



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/SR.16
30 March 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Sixtieth session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 March 2004, at 10 a.m.

Chairperson: Mr. SMITH (Australia)

CONTENTS

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF
DISCRIMINATION:

- (a) COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE
DURBAN DECLARATION AND PROGRAMME OF ACTION (continued)

THE RIGHT TO DEVELOPMENT

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION:

(a) COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE DURBAN DECLARATION AND PROGRAMME OF ACTION

(agenda item 6) (continued) (E/CN.4/2004/16, 17 and Add.1-3, 18 and Add.1-4, 19-21, 61, 112 and 120; E/CN.4/2004/NGO/5, 15, 16, 25, 26, 78, 101, 110, 140, 155, 186, 187, 191, 204, 225, 232, 244 and 255; A/CONF.189/PC.2/21 and Corr.1-2)

1. Ms. THEPHSOUVANH (Transnational Radical Party) said that the persecution of ethnic and religious minorities in the Lao People's Democratic Republic was a matter for serious concern, as expressed by the Committee on the Elimination of Racial Discrimination (CERD) in August 2003. Christian minorities had been denied social rights and been subjected to imprisonment and death threats. The Hmong people had suffered constant persecution at the hands of the Government; in December 2003 almost 3,000 had died of starvation or in bombings and over 1,000 had been arrested recently. The Commission should draw the attention of the competent United Nations bodies to that particularly disturbing human rights situation and call upon them to take all appropriate measures, including sending a delegation to the country and providing humanitarian assistance to the Hmong population.

2. Ms. FAULKNER (Transnational Radical Party), continuing her organization's statement, said that the authorities in Viet Nam had discriminated on the grounds of religion against members of the Unified Buddhist Church of Viet Nam (UBCV) for over two decades. The Government had reportedly cracked down on the UBCV in October 2003 and arrested all its leaders, two of whom were still in incommunicado detention. In violation of all United Nations standards, former monk Pham Van Tuong (Thich Tri Luc) had been sentenced to a 20-month prison term by the Viet Nam authorities in March 2004 after an unfair trial. The Commission should press Viet Nam to cease its policy of religious discrimination, release those mentioned and restore the UBCV's legitimate status.

3. Mr. BRATHWAITE (African Canadian Legal Clinic), supporting the work and mandate of the Working Group of Experts on People of African Descent, said that many of the issues it had examined were relevant to African descendants in Canada, who suffered social exclusion and economic marginalization. Commending the Special Rapporteur on racism for highlighting such issues as the forcible displacement of the black community of Africville in Nova Scotia, the systematic racism in policing and the administration of justice, racial profiling, high rates of poverty and racially biased media, he welcomed the recommendation that the Government should evaluate the situation of African Canadians with respect to employment, housing, health and education and should develop a specific programme of action. Such a programme was lacking in the official policy of multiculturalism espoused by the Government, which did not include a vigorous antiracist agenda either, and should therefore be regarded with caution given that it could, in fact, mask racism. The Commission should support all provisions relating to

people of African descent, including the continued functioning of the Working Group, the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action and the sections of the report by the Special Rapporteur on racism that related to African Canadians.

4. Ms. BIRD (Women's Sports Foundation), drawing the Commission's attention to the importance of sports for the elimination of racial discrimination, said that sports had a long history as a form of "physical dialogue" in that process, and their value within human rights education, which the Acting High Commissioner had emphasized, could not be overstated. Dialogue provided a safe environment for open discussion that led to understanding and could be achieved among people of all nations and races. It had resulted in the Universal Declaration of Human Rights over 50 years previously and was still at the core of human rights education.

5. Ms. SPALDING (Women's Sports Foundation), continuing her organization's statement, said that sports brought people together in an environment that respected differences and were a universal form of applied human rights education. The attention received worldwide by the Olympic Games made that event an opportunity to educate a broad sector of humanity about basic human rights values and about peace.

6. The Women's Sports Foundation was committed to international dialogue. Sports enabled young girls and women to develop their full personality in accordance with article 26 (2) of the Universal Declaration of Human Rights. Young men and women had experienced dignity and learned the dialogue of peace through sports, particularly thanks to inspiring sports human rights pioneers like Wilma Rudolph and Rafer Johnson.

7. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that the Pontians, a minority from a historical settlement in northern Turkey, were suffering discrimination at the hands of the Turkish authorities. Most Pontians were Muslims and while they all felt great attachment to their language, ancient Greek, it had been banned in Turkish schools. Pontian families with relatives living in Europe were often intimidated by the police, sometimes through the use of forged evidence of collaboration with Kurdish guerrilla groups. Those with family connections in Greece were particularly vulnerable, as illustrated by the case of Fethi Gultepe, who had been arrested while travelling via Istanbul to visit his family, and accused of attempting to establish a Pontian State. The Special Rapporteur on racism should consider that case and the plight of the Pontians in general.

8. Mr. PERLA (General Conference of Seventh-day Adventists), recognizing that religious communities carried a share of the blame for prejudice and inhumanity towards others, reaffirmed the commitment of Seventh-day Adventists to combat actively all forms of discrimination within their own ranks and worldwide. Their church was present in 205 nations and brought together over 25 million people from hundreds of ethnicities, linguistic communities and religious backgrounds. The Adventist Church, supporting the condemnation of all forms of racial and religious discrimination in the International Convention on the Elimination of All Forms of Racial Discrimination, had been concerned by the manifestations of such discrimination currently witnessed by society. Adventist Christians had realized that tolerance was only the first step in eliminating discrimination. Beyond that, sympathy for characteristics and practices that conflicted with one's own, and acceptance of those who thought and acted in a different way from oneself, were required. That notion of total respect and complete acceptance

of human diversity had continued to be a driving force of the faith of Seventh-day Adventists, and they urged the United Nations, Governments, religious communities and non-governmental organizations (NGOs) to continue combating those immoral forms of discrimination.

9. Mr. LITTMAN (Association for World Education), reminding the Commission of the so-called “blasphemy affair” which and resulted in decision 1997/125 (E/CN.4/Sub.2/1997/NGO/3), said that a meaningful analysis of Judeophobia in the Muslim world required a close look at the recent past. To that end, statement E/CN.4/2004/NGO/5 included a warning about the genocidal dangers of racist manifestations of hate in the 1970s. More serious, however, were the current dangers described by Pierre-André Tagueiff in his book *La nouvelle judéophobie*. The latest study by that eminent sociologist, entitled *Prêcheurs de haine. Traversée de la judéophobie planétaire*, was quoted in his organization’s statement. The Commission, the relevant Special Rapporteurs and the various competent United Nations bodies should condemn that specific culture of hate and violence and act to promote education for interfaith understanding and reconciliation.

10. Mr. SÁNCHEZ (Colombian Commission of Jurists) said that his association shared the concern of the Special Rapporteur on racism over the contemporary manifestations of racial discrimination and other forms of intolerance, particularly the use of the fight against terrorism to justify discrimination against vulnerable sectors of society. It was crucial to tackle discrimination against those groups, particularly by the forces of law and order, which was common in armed conflicts such as those in Colombia and the Sudan. Inter-ethnic, multicultural dialogue was needed to resolve those issues and to prevent the polarization of society. Care should be taken to ensure that public policy did not encourage discrimination against civilian populations that were caught up in armed conflict, as was the case in Colombia. As the Special Rapporteur had warned, the Colombian Government’s security strategy called for the civilian population to play an active part in military operations against guerrilla groups, which was clearly unacceptable. Public policy should strengthen the principle of respect for the civilian population during armed conflict as part of an integrated strategy to combat contemporary forms of discrimination. The Colombian Commission of Jurists fully endorsed the Special Rapporteur’s assertion that such action was necessary to build democratic and egalitarian multiculturalism. The Commission should support and develop such multiculturalism.

11. Ms. AGUILA (Women’s International Democratic Federation) said that racial discrimination and xenophobia had been a direct result of wars, conquests, slavery and the individual and collective exploitation of the weakest members of society by the strongest, throughout history. While the world’s very survival depended on building a fair, multicultural, diverse system, its power centres had tried to impose their value systems and had manipulated scientific advances for their own interests. The peoples of the so-called third world had been worst affected by exclusion, racism and xenophobia as they had been subjected to slavery and colonialism by the current Western powers, which had profited from those exploitative practices for centuries. In the modern world, skin colour and ethnic origin restricted people’s employment opportunities and their access to education and health care and had often led to segregation, violence and endemic poverty, with women frequently suffering from dual discrimination on the grounds of race and gender.

12. The Free Trade Agreement of the Americas was a discriminatory economic instrument that served to extend the United States' network of military bases and satisfy its Government's hunger for power. Under the guise of the "war on terror", that country's policies had become increasingly discriminatory and had strengthened racial prejudice. The illegal building of a wall in the Occupied Palestinian Territory was turning the Palestinians into prisoners and denying them access to education, health care and employment.

13. In contrast to that global reality, the Cuban revolution had resulted in real social and gender equality in education and health care, achievements that had reached into the international domain and had become an outstanding contribution to the fight against colonialism, racism and apartheid. Her organization condemned neo-liberal policies as racist and discriminatory, demanded reparation from the developed world for the victims of colonization and called for an end to racial crimes, war crimes, acts of genocide, ethnic cleansing and State terrorism perpetrated by Israel against the Palestinian people.

14. Ms. FAGETTE (Movement against Racism and for Friendship among Peoples) welcomed the implementation of measures that had resulted from the Durban Declaration and Programme of Action, particularly measures that reached those who were yet to be convinced of the evils of racism. Racism was on the increase, and should be tackled through education if its root causes were to be eliminated. Her organization believed that inequality was the basic source of contemporary forms of racism, and post-Durban events had only made the situation worse. While Huntington's notion of the clash of civilizations had been generally accepted, it was up to States and Governments to show that those ideas were flawed. The Commission should work to eliminate inequality so that otherness was no longer perceived as a threat. Racism tended to deny people their humanity, and events were often used to justify increasing inequality. Rather than waiting until the next catastrophe struck, preventive action should be taken and equality pursued at all levels and in all areas.

15. Mr. ZEBARI (France Liberties) said that on 16 March 2004 the Kurdish people had commemorated the sixteenth anniversary of the Halabja massacre. In one of the most brutal mass murder attacks of modern history, the former regime of Saddam Hussein had used weapons of mass destruction against the Kurdish civilians living in Halabja and had killed over 5,000 people, injuring 20,000 more. The crimes of the former Iraqi dictator also included the initiation of an eight-year war with Iran in 1980, responsibility for the arrest and disappearance of over 8,000 innocent civilians thus far unaccounted for, from the Barzani tribe in 1983, the forced displacement to unknown locations of over 182,000 Kurdish villagers and the destruction of their 4,000 villages, the invasion of Kuwait and subsequent burning of its oil wells, the 12-year embargo enforced on the Kurdistan region after the anti-Saddam uprising in 1991, an ethnic cleansing campaign in Kirkuk, Khanakin and Sinjar, the draining of Iraq's southern marshes, the imposition of Ba'ath party policies, which had driven 4 million Iraqis to flee their country, tens of thousands of executions, imprisonments and mutilations and the murder of those found buried in the mass graves after Operation Iraqi Freedom in 1991.

16. Mr. MALEZER (Foundation for Aboriginal and Islander Research Action) said that Australia had been in breach of the International Convention on the Elimination of All Forms of Racial Discrimination since 1998 because the Native Title Amendment Act 1998 had treated Aboriginal titles to land as inferior to those of their non-indigenous counterparts. Despite three specific requests from CERD to address that discrimination, the Government had refused to

recognize the findings documented in decisions 1 (53), 2 (54) and 2 (55) and had denied its obligations under the Convention. It had suspended operation of the Racial Discrimination Act in its application of the Native Title Act over the previous six years. The Special Rapporteur on racism had recommended that the Native Title Act should be amended in the light of the proposals made by indigenous peoples, and that efforts already being made to combat racism and racial discrimination against the Aboriginal peoples should be continued, improved and intensified.

17. Despite the international community's efforts to the contrary, racism against the Aboriginal peoples in Australia had continued, and there seemed little likelihood that the Durban Declaration or any other instrument would alter that state of affairs. If elimination of racial discrimination required the return of territories and resources, it appeared that some, perhaps many, States were prepared to sacrifice indigenous peoples' rights. The Commission should emphasize the elimination of racial discrimination against indigenous peoples and recognize the common malaise of the repression of indigenous peoples, their territories and their right to development. His organization also called for the finalization of the draft United Nations declaration on the rights of indigenous peoples.

18. Mr. MIHALACHE (European Roma Rights Centre) said that efforts to combat racial segregation were particularly important for Roma in Europe, since there was currently strong anti-Roma sentiment there, which had often resulted in enforced separation based on race in education, housing and health care. Many Roma children had been placed in special schools for the mildly mentally disturbed, or in separate schools or classes with reduced curriculum provision and, as a result, had limited opportunities for further education or employment after leaving school. In regard to housing, pressure had been placed on Roma to remain in separate ghetto areas, they had been denied residence permits or planning permission, local authorities had refused to develop housing for them other than in remote areas where public services were unavailable and Roma living in non-segregated areas had been forcibly evicted.

19. Despite having presented much evidence to several United Nations bodies, his organization had sometimes been disappointed by the responses received. The Commission should encourage cooperation between the treaty bodies, the Sub-Commission on the Promotion and Protection of Human Rights, its subsidiary bodies and the special procedure mechanisms in order to address human rights violations against Roma, particularly regarding segregation. It should request the relevant Special Rapporteurs to investigate the nature and consequences of segregation of the Roma regarding physical and mental health, education and housing and call on all members to proactively engage in eliminating the segregation of Roma within their territories through legislative and policy reform and action plans.

20. Mr. ALI (Afro-Asian People's Solidarity Organization) said that racism and racial discrimination had been the product of the complex evolution of human societies, history and cultural practices. They had mostly been linked to the creation and consolidation of ruling elites in many civilizations over hundreds of years. Modern colonialism had reinvigorated racism, most of the empires founded after the fifteenth century coming from and belonging to white-skinned races. Given that they had conquered land and people who were either so-called "yellow", "brown" or "black", it had been easy to construct a ruling imperial ethic that had identified the superiority of their civilization and culture with white or fair skin. Black Africans had been subjugated through armed force, denied the right to own land and forced to work long

hours for little or no pay, thus depriving them of the time and resources for schooling. Poverty and poor education had combined to maintain racism, since many black people had been unable to compete with white people on equal terms, due to those acquired drawbacks. Affirmative action, resulting from a strong civil rights movement in the United States, had gone some way to redressing the balance.

21. Similar situations existed in countries that wanted to remain united on the basis of religion. Thus the Sunni majority in Pakistan had continued to persecute the Shia minority, and other Muslim groups such as the Ahmediyas had even been refused the right to call themselves Muslims. Racism had also manifested itself in Pakistan-occupied Kashmir, where land had been sold at preferential rates to new settlers from Punjab and the north-west border provinces. The Kashmiris had thus become a minority.

22. Ms. JAIMINI (European Union of Public Relations) said that the scourge of intolerance and discrimination remained a major obstacle to development. Educational structures, societal values, customs and traditions were being usurped by leaders wishing to control the destinies of their people. The system of apartheid in South Africa had been a prime example of a State policy that had used skin colour to perpetuate the power of the ruling elite. Although classical apartheid had been dismantled, its vestiges could still be seen in the immigration and visa policies of many countries. Discrimination on the basis of faith and religion was creating a vicious climate of xenophobia, which had worsened after 11 September 2001.

23. In an enlightened age in which instruments of instant communication were so readily available, it was surprising that the jingoistic statements of regressive minds were allowed to create schisms based on religion. Political discourse even in progressive and established democracies was tainted by the rhetoric of religion and divisive concepts that fostered a sense of alienation among minorities. Political strategies, rather than being based on concrete issues and development goals, were being fashioned in the idiom of a particular religious faith. Common sense demanded that differences should be resolved through dialogue and understanding.

24. Ms. BOSSHARD (Society for Threatened Peoples) said that the 2 million Kurds in the Syrian Arab Republic, representing a tenth of the country's population, officially had no cultural rights. No schools in Syria provided education in the Kurdish language and the establishment of private schools was forbidden. Admission to higher education was made difficult for Kurdish students. Kurdish names were not registered and the use of such names for shops and private enterprises was not allowed. Of particular concern were the 200,000 stateless Kurds in Syria who enjoyed none of the rights guaranteed in the Syrian Constitution.

25. As part of the efforts to Arabize the Kurdish-speaking region in the north of the country, an Arabic belt had been created along the borders with Turkey and Iraq. Thousands of Kurdish farmers had been forced to leave their land and were now working as poorly paid labourers in the cities. Other Kurds were being tortured in Syrian prisons.

26. In March 2004, there had been several days of violence in the Kurdish regions of Syria following the killing of at least nine people by security forces during a brawl at a football match. Syrian troops had prevented international observers and the media from gaining access to the

region. Several hundred Kurds had been injured during the violence and many others had been arrested. The Syrian Arab Republic should be reminded of its obligations as a State party to the International Covenant on Civil and Political Rights.

27. Mr. CASTILLO BARROSO (World Peace Council) said that one of the main consequences of the terrorist attacks of 11 September 2001 had been the institutionalization of systematic violations of the most basic human rights through the adoption and promulgation of racist and xenophobic legislation in the name of the fight against terrorism.

28. One such example was the United States Patriot Act, under which being a foreigner, belonging to an ethnic community or professing a faith could be grounds for persecution. Although the Act had been rejected by the population of the United States, a new version of the Act, which gave the Department of Justice the power to detain and deport immigrants without formally charging them, was currently being discussed.

29. Another example of potentially discriminatory legislation was the US-VISIT programme, which had been in force since January 2004, under which all foreign visitors arriving at United States airports had to have their fingerprints scanned and could be subject to rigorous checks. Countries aligned with the United States, such as the United Kingdom and France, had established their own versions of the Programme.

30. As part of another measure to strengthen national security, over 650 nationals from 42 different countries were being detained at the United States naval base in Guantánamo Bay. Some of those being detained were minors. The area was being occupied against the will of the Cubans.

31. In the United States and in Europe, Afro-Americans, Latin Americans and other immigrants, as well as indigenous populations and ethnic groups such as gypsies, were victims of discriminatory practices, including physical and verbal abuse from the police. The Commission should adopt a resolution condemning such treatment and appoint a special rapporteur or other permanent mechanism to follow up the issue.

32. Mr. WANEHAN (International Association against Torture) said that racism was an ideology that had been developed to justify the inhumane traffic in Africans for the benefit of Europe and its colonies. It had been driven by greed then and its continuation was still tied to the incalculable material benefits it brought to a powerful few.

33. The lack of progress since the Durban Conference on racism could be attributed to a political demobilization that had begun before the Conference. The demobilization by the Group of Western European and Other States had, in fact, started with the Group's unsuccessful attempt to remove racism as an item from the Commission's agenda after the release of Nelson Mandela from prison. The Group had also opposed the holding of the Durban Conference.

34. The United States of America was a country that remained in denial of its racist history and present practice. The presence of a few black faces in high-profile government posts could not change the reality facing the vast majority of African people in the United States.

35. The Working Group of Experts on People of African Descent should be provided with adequate funding to carry out its mandate. Its budget should allow for field visits and the convening of meetings in countries where people of African descent resided. Likewise, the Special Rapporteur on racism should be provided with adequate funds and organizational support.
36. It was not surprising that the resistance to Durban and its follow-up mechanisms came from those whose current position of economic dominance was tied to the very events that made reparations necessary.
37. Mr. CLAY (December Twelfth Movement International Secretariat) said that the transatlantic slave trade had been the greatest crime committed against humanity and civil society and that the descendants of those slaves were still being victimized. He had arrived in Geneva from a New York that was an invisible collectivity of underdevelopment and where a recent study had found half of all black men to be unemployed, where a police officer had recently been found innocent of shooting an unarmed black teenager. Such human rights violations were the rule, not the exception, for black people in the United States.
38. In spite of the machinations of empire and the new world order, the twenty-first century was the time to correct history and to repatriate stolen wealth to its real owners. The crimes of the transatlantic slave trade had no statute of limitations. It was time for the criminals to pay and for the damaged societies to be repaired.
39. After centuries of colonialism, the people of Zimbabwe were rebuilding their country for themselves. The ideologues who protested the loudest were the same ones who had helped to finance the African Holocaust of the past and the Palestine Holocaust of today. It was racism that condemned the Democratic People's Republic of Korea for securing nuclear weapons for self-defence and justified the United States' possession of such weapons. The Commission should play a legitimate and vigorous role in making the necessary changes through the implementation and strengthening of the Durban Declaration and Programme of Action.
40. Mr. GARAI (World Union for Progressive Judaism) recalled that, in its resolution 2003/4 on combating defamation of religions, the Commission noted with concern that defamation of religions was among the causes of social disharmony and led to violations of human rights of their adherents. It was such defamation that had given rise, in the middle of the previous century, to the culture of resentment and blame that had led to the extermination of 6 million Jewish people. A similar attitude was re-emerging now. Religion was all too often being used to justify acts of violence and terrorism.
41. He urged the Commission to condemn all forms of religious defamation, and particularly the incitement to kill in the name of God. He hoped that 2004 was the last year he would have to remind States that all religions and religious beliefs should be respected. Finally, he drew the Commission's attention to document E/CN.4/2004/NGO/88, which contained a written statement by the World Union for Progressive Judaism and outlined the Spiritual Appeal of Geneva.
42. Mr. RAAD (Syrian Arab Republic), speaking in exercise of the right of reply, said that the information provided by the Society for Threatened Peoples was unfounded and lacked credibility. The different religious and ethnic groups in Syria enjoyed peaceful coexistence and

were considered to be part of the country's social fabric. Regrettably, a number of movements that did not approve of such tolerance attempted to destabilize the situation by undermining public order at events such as football matches. The authorities did not condone such attempts to incite racial hatred and to disrupt the peace.

THE RIGHT TO DEVELOPMENT (agenda item 7) (E/CN.4/2004/22, 23, 116 and 120; E/CN.4/2004/NGO/17, 20, 62, 69, 99, 108, 121, 131, 141, 192, 199, 221, 222, 226 and 257; E/CN.4/2004/WG.18/2 and 3)

43. Mr. SALAMA (Chairperson-Rapporteur of the Working Group on the Right to Development), introducing the Working Group's report (E/CN.4/2004/23), said that the Group had agreed on a number of forward-looking conclusions at its fifth session, the success of which could be partly attributed to the fact that the Group had made an effort to overcome conceptual dissensions and focus on the concrete. Furthermore, the session had been preceded by a high-level seminar entitled "Global partnership for development", which had enabled the members of the Group to hold an interactive dialogue with experts with experience on the ground. Another important factor had been the political will shown by all countries involved. The agreed conclusions established a new approach and methodology.

44. A striking feature of the seminar and the discussions in the Working Group had been the emerging consensus between States, development agencies and financial and trade institutions as to the need for a global partnership for development at all levels. It had also been recognized that there was a need for structured and multidisciplinary dialogue between United Nations agencies and multilateral financial and development institutions in order to mainstream the right to development.

45. The Working Group recognized its important role as the only intergovernmental forum on human rights and development. It had proposed the establishment of a high-level task force on the implementation of the right to development to create the institutional partnerships necessary to mainstream the right to development. He was confident that the task force would help to create an environment conducive to the realization of the right to development.

46. Ms. HUSSAIN (Malaysia), speaking on behalf of the Non-Aligned Movement and China, said that the Non-Aligned Movement had recently agreed on the need to elevate the right to development from a conceptual plane into the sphere of action. That resolve had been accentuated at its thirteenth summit in Kuala Lumpur in February 2003, where it had called for the operationalization of the right to development through a legally binding instrument. Furthermore, the Sub-Commission on the Promotion and Protection of Human Rights had been asked to prepare a concept document establishing the broad parameters of an action-oriented approach to the right to development in terms of international commitments.

47. While awaiting that document, the Non-Aligned Movement had taken another significant step towards the implementation of the right to development. The high-level seminar entitled "Global partnership for development" had provided the intellectual momentum for action. The ideas raised during the conceptual debate on the right to development had been discussed in an interactive setting by experts in the areas of trade, finance, development and human rights. The seminar had highlighted the need for international cooperation.

48. The Working Group on the Right to Development had also recognized the need for international cooperation. The proposal to establish a high-level task force on the implementation of the right to development was a step in the right direction. The task force should take an action-oriented approach and should not be allowed to re-enact the conceptual debate. It should seek to implement the ideas contained in the reports of the Independent expert on the right to development (E/CN.4/2004/WG.18/2 and 3) and should avoid shifting the focus from the right to development to the mainstreaming of human rights. It was hoped that the task force would generate a committed strategic partnership that would extend the fruits of globalization to the poor and marginalized.

49. The Non-Aligned Movement had taken note of the High Commissioner for Human Rights' report on the right to development (E/CN.4/2004/22). It would be useful to receive in addition an overall assessment of the progress made in implementing the right. Further efforts should also be made to adopt a more analytical approach and to develop linkages between the substantive outcomes of the major United Nations summits and conferences in the economic and social fields and the right to development.

50. Mr. SHALABY (Egypt) said that the Declaration on the Right to Development and the Vienna Declaration and Programme of Action highlighted the fact that all States had an ongoing responsibility to create national and international conditions favourable to the realization of that right. Furthermore, the Charter of the United Nations and the International Covenants on Human Rights, as well as other international human rights instruments, underscored the importance of international cooperation in promoting the enjoyment of human rights. Such cooperation was particularly necessary in the case of the right to development. Global partnerships would help individual States to meet their international obligations. A new global order was therefore needed, based on equality, transparency and non-discrimination.

51. Egypt welcomed the results of the seminar on global partnership for development and endorsed the creation of a high-level task force on the implementation of the right to development, which should be promoted at every opportunity. He was in favour of establishing security networks to protect developing countries from the harmful effects of globalization and to allow them to adapt to rapid change.

52. Mr. SHA Zukang (China), speaking on behalf of the Like-Minded Group of States, said that most developing countries had failed to benefit from globalization. Consequently, more than 1 billion people lived below the poverty line, and the average income in the richest 20 countries was almost 40 times greater than that in the poorest 20. States bore primary responsibility for ensuring the right to development of their people. Sustainable economic growth could not be achieved without addressing the social and environmental aspects of development. The role of the international community was to remove major obstacles to development, such as the unbalanced multilateral trading system. The possible elaboration of a legally binding instrument on the right to development should be given careful consideration. He fully endorsed the recommendations of the Working Group, contained in document E/CN.4/2004/23.

53. Ms. WHELAN (Ireland), speaking on behalf of the European Union (EU) and associated countries, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Estonia, the Former Yugoslav Republic of Macedonia, Hungary, Iceland, Latvia, Lithuania, Malta, Poland,

Romania, Serbia and Montenegro, the Slovak Republic, Slovenia and Turkey, said that a high-level task force would provide a useful framework for future deliberations, provided that human rights mechanisms were invited to contribute alongside representatives from trade, finance and development institutions. While international development cooperation was a key aspect of efforts to ensure the right to development, she wished to emphasize the voluntary nature of development commitments and partnerships. Democracy, the rule of law and good governance at the national level were equally crucial to development efforts.

54. The high-level seminar preceding the Working Group's session had stressed the importance of participatory and accountable governance for the enjoyment of human rights. The contributions of Bosnia and Herzegovina, Sweden and Uganda had confirmed the pivotal role of national development programmes. The EU supported country efforts to strengthen donor partnerships, coordination and accountability with respect to the delivery of development assistance. The Working Group should seek new avenues of cooperation with international trade and finance institutions with a view to promoting a more systematic approach to human rights.

55. It was vital for the United Nations to have a system-wide strategy for implementing the Millennium Development Goals. In that context, she welcomed the fact that the Office of the United Nations High Commissioner for Human Rights (OHCHR) was represented on the Millennium Project. The EU supported the efforts of OHCHR to integrate a human rights approach into poverty reduction strategies, as well as its greater focus on country programmes. She asked for further information concerning the joint UNDP/OHCHR HURIST (Human Rights Strengthening) programme.

56. Greater integration into the global economy was a necessary but not in itself sufficient condition for sustained growth. Mr. Sengupta's report had showed that the most successful countries were those that had used domestic investment and institutions to harness the opportunities of world markets. At the same time, every country needed to make the necessary provision for social protection. Trade-related technical assistance had grown in importance under the Doha Development Agenda. In the final analysis, no uniform policy prescription could guarantee the right to development.

57. Mr. ATTAR (Saudi Arabia) said that the Working Group had emerged from the state of inertia that had characterized its fourth session to produce a far more encouraging outcome. In the past, the lack of political will had been a consistent barrier to development efforts. It was essential to adopt a more comprehensive approach to development, encompassing both economic and social dimensions. The failure to realize the right to development prevented progress in implementing all human rights. Regrettably, the international community continued to treat the problems of the third world as a secondary matter, failing to recognize its collective responsibility. Countries should be allowed to choose their own development models, without being put under pressure to conform to specific modes of thought. The influence of donor States should be confined to the furthering of development objectives.

58. Ms. AQUINO (Dominican Republic) said that the high-level task force would be a useful tool for encouraging States and international institutions to attach higher priority to effective implementation of the right to development. A greater display of political will, combined with a willingness for frank and open dialogue from all concerned, would help to make more substantial progress in that regard. Governments and international institutions had a shared responsibility

for development efforts. Her Government was restricted in its capacity to promote lasting change by a number of internal factors, such as lack of resources and poor infrastructure. Therefore the support of the international community was fundamental to the development process. One of the main barriers to development was the unfairness of the multilateral trading system, which prevented developing-country products from competing on a level playing field with those from the developed world.

59. Mr. UMER (Pakistan) said that the high-level task force was the first, tentative step towards a more realistic, practical approach to development issues. Contrary to the common assertion that persistent poverty was the result of inadequate governance, imbalances in economic relations between States consistently frustrated the attempts of most countries to join the global trading system. The prevailing economic environment restricted the capacity of Governments to influence the outcome of national development. The following elements should be addressed by the high-level task force: the right to adequate financing for development; the right to equitable global trade rules; the right to fair access to knowledge and technology; the right not to be subjected to discriminatory treatment in the global economy for political reasons; and the right to effective participation in international decision-making. He urged OHCHR to reallocate existing resources to strengthen the capacity of the Right to Development Unit.

60. Mr. FERRER RODRÍGUEZ (Cuba) said that developed countries had tried to redefine the right to development as an individual, rather than a collective, right. Furthermore, they were trying to introduce the notion of progressive realization of the right to development, as a pretext for the indefinite deferral of responsibility. International cooperation was an obligation enshrined in the Declaration on the Right to Development of 1986, as well as in the Universal Declaration of Human Rights. The empty rhetoric of rich nations concerning human rights and poverty reduction could not conceal their failure to address the growing gap between rich and poor. In fact, the income of 25 million Americans was equal to that of 2 billion of the poorest people in the world; developing countries paid \$100 billion each year to developed countries in trade tariffs, receiving only half that amount in development aid, and official development assistance amounted to only 0.22 per cent of the gross domestic product of developed countries, as against the 0.7 per cent target.

61. With relatively few additional resources, substantial progress could be made towards securing the right to development of billions of people. However, rather than funding development efforts, the United States continued to waste \$400 billion every year on military expenditure. War posed the most serious threat of all to the right to development. Moreover, terrorism and armed conflict could be prevented only through sustained investment in development.

62. Mr. MARTABIT (Chile) said that the relative success of development policies in his country had been achieved through consistent application of an equitable growth strategy. Since 1990, the Government had invested heavily in social development, as the basis for modernization and economic growth. The main social challenges could not be met either by temporary measures or by reliance upon market forces. Since 2002, an enhanced social welfare scheme had been introduced to combat poverty effectively. The Government had focused on improving access to education, health and training for vulnerable groups, such as women, children and indigenous peoples.

63. While each country bore primary responsibility for promoting its own social and economic development by pursuing policies that were in keeping with the principles of good government and the rule of law, the Extraordinary Summit of the Americas held in Monterrey had reaffirmed “the imperative for the international community to support national development efforts”. As noted by the Independent expert, international cooperation in support of the right to development could take a variety of forms. In the case of Chile it had taken the form of market access through unilateral openness and trade agreements. The Monterrey Summit had also recognized the role of trade in promoting growth and sustainable economic development. Hence the need to press ahead with the Doha agenda by providing better access to markets, eliminating export subsidies and substantially scaling down domestic assistance that distorted trade.

64. Globalization could be a source of both opportunity and injustice. It could only be given a human face if its impact was regulated by codes of conduct and ethically based institutions.

65. Mr. SENGUPTA (Independent expert on the right to development), introducing his country studies on the right to development in Argentina, Chile and Brazil (E/CN.4/2003/WG.18/3) and his report on implementing the right to development in the current global context (E/CN.4/2004/WG.18/6), said that he had focused on definitional problems, legal and moral obligations, and policies conducive to realization of the right to development. Rights-based development policies differed from but did not replace neoliberal development policies. They drew on the “Washington consensus” model adopted by major international institutions but stressed the need for complementary policies to achieve development goals.

66. Argentina, Chile and Brazil were perfect examples of the impact of that model. Chile, a notable success story, had pursued a structural adjustment policy, achieving a high level of growth and a satisfactory long-term performance in terms of several major indicators of economic development. But at the same time certain fundamental issues, such as income disparity, had not been resolved. The authorities were conscious of that shortcoming and were doing their best to remedy it, but they required international assistance to succeed. Argentina, which had experienced an economic boom followed by a severe crisis, was an example of what happened when an extreme version of the Washington model was applied. If a right to development approach had been adopted at an earlier stage, the crisis might have been averted. Brazil had recorded high growth rates for a time but had suffered a setback in recent years. Some problems had been solved by the attempt to introduce neoliberal policies, but major issues such as income disparity, poverty and unemployment remained unresolved. The new Government had made some headway in addressing them but its task would be greatly facilitated if it received the requisite international assistance.

67. Turning to the report on implementing the right to development in the current global context, he said that globalization gave developing countries an enormous opportunity to improve their well-being provided that complementary policies with rights-based goals were pursued. There was no unequivocal evidence that globalization alone had brought about economic growth, equitable income distribution or increased trade.

68. He was particularly pleased that the Working Group on the Right to Development had reached a consensus at its previous session and could now build on its achievements, for example by concretizing different aspects of rights-based development policies and indicators and forging a development model predicated on partnership and involving the entire international community.

69. Mr. do NASCIMENTO PEDRO (Brazil) commended the Independent expert on his ability to encapsulate in just 14 paragraphs the complexity of Brazil's social and economic problems such as income disparity, unemployment and poverty. He stressed the Government's political determination to address those problems, adopting a broad rights-based approach to development issues. One example was the Zero Hunger Programme. Another was the President's high-level international action to mobilize resources for the fight against poverty.

70. Two important issues raised by the Independent expert were ensuring balance between fiscal measures and social projects, and the impact on resources for social projects of the reform of structural adjustment policies. Brazil was attempting to maintain a healthy economic environment while at the same time introducing effective social policies. It relied on international cooperation to achieve those aims, not only to obtain development assistance but also to maintain a dialogue with the principal countries concerned.

71. Brazil also appreciated the outsider's view afforded by the Commission's special procedures and in that spirit accepted the Independent expert's conclusions. The recommendation that social spending should be viewed as an investment was particularly interesting and called for further exploration. The Government was open to all creative ideas aimed at tackling social exclusion and reducing inequality.

72. Mr. VILLEGAS BELTRAN (Argentina) reminded the Commission of Argentina's recent economic and social crisis and its direct impact on the right to development, which his country viewed as an unwaivable right. The 2001 crisis had left about half of the country's inhabitants below the poverty line, but thanks to a concerted effort by the entire nation and a strategy that focused on the right to development, Argentina was now on the road to recovery. Since 2003 the Government had been taking emergency action on behalf of vulnerable population groups with restricted access to food, health and employment. A Social Policy Coordination Board had been established to coordinate planning between government agencies and civil society.

73. In his report, the Independent expert had highlighted those efforts, mentioning in particular the REMEDIAR programme, the world's largest free drug distribution programme for primary health care, and the generic drug legislation, which had substantially reduced the price of medication.

74. The Government agreed with the Independent expert's conclusions. To realize the right to development, States must adopt sustainable policies that respected the principle of non-discrimination and promoted responsibility and transparency. He was pleased to report that poverty, unemployment and the health crisis in Argentina were slowly giving way to genuine and responsible development. But in a globalized world, national efforts needed effective support by the international community, financial institutions and international organizations. Certain global economic trends impeded States' capacity to fulfil their international human rights

obligations. Economic growth leading to free trade could increase the resources available for human rights but trade distortions such as agricultural and industrial subsidies could adversely affect them.

75. Argentina therefore reiterated its view that trade liberalization based on justice and equity and the adoption of rights-based approaches to the rules of the World Trade Organization would constitute a major step towards establishing a just international and social order as envisaged by article 28 of the Universal Declaration of Human Rights and the 1986 Declaration on the Right to Development.

76. Mr. MARTABIT (Chile) said that the issue of income distribution was of immense concern to his Government. Inequitable distribution of wealth was a widespread phenomenon that was closely linked in many developing societies to historical events, persistent cultural factors and in some cases economic technicalities. His Government was employing all available means to redress the situation.

77. Mr. CAHALANE (Ireland), speaking on behalf of the EU, asked the Independent expert to elaborate on his suggestion that a distinction should be made between poverty reduction and income redistribution policies.

78. He would also be interested in hearing about the Independent expert's missions to the World Bank and the International Monetary Fund and in ascertaining his views on how to ensure that social-sector spending benefited the poorest members of society.

79. Mr. SENGUPTA (Independent expert on the right to development) said that reducing poverty was not necessarily the same thing as redressing disparities of income. Targeted policies could be adopted for poverty reduction but wealth distribution was a structural problem. The Chilean Government's long-term income redistribution strategy involved building up the capabilities of the poor and relatively poor by providing them with better education so as to bring them into the mainstream of economic activity. A more short-term approach to major asset redistribution could involve microcredit, cooperative and similar projects. In all three Latin American countries he had visited, however, specific social characteristics of income distribution needed to be addressed through longer-term policies.

80. Social-sector spending should be viewed as investment rather than pure consumption. However, the returns on such investment accrued over a period of time in a non-tangible form to the economy as a whole. Private investors were therefore unlikely to invest in the social sector and international cooperation was needed to promote social-sector spending as a public good. It could be targeted at the poor but could also be used to address general economic and social disparities.

81. After the crisis in Argentina the Government had applied the right to development model, attempting to build a consultative, participatory and accountable process of development. But it could not have done so at an earlier stage without international cooperation. The fact that the funds needed for social development had been siphoned off to pay the country's debt graphically illustrated the need for international assistance.

82. Mr. RAMCHARAN (Acting High Commissioner for Human Rights) expressed deep gratitude to the Independent expert for his six years of pioneering work. He had produced a historic synthesis of human rights law and economics and opened up important policy vistas for those committed to implementing the right to development.

83. Ms. LONGABERGER (United States of America) said that the term “right to development” had been hijacked in recent years. States did not have rights but responsibilities to people. The broad range of rights set forth in the Universal Declaration could be seen as a blueprint for the individual right to development. Development began early, with good health and nutrition, a safe community and a secure home, the right of boys and girls to free elementary education. Higher education, as in the United States, should be equally accessible on the basis of merit. In her country’s institutions of higher learning, people of colour, people of different faiths and people from different countries studied together.

84. The same principle of equality based on merit applied in the business world. She herself was the chief executive officer of a multi-million dollar enterprise that had started off as a family business. Growing businesses created jobs and wealth, not only in the United States but around the world. The United States was a developed country, not because of some ephemeral right to development but because its laws protected the right to compete in a free market and reap the benefit of hard work. Governments should protect that right and create an environment in which working people could thrive.

85. Some countries, however, had been ravaged by civil war or other catastrophes and needed development assistance. Her country’s record in providing such assistance was second to none. It gave generously to the United Nations Development Programme, the United Nations Children’s Fund and many other United Nations agencies, and provided billions of dollars in bilateral aid. Private charity donations to developing countries exceeded those of any other country.

86. However, as the President of the United States had said, when nations closed their markets and opportunity was hoarded by a privileged few, no amount of development aid was enough. When they respected their people, opened markets and invested in health and education, aid, trade revenue and domestic capital were used more effectively. He had therefore created the Millennium Challenge Account for countries that were helping their people on the road to economic development. The Account linked development aid with respect for human rights.

The meeting rose at 1 p.m.