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COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-seventh session

SUMMARY RECORD (PARTIAL)* OF THE 18th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 10 August 2005, at 10 a.m.

Chairperson: Mr. KARTASHKIN

later: Ms. O'CONNOR
(Vice-Chairperson)

later: Mr. KARTASHKIN
(Chairperson)

* No summary record was prepared for the rest of the meeting.

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- (a) WOMEN AND HUMAN RIGHTS
- (b) CONTEMPORARY FORMS OF SLAVERY
- (c) NEW PRIORITIES, IN PARTICULAR TERRORISM AND
COUNTER-TERRORISM (continued)

The meeting was called to order at 10 a.m.

SPECIFIC HUMAN RIGHTS ISSUES:

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

(agenda item 6) (continued) (E/CN.4/Sub.2/2005/32-41 and 43; E/CN.4/Sub.2/2005/NGO/2-5, 8, 14-16, 18, 20, 23, 26-31, 33 and 35; E/CN.4/Sub.2/2004/47; E/CN.4/Sub.2/AC.2/2005/5; E/C.12/2000/4)

1. Ms. PARKER (Minnesota Advocates for Human Rights) said that her organization had developed an innovative online tool aimed at dealing with violence against women in Central and Eastern Europe, the newly independent States of the former Soviet Union, Mongolia and the United Nations Protectorate of Kosovo. The Stop Violence Against Women web site - www.stopvaw.org - was a ground-breaking distance-learning, networking and mentoring tool for women's advocates, which it was hoped would bring a new dimension to the overall effort to end violence against women and provide a model for other regions.

2. The web site had originally been developed in collaboration with the United Nations Development Fund for Women (UNIFEM) and the Open Society Institute's Network Women's Program. It provided information on research and law and policy developments in the areas of domestic violence, sexual assault, sexual harassment and trafficking in women, and included a resource library of best practices, training manuals, an online mentoring programme, message boards, and country pages which summarized developments in each of the 30 countries in the region. The web site's National Violence Against Women Monitor Program, which designated one expert from each country to facilitate communication about developments in her country, used the country page sections to encourage collaboration between advocates in the region.

3. Ms. IRUM (World Muslim Congress) said that in conflict situations, women suffered the consequences of human rights violations resulting in the death or disappearance of their male counterparts, and were often the targets of sexual violence perpetrated by the security forces. For example, over 10,000 women had been raped or molested by the security forces in Indian-occupied Jammu and Kashmir since 1989, and some 20,000 had been widowed. Rape had been used systematically as an instrument of coercion. A woman subjected to rape remained traumatized for the rest of her life, and those who sought legal remedy were subjected to further humiliation. The Sub-Commission should examine the question of the trauma suffered by women in situations of armed conflict and foreign occupation.

4. More than 90,000 innocent Kashmiris, with no connection to terrorism, had been killed in the conflict, and thousands were subjected to cruel and inhuman punishment while in custody. In the fight against terrorism, the international community must maintain a distinction between terrorism and people's peaceful pursuit of their basic rights and fundamental freedoms.

5. Ms. ATIA (International Islamic Federation of Student Organizations) said that occupying Powers continued to defy the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and international human rights law and used the suppression of women as a means of perpetuating their occupation. In the course of house searches carried out by Indian security officials in Jammu and Kashmir, often in the guise of anti-militant operations, women and young girls were frequently taken to police stations or army detention centres where they were subjected to sexual abuse. Most rapes by security officials went unpunished and, given the cultural stigma associated with rape, it was feared that the actual incidence of rape could be much higher than that reported.

6. She called on the Sub-Commission to urge the Indian authorities to put an end to the campaign of violence against women and comply with the provisions of international human rights law, particularly to respect the dignity of women and the protection of their basic rights.

7. Mr. YOUSAF (International Human Rights Association of American Minorities) said that in the debate on terrorism in the United Nations system, States which for decades had suppressed people to maintain their illegitimate occupation had been engaged in a campaign to brand peaceful and legitimate struggles against foreign occupation as terrorism. The peoples of Kashmir and Palestine, with their struggles for the right to self-determination sanctified under Security Council resolutions, could not be branded as terrorists while their occupiers continued to defy the United Nations resolutions.

8. The debate on terrorism should focus on addressing the root causes of terrorism: poverty, oppression, tyranny, occupation, flouting of international law and violations of human rights and humanitarian law. An effective counter-strategy must address ways of resolving perennial conflicts in accordance with the wishes of the people. The fight against terrorism could not be won without international efforts to combat State terrorism, which should be included in the definition of terrorism.

9. Ms. O'Connor, Vice-Chairperson, took the Chair.

10. Ms. SAIDA (Association tunisienne des droits de l'enfant) welcomed the report on traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/2005/36), and its condemnation of systematic rape and sexual slavery.

11. The promotion of women's rights was a prerequisite for the realization of sustainable human development. States must be encouraged to consolidate the role of women in the development process by means of legal machinery and institutional mechanisms. With regard to the right to education, it was necessary to encourage girls to study technical and scientific subjects to increase their employment prospects. In the area of health, the availability of facilities, goods and services for women, particularly in rural areas, as well as the development of national and international strategies to promote women's lifelong right to health, were essential to reduce the risks to which they were exposed, particularly maternal mortality. Regarding the right to work, she called on the Sub-Commission to encourage all States to ratify all international conventions relating to employment and combating discrimination in relation to salary, recruitment and promotion, and to adopt legislation to deal with all forms of sexual harassment.

12. Ms. GALEZ (Association of World Citizens) welcomed the expanded working paper containing a preliminary framework draft of principles and guidelines concerning human rights and terrorism (E/CN.4/Sub.2/2005/39) and the establishment of the sessional working group on terrorism and human rights. She also supported Ms. Hampson's proposed definition of terrorism, particularly the formula "persons entitled to protection as civilians". Three specific aspects of terrorism should be included in the definition. The first element was terrorists' methodology, which was most often the indiscriminate cold-blooded murder of civilians, who were unrelated to the cause invoked. The second was the target areas of operations and the timing of attacks, and finally the aim of the terrorist act, which was generally directed at a wider audience than the immediate victim. It was essential to recognize that terrorism belonged to the sphere of modern warfare. Terrorist acts were aimed at toppling regimes, changing political behaviour, taking control of the moral values and justice system of a people, or imposing leadership on a people. Creating situations of public disorder was therefore the means, while the aim was to compel a political response that could extend to the use of force in particular circumstances.

13. More substantial input was required in paragraphs 26-30 and 34 of the working paper, which were extremely important as they related specifically to States' behaviour in prevention and counter-terrorism operations. A representative sample of areas affected by terrorist operations should be thoroughly examined. The ideological and political drives, the intensity and frequency of terrorist attacks, the societal context and the manpower involved were determining factors in framing an appropriate domestic physical and legal response. The question of State responsibility in the development of the phenomenon also required thorough analysis.

14. If "persons entitled to protection as civilians" was used as an element in the definition of terrorism, there were few instances where armed conflicts involving State and non-State actors did not comprise a terrorist dimension. In most cases, such conflicts had overlapping elements such as criminalization of politics and corruption, transnational organized crime, and the use of armed force by non-State actors defending their right to self-determination. Caution must be exercised to ensure that the concept of self-determination was not misused by groups which invoked legitimate claims but committed indiscriminate acts of terrorism.

15. Mr. BARNES (Indigenous World Association) said he fully supported the working paper on the draft principles and guidelines concerning human rights and terrorism. It was important that the use of terrorism as a tool of political suppression by States should not be confused with the protection of society against terrorist acts. States must not use the war on terrorism to hinder the work of human rights defenders.

16. He also welcomed the working paper on human rights and non-State actors (E/CN.4/Sub.2/2005/40). It would be helpful to review the question of State-designated actors, such as transnational corporations and government-sponsored NGOs, who were funded by the Government to impair efforts to seek remedy for human rights violations. He supported the comments made by Ms. Hampson in that regard, which he hoped would be clarified in the working paper. States often politicized article 1 of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, by not allowing mechanisms to address flagrant violations of the right to self-determination.

17. Ms. SRIVASTAVA (International Institute for Non-Aligned Studies) said that much work remained to be done in the area of the political empowerment of women, both as voters and in the process of political representation and decision-making. In certain countries, there was significant pressure on women voters from their families to vote for a particular party or candidate. As women were often illiterate and dependent on men, they tended to vote for the person they were told to vote for. Left to decide for themselves, women tended to choose candidates whose policies focused on issues of concern to them, such as education and employment for women and facilities for women, children and the elderly. Such issues tended to be ignored when physical security and public order were the main concerns and societies were faced with the threat of terrorism and counter-terrorism. Real political empowerment of women was impossible unless their economic and social independence was ensured.

18. Although women had made progress in many spheres of life in countries with liberal democratic systems, it was striking that the United States and France, for example, had never had a woman head of State in modern times, while developing countries such as Sri Lanka, Bangladesh and Malaysia had. The ratio of women representatives in elected bodies at the international, national and local levels was so low that any improvement would be welcome. In India, a proposal to reserve one third of the seats in the national parliament for women was under consideration. It was clear that international efforts were required to enhance the political empowerment of women. Perhaps one section of the Millennium Development Goals should set targets for women's employment, school attendance and representation in elected bodies.

19. Mr. NARAG (Indian Council of Education) said that the potential of women to contribute to the economic, social, cultural and scientific development of the world had only just begun to be realized. Women continued to be deprived of education and employment opportunities in patriarchal societies, where many families did not wish to invest in the education of girls. According to the 2004 Human Development Report, 60 per cent of children unable to attend school were girls, as was the majority of those who dropped out. When women were in employment, even in the developed countries, their share of managerial and decision-making jobs was minimal. It was imperative that women should be included as beneficiaries of technical advisory services and assistance to promote the advancement of their status through training and capacity-building, and that promotion and protection of women's human rights should not focus on their vulnerability but on their empowerment. The emphasis should be on affirmative action to favour girls' entry to primary and secondary education and non-traditional female higher and technical studies, and participation at the negotiating table in matters of peace and security.

20. India had ratified CEDAW in 1993 and had established the National Commission for Women in 1990 to safeguard the rights of women. That Commission was responsible for reviewing legislation and investigating complaints concerning the rights of women, and had the powers of a civil court to take evidence and issue summonses. It had produced legal literacy manuals to educate women in their basic rights. As a result of concerted efforts and a comprehensive policy framework over the past five decades, there had been significant advances in the socio-economic indicators for Indian women, such as a considerable rise in life expectancy and an increasing mean age at marriage, and a significant increase in the female literacy rate, the enrolment ratio for girls at primary and middle levels of education, and the number of women in higher education and employment.

21. Mr. LITTMAN (World Union for Progressive Judaism) drew attention to the 2004 statement by the World Union for Progressive Judaism on the subject of human rights and terrorism (E/CN.4/2004/NGO/88). Only five months before his tragic killing in Baghdad, the late High Commissioner for Human Rights had expressed his feelings concerning the global terrorist plague; there had been no respite from terrorist killings since then.

22. All spiritual and political leaders and the international community must clearly reject any call to commit murderous acts for religious or political ends. In the 1999 Geneva Spiritual Appeal, Christians, Jews and Muslims had denounced all reference to God to justify hatred, appealed against the use of terrorist conflicts to bring communities into confrontation, called for the consolidation of community and religious peace, and borne witness to their faith in God. It was to be hoped that the current session of the Sub-Commission would be the last time it was necessary to repeat that no religion could justify murder or should be subverted to that end, and that all religions must be respected and should in turn respect other religious beliefs.

23. The World Union for Progressive Judaism again called on the Sub-Commission and the Commission and, in particular, the Organization of the Islamic Conference, the sponsor of the Commission's annual resolution on combating defamation of religions, to insert two additional paragraphs in future versions of the text: one strongly deploring all references to God in order to justify any form of violence, hatred and the use of any religious motive to kill civilians: men, women and children; the other condemning all who blasphemed and defamed religion by claiming to kill in the name of God.

24. The World Union for Progressive Judaism categorically condemned the attack on 4 August 2005 by a Jewish citizen of Israel in which two Muslim sisters and two Christian Arabs had been brutally murdered. Nothing could justify such a terrorist act by a demented individual, seemingly religiously motivated, or his lynching by an enraged mob.

25. Ms. LALO (Indian Law Resource Center) said that over the past two years the Western Shoshone had been confronted by armed United States agents seeking to take cattle and horses from people who refused to pay a ransom for use of their own territory. Western Shoshone were also being threatened by fines of up to \$14 million imposed by a federal agency for "trespassing" on their own land. The Western Shoshone had been verbally abused and treated as non-humans for speaking out against the violations of their human rights. They were not allowed to worship as an indigenous people on their ancestral lands and could not walk those lands freely without fear of prosecution.

26. Mining operations were taking resources from Western Shoshone lands. One mine had reported revenue of \$5.3 million in three months, but not one penny had gone to the Western Shoshone. The mines were damaging natural resources and denying access to the raw materials of the Western Shoshone lands.

27. Justice had not been delivered by the United States courts, and Shoshone nationhood had been denied by various pieces of legislation. That denial of recognition would eventually cause the disappearance of the Western Shoshone, especially as they had been herded into small portions of their aboriginal territory and were unable to maintain their spiritual connection with the land. The signature of the Western Shoshone people was being erased from the earth where they had lived for hundreds of years.

28. Ms. MULAEH (Pax Romana) said it was demoralizing to note that some United Nations peacekeeping personnel had sexually exploited, and in some cases raped, women and girls while serving on peacekeeping missions. The United Nations Special Representative to the Democratic Republic of the Congo had stated his outrage at the situation and the grievous harm caused by some peacekeepers. In her working paper on the accountability of international personnel taking part in peace support operations (E/CN.4/Sub.2/2005/42) Ms. Hampson had stressed the need for a mechanism for dealing with personnel involved in sexual abuse or exploitation. The draft outcome document of the High-Level Plenary Meeting of the General Assembly on the topic of reform of the United Nations (A/59/HLPM/CRP.1/Rev.2) condemned all violations of the human rights of women and girls in situations of armed conflict and foreign occupation and stressed the need for a high standard of behaviour on the part of United Nations personnel. It was very important that women should be involved in the promotion of peace and security but even more important that gender violence should not go unpunished.

29. The establishment of code of conduct units for United Nations peacekeepers was welcome, but they must be made to work more effectively. Pax Romana supported Ms. Hampson's recommendation for the appointment of a special rapporteur to produce a comprehensive study on the topic. Such a study should define the limits of the immunity of United Nations personnel. Code of conduct units should be set up in every peacekeeping operation and their performance must be monitored. The machinery of the States concerned should be better equipped to encourage the reporting of such incidents and provide adequate security for human rights defenders and victims of violations of human rights.

30. Mr. LÖNN (International Youth and Student Movement for the United Nations) said that his organization commended Ms. Koufa on her expanded working paper on a preliminary framework draft of principles and guidelines concerning human rights and terrorism (E/CN.4/Sub.2/2005/39), which could serve as a basis for the production of a final text to be adopted as a matter of urgency. The first principle, set out in paragraph 22, was particularly important, for human rights obligations must be fulfilled by all United Nations bodies, in particular the Security Council, in the context of combating terrorism.

31. The imposition of sanctions by the Security Council over the past decade had caused great suffering to ordinary citizens in a number of countries. The new practice of targeting entities and individuals with sanctions at the request of Member States without presentation of any evidence of links to terrorism was a source of particular concern. One example was the sanctions imposed on the Al Barakaat Company in Somalia, the country's largest employer, which had had disastrous effects on its people and economy. Furthermore, there was no transparent process for the lifting of such sanctions. Member States had increasingly called for an end to that lack of due process, and the matter had also been raised in the context of the preparations for the September summit: the draft outcome document mentioned by the representative of Pax Romana called on the Security Council to ensure such transparent procedures. However, on the insistence of one Member State the reference to acting "in accordance with international standards of due process" had been eliminated from the text.

32. The Sub-Commission could make a contribution by debating the obligation of all United Nations bodies to observe the same human rights standards of due process as were binding on the Member States. Ms. Koufa's expanded working paper was further testimony to the Sub-Commission's indispensable role in promoting and protecting human rights. The High Commissioner and the Member States should provide the Sub-Commission with every support in its important work.

33. Ms. REVERDIN (International Humanist and Ethical Union) said that the President of the International Humanist and Ethical Union and the main representative of the Association for World Education and the Association of World Citizens had submitted to the Sub-Commission a formal letter of complaint concerning the personal attacks on their spokesman at the 3rd meeting of the current session. The letter quoted the words of the late High Commissioner for Human Rights when he had reminded the Commission, and therefore the Sub-Commission as well, that membership must carry responsibilities and that it might be useful for the Commission to produce a code of conduct for its members. Such personal attacks often diverted attention from the matter in hand, in the present case the request that the Sub-Commission should unequivocally condemn any call to kill, terrorize or use violence in the name of any religion.

34. The members of the Sub-Commission had an awesome responsibility, for the world looked to it for guidance. The Sub-Commission's independent experts were not there to defend the interests of their Governments or of religions but to defend the human rights of ordinary people. A statement of condemnation in a resolution would send a clear message that killing the innocent in the name of religion was totally unacceptable. Failure to make such a statement would prompt questions as to where the Sub-Commission's priorities actually lay.

35. Mr. INGRAM (World Bank) said that despite some progress towards attainment of full equality of opportunity for women and men special attention still needed to be given to women's rights because gender-based inequalities remained pervasive and were compounded by violence against women. Violation of the rights of women or girls could never be justified on cultural grounds or in the name of tradition. Much more needed to be done to translate the voiced concerns into concrete and sustained action to prevent such violations. The World Bank recognized the connections between human rights and development and believed that it could help to create conditions conducive to gender equality: gender equality was a central human rights principle and a development objective in its own right.

36. A comprehensive, institutionally oriented approach to gender issues was critical to the attainment of virtually all the Millennium Development Goals. That meant focusing interventions on providing equal opportunities, promoting non-discrimination, empowering women, redressing gender disparities in the control of resources, and investing in programmes to give girls and women greater access to education.

37. The World Bank had produced operational guidelines for incorporating gender issues in its HIV/AIDS strategy. In addition, over two thirds of Bank loans in the areas of health, nutrition and population had included gender-related objectives, with a particular focus on HIV/AIDS and women's reproductive health.

38. In conjunction with UNIFEM the World Bank had hosted a learning dialogue on the impact of trade on women, focusing on sharing best practices and effective measures to build gender equality in the global trading system. The Bank had also refined its Country Gender Assessments for diagnosing gender-related barriers to poverty reduction and economic growth and had produced several tools for assessing the distributional impacts of policy reforms on women. Its primary objective in the area of gender-based violence was to examine the negative impact of such violence on development and how to incorporate related issues into its operational work.

39. In an awareness that protecting the rights of women and achieving gender equality were critical elements of a development strategy, the Bank looked forward to working with its partners to create a world in which women and men enjoyed substantive equality - an objective critical to the poverty-reduction mission.

40. Mr. BIERWIRTH (Office of the United Nations High Commissioner for Refugees) said that at the fifty-sixth session of the Sub-Commission UNHCR had recognized the legitimate concern of States that those supporting or committing terrorist acts should not gain access to their territory and that appropriate mechanisms should be put in place to deal with asylum matters. Refugee protection and the security concerns of States were not competing issues: to be effective, refugee protection must be embedded in an environment of security free from the threat of terrorism. However, there should be no suggestion in the fight against terrorism of an automatic linkage between refugees and terrorists, for that would be both unwarranted and prejudicial to the institution of asylum. In its statement at the previous session UNHCR had outlined provisions to ensure that the institution of asylum did not provide a safe haven for terrorists.

41. UNHCR welcomed the preliminary framework draft of principles and guidelines produced by Ms. Koufa and hoped that refugee protection and non-refoulement obligations under international refugee and human rights law would be reflected more subtly in the future work on the topic. A differentiated approach was taken in the draft resolution on the transfer of persons (E/CN.4/Sub.2/2005/L.12).

42. More refined practical guidance might result from the consideration of selected sub-issues of the protection of human rights in the context of combating terrorism; improved international cooperation was a key avenue for addressing that challenge. In particular, UNHCR would appreciate enhanced international information-sharing mechanisms, which would assist it in the discharge of its protection functions. It welcomed the Sub-Commission's intention to consider the issue from the perspective of the victims of terrorism; future research should also review national victim-indemnification schemes and establish whether they were open to non-nationals, for the inclusion of non-nationals would demonstrate a State's acceptance of its protection obligations.

43. Ms. EL HAIBA (Conseil consultative des droits de l'homme du Royaume du Maroc) said that Morocco had been faced with a number of legal problems of citizenship in the context of human rights and private international law. Its national legislation conflicted in many respects

with international instruments on, for example, the status of non-nationals and children and the legal relationship between men and women. A recent Royal Decree had granted Moroccan citizenship to children of Moroccan mothers and foreign fathers in order to establish equality of treatment for all children and foster the rights of women and children. The previous legislation from 1952 had granted citizenship only to children of Moroccan fathers. Further efforts were being made to solve practical legal problems relating to the elimination of discrimination against children, which required the harmonization of the citizenship legislation with the Family Code.

44. In accordance with the requirements of the Constitution, Morocco had embarked on legal reforms to bring its national legislation into line with the international human rights instruments. That involved a review of all its current citizenship legislation aimed in particular at removing entrenched gender discrimination. The relevant legislation on family unity already referred to the need for gender equality with a view to raising children to be good citizens. A recent statement by His Majesty the King had consolidated the gains made in improving the rights of women, children and other disadvantaged groups, and the reforms had eliminated the need for Morocco's reservations to the Convention on the Elimination of All Forms of Discrimination against Women.

45. Ms. YASS (Iraq) said that Iraq had signed the Beijing Declaration and acceded to the Convention on the Elimination of All Forms of Discrimination against Women but had not yet achieved concrete results in the delivery of human rights owing to the exceptional circumstances prevailing in the country. The changes in Iraq had already produced some improvements: women now held some ministerial and decision-making posts; and, following the recent elections, women now held one third of the seats in the General Assembly responsible for drafting a constitution.

46. Women themselves would have a positive impact on the protection of women's rights. However, the violations of human rights by terrorists prevented women from playing an even bigger role in the building of Iraq. The new constitution would have to include provisions guaranteeing women's rights in accordance with the Universal Declaration of Human Rights and the other international instruments signed or to be signed by Iraq.

47. The existing situation was very difficult, for Arab and non-Arab terrorists and extremists were doing everything they could to destabilize Iraq. The blind acts of terrorism which had produced thousands of Iraqi victims constituted a serious problem requiring immediate solution. Iraq was making every effort to create a democratic State respectful of human rights. It called on the international community to condemn the daily acts of terrorism in Iraq and those persons who financed such acts from abroad. It would thus be helping Iraq to stiffen its resistance and build a society based on freedom and well-being.

48. Mr. ALI (Sudan) said, with reference to the situation in Darfur, that human rights violations were the hallmark of all conflicts, especially domestic ones. The Government of the Sudan had acted promptly to deal with any incidents of sexual violence committed by law enforcement agents. Very severe punishments, including execution, had been imposed. It should be pointed out, however, that criminals and members of rebel groups assumed military uniforms when committing violence against women or girls in order to implicate the

Government. In July 2004 alone, 60 such cases had occurred. The Code of Criminal Procedure had been amended to provide easier access to justice and medical aid for rape victims. A special investigation panel comprising women doctors, judges and police officers had been set up to look into reports of sexual violence. A very important development had been the Chief Justice's decision in June 2005, after thorough consideration and consultation with international partners, to establish Special Courts in Darfur.

49. Despite its limited resources, the Government was leading the collective effort of the international community to provide humanitarian relief to the population of Darfur. The Government provided 60 per cent, while the United Nations system and international donors had contributed only 5 per cent of what was urgently needed. The Government was determined to achieve peace in Darfur, thereby ending the root causes of violence. He called for assistance, goodwill and positive engagement from the international community.

50. Ms. BAQUERIZO GUZMÁN (Ecuador), after commending the usefulness of the experts' reports for States in preparing their human rights policies, said that her Government had acceded to various international conventions relating to contemporary forms of slavery. Her delegation was, however, concerned by the general considerations on migration currently being elaborated by the Working Group on Contemporary Forms of Slavery. Migration should always be regarded in the light of the human rights of every person. Her delegation therefore rejected the use of categories of migration adopted by the Working Group. At the same time, it welcomed the Working Group's quest for solutions to the problem of trafficking in persons, which affected all the thousands of people who daily sought to exercise their right to freedom of movement. With regard to the question of terrorism, it also condemned any action that, in the name of the war on terrorism, violated human rights. That said, she reiterated her Government's commitment to eliminating terrorism throughout the world.

51. Mr. Kartashkin, Chairperson, resumed the Chair.

52. Ms. ILLKOVA (Slovakia) said that her country, diverse and multi-ethnic, had been active in introducing new legislation on human rights and on the rights of national minorities, including the establishment of the Government's Council for Ethnic Minorities. Other legislation provided for equality between women and men at both governmental and non-governmental level. The adoption of the Anti-Discrimination Act in 2002 had been particularly valuable in initiating a public discussion on the policies that Slovakia should pursue and the values and principles on which a democracy was based. The debate, in which both specialists and the public had taken part, had left the country with a clearer idea of the meaning of equal treatment and had formed the basis for numerous reforms in legislation on public health and industrial relations and on family law and criminal law. The National Action Plan for Women, the Concept on equal opportunities for women and men and the National Strategy for the Prevention and Elimination of Violence against Women and in Families had been adopted. Violence against women and in families had been acknowledged in law as a human rights violation. Organizations representing victims of violence had stated that the new legislation would help to ensure that more perpetrators of acts of violence would face imprisonment, that punishments would become more severe and that the number of cases of violence would diminish. Victims of violence would also receive better protection and assistance. Her delegation would be happy to share its experience in the field of the protection and promotion of human rights.

53. Mr. TEKLE (Eritrea), speaking in exercise of the right of reply, said that it pained him, as a friend of the NGO community, to have to object to the statement by the International Fellowship of Reconciliation that village chiefs had formerly sold children into slavery. That was a racist distortion of Africa's tragic history. The same applied to the assertions that, in modern Africa, parents were forced to give up their children to armed groups, that children were used to carry luggage and that girls were abused as sex slaves. Such statements were outrageous and irresponsible. The NGO had also referred to forced recruitment in Eritrea. There had never been forced recruitment in that country. National service was compulsory - it had been considered a patriotic duty long before the war with Ethiopia - but if that was slavery, then such States as Switzerland were also guilty. Those who avoided national service were arrested and, if they repeated the offence, prosecuted. The NGO should learn some basic facts before engaging in ethnic defamation.

54. Ms. KOUFA, introducing the report of the sessional working group with the mandate to elaborate detailed principles and guidelines concerning the promotion and protection of human rights when combating terrorism (E/CN.4/Sub.2/2005/43) recalled that the working group had been established in response to the preliminary framework draft of principles and guidelines contained in document E/CN.4/Sub.2/2004/47. Those guidelines had been expanded for the current session and appeared as document E/CN.4/Sub.2/2005/39. The two documents, with some others, had formed the core documents under consideration by the working group.

55. She had chosen to present the report speaker by speaker rather than by topic, believing that to be the most transparent approach. That arrangement would also serve the Sub-Commission's future work by showing the intellectual support and expertise that members contributed to the better understanding and development of human rights in the context of counter-terrorism measures. It befitted the Sub-Commission, as a standard-setting independent expert body, to act as the focal point within the United Nations system for the formulation of comprehensive guidelines relating to human rights and terrorism.

56. One important issue addressed by the participants was the identification of the existing vacuum - or gap - in the area of counter-terrorism measures, which made the formulation of guidelines a necessity. States should be inspired and guided rather than obliged to incorporate them into national legislation. Other topics addressed had included the need for clear definitions of terrorism and counter-terrorism; freedom of expression; international cooperation, including the need to harmonize instruments relating to extradition and the duty of States to cooperate in pursuing those alleged to have committed terrorist acts; and the situation of people or groups that might be vulnerable. It had been suggested that any guidelines should not relate to specific acts of terrorism in hindsight but should be forward-looking. It had been agreed that the Sub-Commission should coordinate its activities with the Commission's Special Rapporteur and with other bodies in the United Nations system dealing with counter-terrorism.

57. At the 2nd meeting, the working group had discussed its future course of action. It had been agreed to cover the rights of victims of terrorist acts; freedom of expression; international judicial cooperation; and general principles and derogations. The form that NGO participation should take had also been discussed. Lastly, she drew attention to the recommendations contained in the third part of the report.

58. Mr. CHEN said that terrorism was, by its nature, unpredictable as to location and frequency. The campaign launched after the terrorist attacks in the United States on 11 September 2001 had failed to stop terrorism or even to narrow the scope of terrorist activities. Further careful consideration should therefore be given to the whole issue of terrorism, including its causes. Certain fundamental principles must, however, be followed: the Charter of the United Nations must be observed; the territorial integrity of States must be maintained; the legitimacy of existing national movements must be respected; consistent criteria should be applied; violence should not be met with violence; and, lastly, the problem should be tackled through legislation. Once an international political and economic system was in place that was fair and allowed the people of the world to develop their potential, the root causes of terrorism would be eliminated.

59. Ms. WADIBIA-ANYANWU said that she unequivocally condemned all acts of terrorism, whatever the ideology of the perpetrator. All the international human rights instruments stressed the right to life as being inalienable. Nothing justified the senseless killing of innocent civilians. Terrorism - which, for political reasons, had continued to defy acceptable definition - not only violated the right to life but targeted the economic survival of the country affected and thereby violated all known rights.

60. It was unfortunate that problems had arisen in many countries owing to the counter-terrorism measures and practices that had been adopted, which were at variance with the promotion and protection of human rights. It was regrettable that Security Council resolution 1373 (2001) lacked a comprehensive reference to the human rights that States should uphold, when in fact many rights were currently violated by States. At the same time, due recognition must be paid to the dilemma confronting States dealing with the devastation caused by terrorism, balanced with their obligation to observe human rights.

61. Mr. SORABJEE said that indiscriminate violence directed against civilians for whatever reason was unacceptable. Such human rights as freedom of expression and freedom of the press were, however, at risk from some of the counter-terrorism measures that had been adopted. There should be no question of preventing legitimate, non-violent dissent. Journalists were at particular risk: the recent jailing of a journalist on the New York Times for refusing to divulge a source was indicative of a dangerous trend. Secondly, there should be no State havens for terrorists. If a State did not cooperate with counter-terrorism measures, it should be taken to be sympathetic to the terrorists. Thirdly, there should be no amnesty or impunity for those responsible for terrorist acts, since it would indicate that States did not take their obligations seriously.

62. Ms. O'CONNOR endorsed Ms. Koufa's recommendations. It was a major challenge to maintain a balance between the rights of all parties. There was a danger that States without recent experience of armed conflict might copy the legislation adopted by others without considering carefully enough whether it was appropriate, thereby endangering their citizens' legitimate rights. A clear definition of terrorism should be drawn up and disseminated as widely as possible, so that all States would know what was acceptable and expected of them. She therefore supported the proposal to hold seminars and workshops.

63. Ms. PARKER (International Educational Development) welcomed the interest which many members of the Sub-Commission had shown in the activities of the working group to elaborate detailed principles and guidelines concerning the promotion and protection of human rights when combating terrorism. Her organization and the Association of Humanitarian Lawyers would contribute to the reports to be prepared by members for the next session of the working group. She supported the working group's recommendation that Ms. Koufa should update her draft guidelines to reflect its suggestions and concerns.

64. There was an urgent need to confirm some aspects of a human rights-oriented definition of terrorism. In the domestic legislation of many countries, practically any criminal act could be considered to be terrorism. A written statement submitted by her organization at the current session (E/CN.4/Sub.2/2005/NGO/30) described a case tried under United States asylum law, in which the judge had concluded that the definition of terrorism contained in that law was so broad that it applied to United States activities against the Contra rebels in Nicaragua, its military action against Iraq and the American Revolutionary War. It was essential to identify the threshold which a criminal act must cross in order to be counted as terrorism.

65. Mr. SATTAR welcomed Ms. Koufa's serious and objective working paper, which focused on the Sub-Commission's central concern - the protection of human rights. The paper showed the need to maintain a balance between States' need to guarantee their own security and their obligation to protect human rights. He endorsed Ms. Koufa's recommendations for future action by the working group, to which, he hoped, Mr. Decaux and Mr. Salama would also contribute.

66. Mr. CASEY said that the conviction of the journalist Judith Miller had been an example of over-zealous action by a prosecutor. In his opinion, interference in the freedom of the press in that case had not been justified.

67. Ms. KOUFA thanked all speakers for their wise suggestions, which would be duly taken into account at the next session of the working group.

The discussion covered in the summary record ended at 12.25 p.m.