyed by corrupt leaders in many countries. Ms. Mbonu was unaware how immunity could be lifted in such cases, but intended to examine the issue.

11. She shared Mr. Tuñón Veilles's view that the impression that corruption had increased had largely been created by more effective monitoring mechanisms. She planned to follow up on his suggestion to examine the issue of bribes in relation to public procurement.

12. She agreed with Mr. Guissé that corruption affected both developed and developing countries and that it was not enough to point the finger at corrupt individuals. The corruptor must also be mentioned. Cross-border corruption should be made a serious international crime and be prosecuted by international courts. As Mr. Guissé had pointed out, it was self-evident that corrupt African leaders had accomplices in banks situated in developed countries. However, she was convinced that the entry into force of the United Nations Convention against Corruption and the elimination of safe havens for embezzled funds would help reduce, if not eliminate, corruption.

13. Mr. Chen had underscored the urgent need for effective international judicial cooperation to guarantee the extradition of perpetrators of corruption who had escaped to other countries. He

had also argued that both corruption itself and the failure of certain States to take action to combat it should be treated as violations of human rights. She fully supported those observations.

14. She was pleased that Mr. Cherif shared her view that corruption was a form of "economic terrorism". She regretted not having devoted sufficient time to corrupt practices of transnational corporations and intended to dwell further on that issue in her next report. She also agreed with Mr. Cherif on the need to strengthen the legal aspects of the fight against corruption; paragraph 60 of her report highlighted the need to stimulate broad discussion on the matter. The report did not disregard the impact of corruption on civil and political rights, as Mr. Cherif had suggested; a substantial part of it was dedicated to that category of rights.

15. Ms. Hampson had made a highly relevant distinction between different causes of corruption. A police officer, for example, might take a bribe simply because his salary was too low. A minister who accepted a bribe, on the other hand, was motivated by sheer greed. In the former case, better salaries might be a solution. Ms. Hampson had also mentioned the issue of parliamentarians passing legislation that granted them sweeping immunity and Ms. Mbonu would address that form of corruption in her next report. Furthermore, she would endeavour to examine the other questions Ms. Hampson had raised, namely corruption in the exploitation of the national resources of sovereign States and corruption in international organizations.

16. She assured Ms. Warzazi that she would continue to name countries that refused to cooperate in the fight against corruption, and in particular those whose banks set up secret accounts, in an attempt to exert pressure so that illegally placed funds would be repatriated. She thanked Ms. Warzazi for having denounced the practice of sending high-level delegations to developing countries to sell arms. She would take those observations into consideration when preparing her next report.

17. She intended to comply with Ms. Rakotoarisoa's request to address in her next report issues such as the link between poverty and corruption, debt contracted by corrupt leaders and the corruption of political parties. She agreed with Ms. Rakotoarisoa on the need to adopt preventive measures, in particular the inclusion of anti-corruption messages in school curricula and public awareness campaigns, in other words the involvement of civil society in the fight against corruption. Unlike Ms. Rakotoarisoa, she did believe, however, that poverty, in particular extreme poverty, almost invariably led to corruption. The Social Forum had reached the same conclusion. In that connection, she fully endorsed Ms. O'Connor's observation that it was not so much poverty itself, but rather the exploitation of poverty that led to corruption. As Ms. O'Connor had recommended, she would look at the issue of corruption of law enforcement officials, which had a devastating effect on the administration of justice.

18. She had also taken note of Mr. Salama's comment on the sophisticated nature of corruption in democracies and the crucial role of civil society in eradicating that evil. Furthermore, in her next report she would cover in depth the practice of corruption within political parties and among parliamentarians mentioned by Mr. Kartashkin, but did not intend to replicate the information disseminated by Transparency International, reputable as that organization was. Her aim was not to adopt a confrontational approach, but rather to obtain cooperation from States through dialogue.

19. She thanked Ms. Koufa, Mr. Biro and Mr. Yokota for their comments and kind words and expressed appreciation to the Kenyan Government for its statement. She had noted with satisfaction the information submitted to the Sub-Commission on the resolute and courageous measures taken by the Kenyan authorities to tackle corruption, in particular its efforts to clean up the judiciary.

20. Mr. GUISSÉ thanked the experts for their comments on his report on the right to drinking water and sanitation. He had been particularly pleased with Mr. Kartashkin's reference to water pollution and with his suggestion to draft a declaration on drinking water containing principles or guidelines for protection of water sources, especially in African countries. Ms. Chung's insistence on the need to be clear on polluter responsibility, a concern shared by Mr. Kartashkin, was also commendable.

21. Mr. Salama had drawn attention to three key aspects in relation to the supply of drinking water, namely non-discrimination, economic accessibility resulting from lower costs and the non-exploitation of populations in the event of privatization. He had also called for national and international solidarity in the management of drinking water, a notion that Mr. Guissé intended to develop further in his next working paper. He thanked Mr. Alfredsson for mentioning the problem of water sources that served more than one country. Water was destined to become a major cause of conflict between countries in the near future, if that was not already the case, just as serious as existing conflicts over oil.

22. Mr. Bengoa had rightly pointed out that the privatization of water distribution services did not exonerate States from their responsibility in the matter. States therefore had the obligation to scrutinize contracts concluded with water companies very carefully.

23. Mr. Alfonso Martínez had affirmed that the right to drinking water should be recognized as both an individual and a collective right and, in that connection, had drawn attention to the exploitation of water resources located on indigenous lands. Mr. Guissé said he would take those observations into account in his future work.

24. In response to Mr. Yokota's comment, he said that he had analysed the links between access to drinking water and the exercise of other human rights on an earlier occasion. He welcomed Mr. Yokota's support for the idea of a declaration on drinking water.

25. In response to Mr. Biro's concerns, he said that he would endeavour to enhance the legal standing of the right to drinking water by formulating a legally enforceable definition of that right. To that end, he would appreciate the assistance of Mr. Decaux, who had considerable legal expertise.

26. He thanked the delegations of Nigeria and Brazil for their statements. The latter had emphasized the pressing need for legal recourse against and compensation for violations of the right to drinking water. He also thanked the delegation of Sudan for underscoring potential human rights violations linked to privatization and for raising the issue of the responsibility of public authorities in that regard. Mr. Bengoa had provided a clear answer to that question.

27. Ms. HAMPSON said that the Sub-Commission should examine the issue of the right to development, from both a conceptual and an operational point of view, as requested in

resolution 2003/83 of the Commission on Human Rights. The various notes prepared by the secretariat on the issue were highly informative and useful. The right to development was closely linked to all the issues addressed under agenda item 4, including debt, extreme poverty, corruption and transnational corporations, and to the topics discussed at the Social Forum. The time had come for the Sub-Commission to decide how it intended to pursue the matter further.

28. Ms. O'CONNOR said that the Sub-Commission had entrusted her with the task of preparing a working paper on the different options for responding to the Commission's request contained in resolution 2003/83. Unfortunately, circumstances beyond her control had prevented her from fulfilling that mandate. However, the notes prepared for her by the secretariat and mentioned by Ms. Hampson covered all aspects relevant to drafting the concept document requested by the Commission. She looked forward to the Sub-Commission experts' views on those documents.

29. Ms. MOTOC said that the notion of the right to development involved a vast number of factors and recommended Ms. O'Connor to define clearly the issues that were directly linked to that right in order to prevent the study from losing focus. Among the documents provided by the secretariat, the note prepared by Professor Robert Howse on the World Trade Organization (WTO) (E/CN.4/Sub.2/2004/17) had captured her attention in particular. It would be useful for Ms. O'Connor to focus on WTO, since that Organization, and in particular its Appellate Body, played a key role. Paragraph 47 of the note in question made reference to a case involving a dispute between the United States and India; the Appellate Body had ruled in a way that undermined India's right to development. It was therefore important that Ms. O'Connor confirmed the precedence of international human rights law over WTO trade regulations. The fact that some legal experts continued to accord equal importance to trade law and human rights was cause for concern. Ms. O'Connor should pay particular attention to the procedures for the negotiation of agreements within WTO, which often worked to the detriment of developing countries, and emphasize the crucial monitoring role of civil society.

30. Mr. ALFREDSSON said that his participation in the fourth Working Group on the Right to Development established by the Commission on Human Rights in 1996-1997 had been a rather frustrating experience. Several schools of thought had prevailed within the Group; one had underscored the importance of equality and justice in trade relations; another had emphasized the need to make human rights and democracy the cornerstone of the development process; and a third had focused on raising the status of economic, social and cultural rights to the same level as civil and political rights. Those three viewpoints continued to coexist. At the same time, the right to development sometimes engendered strong opposition, even within human rights organizations, because the benefits of a given State-run development project for the population concerned were not always clear. Debate on the right to development remained largely confined to conference rooms in Geneva and New York and the subject was rarely discussed at the national level. To his knowledge, the only country that had incorporated that right into national legislation was Ethiopia. For all those reasons, the Sub-Commission's work relating to the right to development was likely to be fraught with difficulties. However, he was willing to participate in the debate on the matter.

31. Mr. SALAMA said that he was pleased that the Member States of the Commission on Human Rights had asked the Sub-Commission to consider the question. The task was fully consistent with the Sub-Commission's role as a think tank. It was indeed a complex issue and

the Sub-Commission thus bore a heavy responsibility. He wondered whether the deadlines set by the Commission might not be too restrictive, but that was a matter for Ms. O'Connor to decide.

32. The time had come to move from rhetoric to the implementation of the right to development, which required a debate that was open to all and that did not talk about everything and nothing, as had been the case in the past. The different applications of that right must be discussed with a view to identifying gradually the structural constraints on each application. That gradual approach had convinced States, including the most fervent opponents of the right to development, of the considerable potential of the concept. In order to maintain that positive spirit, the Commission on Human Rights and the Sub-Commission should see that their respective studies on the issue were closely coordinated.

33. Mr. CHERIF said that the importance of the right to development derived from the fact that it encompassed and defined all other human rights; international cooperation should be coordinated in the framework of that right. It was therefore regrettable that the draft resolutions submitted to the members of the Sub-Commission mainly concerned civil and political rights and tended to ignore the fundamental right to development. He was grateful that Ms. Hampson had called for a debate on the issue.

34. Ms. CHUNG said that the right to development was primarily a right of peoples and nations, not States. It was thus relevant to minorities, indigenous peoples and other vulnerable groups in both developing and developed countries, where the gap between rich and poor continued to grow. The implementation of the right to development in a country was hampered by both internal and external factors. While international cooperation played an important role in implementing that right, efforts to overcome certain internal problems such as corruption were equally important. It was also crucial to include a sustainability perspective in the implementation of the right to development.

35. The CHAIRPERSON said that consideration of agenda item 4 had been concluded.

SPECIFIC HUMAN RIGHTS ISSUES

(a) WOMEN AND HUMAN RIGHTS

(b) CONTEMPORARY FORMS OF SLAVERY

(c) NEW PRIORITIES, IN PARTICULAR TERRORISM AND COUNTER-TERRORISM

(agenda item 6) (E/CN.4/Sub.2/2004/33-35, 36 and Corr.1, 37 and Add.1, 38-43 and 45; E/CN.4/Sub.2/2004/CRP.3; E/CN.4/Sub.2/2004/NGO/7, 15, 19, 21-22, 25* and 27 and E/CN.4/2003/101)

36. Ms. KOUFA, introducing her final report on terrorism and human rights (E/CN.4/Sub.2/2004/40) prepared pursuant to resolution 2003/6 of the Sub-Commission, said that she had undertaken in that report, to explore in depth the issues related to human rights and humanitarian law discussed in her previous reports. She had tackled the crucial question of accountability of State- and non State-actors involved in acts of terrorism,

which had not been addressed previously. She had also made a number of recommendations on the basis of Sub-Commission resolution 2003/15 entitled "Effects of measures to combat terrorism on the enjoyment of human rights". The report consisted of an introduction and three chapters. The first chapter was dedicated to questions relating to the definition of terrorism, which unfortunately had become political rather than legal and thus continued to impede agreement on a definition. In the same chapter, she had also looked at the issue of terrorism and armed conflict in general and legal regimes applicable to different situations. Armed conflicts were governed by international humanitarian law, which formally prohibited terrorist acts in such conflicts. She had further addressed the problematic issue of distinguishing terrorists from combatants engaged in a legitimate struggle for self-determination. She had endeavoured to clarify that distinction, including its application in the context of civil war. The distinction was crucial to determining whether humanitarian law was applicable and, if so, whether the relevant rules were those of international or non-international armed conflict.

37. Chapter II dealt with issues that had not been explored previously, namely the accountability of the two categories of players in acts of terrorism: State or non-State actors. With respect to State actors, the report distinguished between regime or government terror, State-sponsored terrorism and international State terrorism, which was a form of "coercive diplomacy" that produced a sense of terror in the populations of targeted States. The accountability of States in respect of due diligence, or the duty to protect all persons within their jurisdiction from terrorist acts, had also been examined. Finally, it established the concurrence between individual criminal responsibility of State agents and State responsibility for international crimes.

38. While it was generally agreed that non-State actors could be held accountable under humanitarian law and criminal law, the question of their legal responsibility under human rights law remained controversial. The Special Rapporteur's study of recent developments in the practice of United Nations human rights bodies had revealed that the traditional view that private individuals or groups of persons had no legal capacity with respect to human rights violations had somewhat evolved, as human rights instruments enshrined the duties of both States and individuals. Some of the situations described in the report illustrated those developments.

39. The third chapter of the report contained conclusions and recommendations. After reading out the recommendations, she underscored the complexity of the issue of terrorism and human rights. There was clearly a need to examine the issue further by looking at the many root causes of terrorism on the one hand and by reviewing the strategies to reduce or prevent terrorism in all its manifestations on the other. Given the imposed limitations, the present document was not so much a final report as a progress report. Full understanding of the issue required review of all the documents submitted to date. The Sub-Commission might wish to consider requesting her to draw up a comprehensive document based on all her work.

40. Mr. ALFREDSSON thanked Ms. Koufa for her well-researched report and commended her in particular on her fairness in presenting the topic. He supported all her recommendations, including those contained in the draft principles and guidelines on human rights and terrorism (E/CN.4/Sub.2/2004/CRP.3), which had been prepared pursuant to Sub-Commission resolution 2003/15.

41. Mr. KARTASHKIN said that he agreed in general with the content of Ms. Koufa's report and appreciated her scientific approach. In the light of her in-depth analysis of a very complex issue, he supported Ms. Koufa's recommendation that the Sub-Commission should request her to draw up a comprehensive document for publication. In that document she could look more deeply into the difficult question of a definition of terrorism. The task of establishing a definition, even an imperfect one, of that complex phenomenon should naturally fall to the Sub-Commission. Ms. Koufa could also explore the root causes of terrorism with a view to its prevention.

42. Paragraph 17 of the conference room paper (E/CN.4/Sub.2/2004/CRP.3) referred to the principle of "non-refoulement" and he wished to know to whom that principle applied. The issue of capital punishment mentioned in the same paragraph also gave rise to a number of questions. An absolute prohibition of that ultimate punishment might not be judicious; he believed it should be proscribed in peacetime, but not in wartime. Terrorists' fight against Governments was a form of armed struggle and their activities should be given the status of armed conflict. In certain cases, terrorists should be considered as liable to the death penalty.

43. Ms. MBONU commended Ms. Koufa on her report on an issue as controversial as terrorism. A consensus on the definition of terrorism would remain a vain hope for as long as persons described as terrorists by some were regarded as freedom fighters by others.

44. With reference to the question of due diligence addressed in paragraphs 50 and 51 of the report, she said that the practical application of the notion of State accountability for terrorist acts committed by private groups posed a number of serious problems.

45. Of the recommendations made by the Special Rapporteur, she supported in particular the one contained in paragraph 66, namely that all human rights mechanisms should incorporate the issue of terrorism and human rights in their work. A resolution should be adopted authorizing Ms. Koufa to publish a comprehensive paper on terrorism.

46. Ms. O'CONNOR commended Ms. Koufa on her excellent report and endorsed Ms. Mbonu's suggestions.

47. An in-depth study of the root causes of terrorism was likely to reveal that terrorism had become a means used by certain States to reach their objectives, and might thus lead to the conclusion that it was necessary to redefine the notion of counter-terrorism.

48. Ms. Motoc, Vice-Chairperson, took the Chair.

49. Mr. BIRO said that he agreed with previous speakers that a consensus on the definition of terrorism within the United Nations system was unlikely to be reached. However, that did not preclude agreeing on counter-terrorism measures. The recommendations Ms. Koufa had made in her report and her draft principles and guidelines were highly relevant in that regard.

50. He drew attention to the infringements of the right to privacy to which individuals were exposed by new technologies. Generally, surveillance in that area was entirely legal. However, groups operating outside the framework of the law could also use information technology to infringe on people's privacy. That issue deserved attention.

51. Mr. BOSSUYT commended Ms. Koufa on her excellent report on a difficult and unfortunately highly topical issue. It should be pointed out that it was not the legitimacy of the causes espoused, but rather the means used, that determined whether a given act constituted terrorism. A similar distinction was made between military and non-military targets in international humanitarian law. Condoning terrorist acts, which indiscriminately attacked innocent people, because of sympathy for the purported objective was unacceptable. There could be no doubt about the terrorist nature of acts such as the attacks of 11 September 2001; the attack in Baghdad that had caused the death of the High Commissioner for Human Rights, Mr. Sergio de Mello, and other United Nations staff; or the attacks of 11 March 2004 in Madrid. Indeed, anyone who failed to label such atrocities as terrorism was in danger of being accused of collusion.

52. Ms. Koufa had raised the question of extradition. In the context of terrorism, the principle of aut dedere aut punire - extradite or punish - should be enforced. However, a person who had committed a terrorist act should only be extradited if a fair trial could be guaranteed.

53. Mr. Kartashkin had mentioned the death penalty. Article 2 of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, provided for an exception to the total prohibition of the death penalty in time of war, provided that the State wishing to retain the possibility of imposing the death penalty had communicated such a reservation when acceding to the Protocol.

54. Mr. GUISSÉ reiterated his request that the issue of the definition of terrorism should not be discussed at great length since, depending on the circumstances, an act of war could be considered either a terrorist act or an act of liberation. The issue should thus be put in perspective; each specific situation should be seen in its own context since all situations had their own characteristics. Referring to international law could help avoid problems arising in connection with the definition: terrorist acts were crimes - crimes against humanity, crimes against peace or war crimes, among others - and thus covered by existing international law.

55. The problem with the issue of the death penalty was that, as all trials, a trial resulting in a death sentence being passed on a terrorist must be fair and just with regard to both the punishment and the proceedings. Unfortunately, that was rarely the case and the imposition of the death penalty seemed more like an act of vengeance than the just application of the law. As a legal practitioner himself, he attributed propaganda value rather than educational value to the imposition of the death penalty on terrorists. As such, the punishment was ineffectual.

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

57. Mr. SATTAR said that the work undertaken by Ms. Koufa constituted a valuable contribution to the Sub-Commission's debate on terrorism. He would therefore fully support any draft resolution enabling her to pursue the issue further. He was deeply concerned over the tendency to make at times stereotyped or even slanderous remarks about certain religions when discussing terrorism and he hoped that the Sub-Commission would not fall into that trap.

58. Mr. DOS SANTOS, introducing the working paper prepared by Mr. Rui Baltazar Dos Santos Alves on human rights and international solidarity (E/CN.4/Sub.2/2004/43), said that the complexity of the topic and the split in positions between developed and developing countries

posed certain difficulties. That split had manifested itself clearly in the vote on the draft resolution of the Commission on Human Rights concerned with the matter. It had therefore been necessary to put those differences to one side and examine substantive issues that were likely to attract a consensus. To that end, the author had undertaken to identify particular aspects of international solidarity in different sources and different international legal instruments, to give an overview of the historical development of the concept in the context of the progressive codification of human rights, and to define the notion of duty with regard to international solidarity.

59. In the context of globalization, it was paradoxical that solidarity as a means of attaining human rights should arouse controversy, given that the changes affecting the world as a whole required a collective response. In spite of some resistance, increasing emphasis was therefore being placed on dialogue at all levels, between civil society organizations, between States and between individuals, on issues such as debt, the environment, the AIDS pandemic and poverty.

60. The author of the report submitted proposals for a deeper analysis of international legal instruments concerning the role that international solidarity should play in promoting and protecting human rights, for an assessment of the feasibility of drafting relevant principles and for a study of how to reach a consensus on the issue.

61. Mr. DECAUX said that, while it was unfortunate that Mr. Dos Santos Alves could not be present at the meeting, his spokesperson, Mr. Cristiano Dos Santos, had certainly managed to communicate his message. The speaker had rightly referred to the split between developed and developing countries within the Commission on Human Rights on the issue of international solidarity. The role of the Sub-Commission consisted in bridging the gap between those two blocs. A consensus did exist already on the indivisible nature of human rights and the importance of economic, social and cultural rights, which had been underscored repeatedly during the discussions under agenda item 4. He did not think it necessary to invent a third generation of human rights as some had suggested.

62. Solidarity was a powerful and ancient concept. One of the founders of the League of Nations and Nobel Peace Prize laureate, Léon Bourgeois, had even drafted a doctrine he had named “solidarism”, which he had seen as an extension of brotherhood. The duty of international solidarity also lay at the heart of the Universal Declaration of Human Rights, as illustrated by article 22 of that instrument, and had been highlighted by the World Conference on Human Rights held in Vienna. Solidarity in development had been chosen as the theme of the Summit of French-Speaking Communities scheduled to be held in Burkina Faso in autumn 2004. Sharing development was imperative.

63. Mr. Dos Santos Alves should be encouraged to continue his work on international solidarity.

64. Mr. KARTASHKIN said that he had certain doubts with regard to the working paper. Firstly, the document contained nothing new. Secondly, he wondered what the practical benefits of the report would be. A document that was full of theoretical musings but contained no concrete recommendations was nothing more than an intellectual exercise. He requested the author to explain what practical benefits would be derived from his paper. Personally, he seriously doubted that any benefits would be seen.

65. Ms. PARKER (Minnesota Advocates for Human Rights) said that Mr. Dos Santos Alves's working paper had led her to reflect on the notion of international solidarity. She had come to the conclusion that NGOs, like the one she represented, were the quintessential expression of that concept, and that might be a partial response to Mr. Kartashkin's questions. NGOs were comprised of persons who, by definition, helped others out of solidarity.

66. She voiced her objection to the mention of NGOs and transnational corporations side by side in the same sentence as players in actions to restore social balance, in paragraph 30 of the working paper.

67. Also with reference to Mr. Kartashkin's concerns about the practical implications of the issue under consideration, she pointed out that, while NGOs in some cases had obtained good results, at other times they had met with failure. It might be useful to examine the reasons for that situation.

68. In order to bridge the gap between developed and developing countries, it might be useful to ask how developing countries could help developed countries. While certainly not in a position to contribute financially, developing countries might have something to contribute in terms of cultural awareness-building or educational techniques.

69. Mr. CHERIF pointed out that the General Assembly, on the initiative of Tunisia, had established the World Solidarity Fund to assist developing countries in their development efforts. That important aspect had not been mentioned either in the working paper or by any of the speakers.

Statement made in exercise of the right of reply

70. Mr. OMOTOSHO (Observer for Nigeria), speaking in reference to the statement made by the representative of the International Indian Treaty Council the previous day under agenda item 4, said that the allegations of massacres and other atrocities being committed against members of the Ogoni ethnic group in Nigeria were entirely unsubstantiated. He wished to know on what grounds that NGO, which worked in defence of the rights of American indigenous peoples, felt authorized to interfere in the affairs of the Ogoni people. The sole purpose of that gratuitous and entirely unfounded statement was to harm the Nigerian Government by putting it in an awkward position. Since Mr. Obasanjo's Government had come to power in 1999, the country had experienced a period of tranquillity. The different communities living in the Niger Delta region had been granted far-reaching decision-making powers in the framework of the recently created Niger Delta Development Commission.

71. If those people had been victims of massacres, as suggested by the NGO spokesperson, the international community would have learnt of such acts and responded accordingly.

72. Mr. Bengoa had reminded NGOs of the need to establish the veracity of their information before launching accusations against a State. The International Indian Treaty Council would have been well advised to heed that warning instead of making the Sub-Commission waste precious time.

The meeting rose at 1 p.m.