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COMMISSION ON HUMAN RIGHTS

Sixty-first session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,  
on Tuesday, 15 March 2005, at 10 a.m.

Chairperson: Mr. WIBISONO (Indonesia)

later: Mr. ESCUDERO  
(Vice-Chairperson) (Ecuador)

CONTENTS

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF FINLAND

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF ARMENIA

STATEMENT BY THE SECRETARY-GENERAL OF THE ORGANIZATION OF THE  
ISLAMIC CONFERENCE

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CONTENTS (continued)

STATEMENT BY THE COMMISSIONER FOR HUMAN RIGHTS OF MAURITANIA

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF YEMEN

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF ALBANIA

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF SLOVENIA AND  
CHAIRMAN-IN-OFFICE OF THE ORGANIZATION FOR SECURITY AND  
COOPERATION IN EUROPE

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF MEXICO

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF INDONESIA

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF THE NETHERLANDS

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF CYPRUS

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

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF FINLAND

1. Mr. TUOMIOJA (Finland) recalled that Finland was a new member of the Commission on Human Rights. It had been elected in May 2004 for the period 2005-2007, having held observer status for 10 years. It was therefore timely for Finland to present its views on the Commission and to indicate the issues which it wished to see given priority.
2. The Commission's role was essential and unique and human rights were universal, meaning that the Commission must be able to deal with the human rights situation in any country and that human rights must be put into practice across the world.
3. Finland welcomed efforts to streamline and enhance the functioning of the United Nations human rights bodies, as recommended in the report of the High-Level Panel on United Nations reform. It particularly welcomed plans to strengthen the role of human rights within the United Nations system, including from the standpoint of safeguarding international peace and security. Lastly, it recognized the need to increase funding for the United Nations human rights bodies, particularly the Office of the United Nations High Commissioner for Human Rights (OHCHR). Current funding for OHCHR from the United Nations regular budget did not reflect the importance of the Office's work.
4. The global human rights situation left much to be desired. There was plenty of urgent work to be done and the Commission was the key forum for the protection and promotion of those rights. Finland was determined to do its share for that common cause.
5. Terrorism featured prominently on the Commission's agenda. There was ample reason to ask how attacks against innocent civilians could be prevented and what the Commission could do to help. Human security was being violated in many countries. Lack of democratic participation and good governance and shortcomings in the judicial system in those countries only made matters worse. Restrictions on freedom of speech and the marginalization of minorities hindered democratic reforms, and the resulting frustration was a breeding ground for violence. On the other hand, faith in the principles of the rule of law and good governance and in the democratic process and enhanced human security was conducive to peace and stability.
6. Finland emphasized respect for human rights and compliance with the rule of law in the fight against terrorism, meaning absolute prohibition of torture, respect for due process and application of the principle of non-refoulement. The Commission must be very clear on those points at the current session. The independent expert appointed pursuant to Commission on Human Rights resolution 2004/87 had drawn attention to gaps in the United Nations system in that area, while showing how they could be addressed.

7. Human security and the enjoyment of human rights were closely linked. For example, uncontrolled transfers of small arms and light weapons were known to have contributed to war crimes, genocide and other human rights violations. Finland therefore supported the development of binding principles for arms exports and transfers. The human rights perspective must be integrated into the process aimed at adopting an international arms trade treaty. In Finland's view, arms should not be exported to a destination where there was a risk that they might be used for internal repression or human rights violations.
8. The promotion of non-discrimination should be a priority for the Commission. The empowerment of women contributed to the eradication of poverty, enhanced security and sustainable development. The gender perspective should therefore be mainstreamed in all conflict-prevention and national-reconstruction activities. There was also a need for follow-up to Security Council resolution 1325 (2000) on women, peace and security. The reality was that women all over the world continued to suffer from discrimination and restrictions on their rights, including their reproductive and sexual rights, while trafficking was on the increase.
9. Violence against women was a key human rights challenge in various parts of the world, including Finland. The Special Rapporteur on violence against women had helped raise awareness about different manifestations of that phenomenon, including domestic violence, showing that it could be counteracted through the adoption of adequate legislation and effective policies. The Commission could be instrumental in that process.
10. Sexual orientation remained a source of discrimination and human rights violations in many parts of the world. The Commission could not shy away from addressing such discrimination.
11. The main challenge in the area of human rights was not so much the drafting of new instruments as the implementation of existing ones. Finland intended to look for practical ways of contributing to that goal. What was required, in many cases, was to fine-tune existing standards or to prepare additional instruments geared towards enhanced implementation. For example, economic, social and cultural rights were not always perceived as justifiable, "real" human rights. Finland therefore supported the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights.
12. Cooperation, transparency and participation were important aspects of the Commission's work. Non-governmental organizations and human rights defenders played an important role in that regard. As a member of the Commission, his Government intended to make the Commission's work better known in Finland.
13. Participatory rights were essential for minorities and indigenous peoples. Finland's President had launched the idea of establishing a European Roma Forum in partnership with the Council of Europe. The project had been promoted in cooperation with France, but the Forum had been set up in close cooperation with the European Roma. That example of participation by those concerned could inspire more effective ways of enhancing the rights of minorities and indigenous peoples across the globe.

14. Democracy was undoubtedly gaining ground, but if more people were enjoying its fruits, the trend was not consistent. Efforts to promote democracy, and human rights as its key component, must continue.

15. With regard to the prevention of genocide, it was not enough to remember past tragedies; the tools for preventing large-scale human rights violations from occurring again must be adequate and effective.

#### STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF ARMENIA

16. Mr. OSKANIAN (Armenia) said that 2005 was a critical year for the international community, faced as it was with the need to institute reforms for improving the functioning of the United Nations system as a whole and the Commission on Human Rights in particular. The recommendations contained in the report of the High-Level Panel established by the Secretary-General focused primarily on the Commission because the major problems of the day were closely linked to the enjoyment or non-enjoyment of human rights and public freedoms. Hence the importance of the report, which reviewed the best means for protecting those rights and freedoms and underlined the need for a collective response and for cooperation at all levels, in a global context that had changed dramatically over the past 60 years. In the contemporary world, any local violation of human rights could have catastrophic international repercussions.

17. As a member of the Commission, Armenia believed firmly that the questions of individual and collective security and human rights were closely linked. The Armenian people were particularly sensitive to those questions, having been the first victims of genocide in the twentieth century and because their right to self-determination was still being denied in the region of Nagorny Karabakh.

18. The often chaotic and difficult domestic situation in Armenia in the 15 years following its independence had made the country wary of radical change and revolution. It had therefore opted for gradual progress, focused primarily on the eradication of poverty, protection of the rights of conscientious objectors, judicial reform, political pluralism and efforts to combat human trafficking and expand women's and children's rights.

19. He recalled that the genocide perpetrated against his country under the Ottoman Empire had claimed the lives of two thirds of the Armenian population between 1915 and 1918. The survivors were still waiting for the perpetrators to acknowledge that the genocide had taken place. The international community should call things by their proper name. What was the point of bringing historians together, as the Turkish Government had proposed, to discuss whether or not a genocide had occurred? Armenia rejected that kind of attempt to rewrite history rather than acknowledge it and move on, as other countries had done. In that connection, he drew attention to the need to strengthen the mandate of the Special Adviser to the Secretary-General on the prevention of genocide.

20. There was a regrettable tendency to bow to political interests. The international community did not really support populations victimized by morally bankrupt governments, as illustrated by the example of Azerbaijan, which had had no qualms about using force to suppress the legitimate aspiration of the Armenian population of Nagorny Karabakh to self-determination and had thereby forfeited its right to exercise authority over them.

STATEMENT BY THE SECRETARY-GENERAL OF THE ORGANIZATION OF THE ISLAMIC CONFERENCE

21. Mr. IHSANOGLU (Organization of the Islamic Conference) (OIC) said that the protection and promotion of human rights required resolute efforts to address economic and social problems, such as famine, malnutrition, endemic diseases and illiteracy, that continued to impede human development and that were steadily gaining ground despite the multiple commitments made.

22. He deplored the setbacks suffered by human rights defenders in recent years and stressed that many of the victims of human rights abuses around the world were Muslims. The 11 September 2001 attacks had exacerbated feelings of hatred towards Muslims, allowing negative stereotypes to become entrenched in many people's minds. Islamic values had been demonized and the way of life of one fifth of humanity had been put on trial. The fact that the phenomenon showed no signs of abating had prompted him to bring it to the Commission's attention.

23. In 1990, in a bid to promote human rights awareness in its member States, OIC had adopted a human rights covenant which had been incorporated into the OIC Declaration on Human Rights in Islam, a document based on Islamic values and the Universal Declaration of Human Rights. He recalled that human rights were indissociable from the many rights which Islam accorded to individuals and that the latter were wide-ranging, encompassing human dignity and social welfare. Islam had been founded on principles similar to those underpinning human rights: compassion, justice, equality, transparency and accountability. It prohibited all manifestations of discrimination, racism, corruption or terrorism. A gap did exist between Islamic teachings and their application in some Muslim countries, but he was confident that, with the passage of time, that gap would be bridged.

24. Islamophobia was not a new phenomenon, but it had become more virulent after the events of 11 September 2001. Although OIC and Muslim leaders and scholars throughout the world had condemned those atrocities, Islam and Muslims had nevertheless been demonized. Some Western media had fuelled fear of Islam by linking it with terrorism. Stereotypes and disrespectful comments about Islam had been allowed to circulate and stereotyping in media coverage had become a global sport. The war on terrorism had been accompanied by the introduction of harsh new measures that allowed people to be detained or even tortured without any evidence being produced of their guilt. While some Western governments claimed that the war on terrorism was not directed against Islam, the measures which they had taken had targeted Muslims almost exclusively. Muslims were being harassed and denied their rights and civil liberties, as the Secretary-General himself had confirmed. That state of affairs had also been criticized by the International Helsinki Federation for Human Rights in a report published the previous week. The report, which covered human rights abuses in 11 Western European countries, expressed concern about the rise of Islamophobia, indicating that discriminatory tendencies had been reinforced and that Muslims were increasingly being stigmatized because of their beliefs.

25. Practical measures were needed to reverse that trend, which could have dire consequences. The United Nations General Assembly should adopt a draft resolution prohibiting the use of terms that associated the word "terrorism" with any religion, including Islam. While

he welcomed the commendable efforts of the Special Rapporteur on racism, racial discrimination and xenophobia, he felt that more practical measures were needed to tackle Islamophobia. Some Western countries had laws protecting minorities such as Sikhs or Jews against discrimination on religious grounds in the areas of employment, social services and health, among others, but there was nothing comparable for Muslims.

26. He welcomed the action undertaken by the Organization for Security and Cooperation in Europe (OSCE) to combat all manifestations of intolerance, including Islamophobia, in the OSCE area. OIC stood ready to cooperate with the United Nations and any of its organs or specialized agencies, as well as with concerned European organizations, in order to address that phenomenon and stem its destructive effects.

27. He believed firmly that the current social climate risked creating widespread anti-Western sentiment in the Muslim world and a sense of alienation within Muslim communities in the West.

28. Since its inception, the Commission on Human Rights had been monitoring closely a tragic case of human rights violations, namely, the question of Palestine. The Palestinian people had been denied its right to self-determination and Israel continued to occupy its territory, engaging in illegal practices, some of which were classifiable as war crimes and State terrorism. Commission members unanimously acknowledged that forcible occupation of territory was one of the most vicious forms of denial of human rights, and hundreds of international resolutions called for the Palestinian people to be granted its right to self-determination. By flouting those resolutions, Israel was impeding the application of international law, prolonging the suffering of the Palestinian people and creating an atmosphere of tension and violence that jeopardized peace and security throughout the region. Extrajudicial killings, the demolition of Palestinian homes, army blockades, the confiscation of land, the construction of the separation wall and the deliberate exacerbation of the Palestinian people's plight were all issues which fell within the Commission's mandate and should weigh on the conscience of its members.

29. In Iraq, despite the progress achieved on the electoral front, the humanitarian and security situation remained a matter of concern and increased cooperation was needed to help the Iraqi people regain peace. National reconciliation was a prerequisite for any lasting solution. OIC took the view that the exclusion of any social group from the current political process should be avoided at all costs.

30. OIC was also concerned about the situation of Muslim communities in many parts of the world, particularly the southern Philippines and Myanmar. Recent abuses of the human rights of Muslim Thai citizens in southern Thailand were another source of concern. The situation in Chechnya and the suffering of the Chechen people remained cause for concern and OIC hoped that a peaceful solution would be found to that tragedy. The situation of the Turkish Muslim community in Western Thrace also remained worrying. OIC had adopted a resolution on that subject at its most recent ministerial meeting. In Jammu and Kashmir, notwithstanding the encouraging prospects for political reconciliation between Pakistan and India, OIC remained concerned about frequent human rights abuses in Kashmir and hoped that the current peace process would culminate in a peaceful settlement that took account of the Kashmiri people's legitimate right to self-determination.

31. OIC rejoiced at the conclusion of the final peace agreement in southern Sudan, but was very concerned about the crisis in the Darfur region. It was coordinating its efforts with the African Union and other parties to end the plight of refugees and displaced persons and pave the way for a peaceful resolution of the crisis. It hoped that recent developments in Somalia, namely, parliamentary and presidential elections and the appointment of a new government, would lead to reconciliation and stability.

32. In the aftermath of the tsunami disaster in South-East Asia, OIC, in cooperation with a number of its member States, had established an OIC alliance to rescue child victims of the tsunami. More than 30,000 children orphaned by the tragedy had been registered with the alliance's care programme.

33. In conclusion, OIC firmly supported efforts to defend human rights. Enforcing respect for human rights throughout the world was a great gain for humanity.

#### STATEMENT BY THE COMMISSIONER FOR HUMAN RIGHTS OF MAURITANIA

34. Mr. OULD MEIMOU (Mauritania) said that any reform of the Commission should be approached carefully, objectively and without undue haste. Although there was consensus on the importance of human rights and the priority to be given to their attainment, greater attention should be given to ways of removing obstacles to their enjoyment both at the national level, by promoting democratic societies based on the rule of law, and at the international level, by guaranteeing peace and security and creating an economic climate conducive to development of developing countries. Recent events in the Middle East looked hopeful and the international community should actively support the peace process which the Palestinian and Israeli sides had pledged to revive.

35. With regard to social and economic development, it was clear that, at the current rate, the Millennium Development Goals would not be achieved. Allocating resources to achieving the Goals was more important, therefore, than revamping existing mechanisms or producing new reports. The best way to establish justice and end instability was to eradicate poverty, which was a breeding ground, inter alia, for terrorism. Mauritania strongly condemned terrorism and all recourse to violence, including as a means to gain power.

36. As a party to the main regional and international human rights instruments, Mauritania was fully engaged in a process of political, economic, social and cultural renewal which had considerably improved the population's living conditions. Attachment to human rights values was reflected in key areas of government policy (promotion of the rule of law, women's rights, protection of children, the role of civil society and good governance). Wide-ranging reforms had been implemented in the administration of justice, the education system and the electoral and political system. A major national literacy campaign had been launched, based on a participatory approach mobilizing all sectors of society and replicating the experience of the poverty reduction strategic framework.

37. Social peace and development opportunities helped to consolidate political and social gains. In its determination to embed human rights and a democratic culture, Mauritania had ratified the two international human rights covenants, the Convention against Torture and the



Additional Protocol to the African Charter on Human and People's Rights in 2004, and it supported full political pluralism. At the same time, it was experiencing an unprecedented cultural renewal, spurred on by a campaign to promote the acquisition of knowledge, as well as research, publishing and reading.

38. His Government intended to pursue that path and would, in particular, continue to request technical assistance from OHCHR. The National Plan of Action for the Promotion and Protection of Human Rights, drafted following a participatory process, was one of the main components of the national good governance programme through which the Government hoped to develop a genuine human rights culture.

#### STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF YEMEN

39. Ms. AL-ALEE MSOSWA (Yemen) said she hoped that the session would meet the international community's expectations by enhancing the promotion and protection of human rights while taking account of current burdens and challenges. Many developing countries continued to face obstacles to development, and cooperation must be boosted if political, economic, social, cultural and educational goals were to be achieved. It was heartening that many countries had taken steps to improve their human rights situation and to show more tolerance and respect for freedom of opinion and expression, despite economic, social and legal challenges.

40. The Republic of Yemen, in an effort to build a democratic and fair society that guaranteed security, stability and development, had taken steps to strengthen democracy and human rights. It had reformed its legislation and ratified more than 56 international instruments, promoted respect for public liberties and basic rights and encouraged civil society organizations and political parties to participate actively in the electoral process. It had given unprecedented support to women's participation in society, whether in the public administration, decision-making positions, business, the media or the judiciary. There was still a gender gap, but it was gradually being bridged. The Government had also taken steps to improve health for all without discrimination, reform the judiciary and, in cooperation with civil society organizations, guarantee proper conditions of detention in prisons; there were no political prisoners.

41. The Government had played a vital role in consolidating democracy and respect for human rights. It had hosted the International Symposium on the Dialogue between Cultures and Civilizations and the Intergovernmental Regional Conference on Democracy and Human Rights and the Role of the International Criminal Court and it had participated in the G-8 Summit. It had produced its fourth periodic report on the implementation of the International Covenant on Civil and Political Rights, consolidated its judicial system, made progress on the question of enforced disappearances and ratified the optional protocols to the Convention on the Rights of the Child concerning, respectively, the involvement of children in armed conflict and the sale of children, child prostitution and child pornography. Lastly, it intended to incorporate human rights into school curricula and to draft a law on refugees.

42. In spite of those achievements, Yemen recognized that it was still at the beginning of a very long and difficult road and that human rights abuses still occurred. However, such abuses could be attributed to a lack of institutional development, ignorance and a high illiteracy rate. In order to guarantee the universality of human rights, a new comprehensive international project

was needed, using mechanisms untainted by the shortcomings of the past. She hoped that the Commission would adopt recommendations to help achieve progress in that regard, overcoming all obstacles, particularly those which had arisen after the events of 11 September 2001.

#### STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF ALBANIA

43. Mr. ISLAMI (Albania), associating himself with the statement made on behalf of the European Union, said that ensuring respect for human rights, a difficult but not impossible task, was a fundamental pillar of new democracies such as Albania. Albania was instituting democratic reforms not only because it wished to join the European Union, but also because such reforms were vital for the country's political, economic and social stability. Fully committed to taking on all its responsibilities as a new member of the Economic and Social Council, the Government had submitted its initial reports on the six main human rights instruments and would implement the treaty bodies' recommendations.

44. His Government was working with civil society and the United Nations specialized agencies to consolidate its system for the protection of children, under which children were involved in the planning and implementation of programmes concerning them, and it was in the process of ratifying the optional protocols to the Convention on the Rights of the Child. In 2004, it had adopted the Gender Equality Act, aimed at integrating Albanian women fully in the country's political and social life, and a National Plan of Action on Women had been drawn up in accordance with the Vienna Declaration and the Beijing Platform for Action. The Government was also implementing a national strategy against trafficking in persons and a strategy to combat child trafficking, with a view, inter alia, to strengthening regional cooperation in those areas through bilateral and multilateral agreements. Also in 2004, it had adopted a national strategy on migration management, which would soon be followed by a plan of action. In the framework of the European Union stabilization and association process, the Government had attached special importance to harmonizing its standards on minority protection with European standards. The working group reviewing Albania's legislation on minorities had made its recommendations, which had been incorporated into Albania's plan of action on implementing the European partnership priorities. A mechanism had been created to monitor the implementation of the strategy on the Roma aimed at integrating the Roma community into all aspects of Albanian life.

45. Albania was pleased that the Western Balkans had become a more secure and stable region and that all the countries in the region had adopted a clear European perspective. It was determined to participate more actively in regional cooperation mechanisms in order to improve governance and the protection of human rights, particularly those of women, children and minorities.

46. With regard to the final status of Kosovo, his Government attached great importance to dialogue between Albanians and the Serb minority and to the latter's participation in Kosovo's democratic institutions. It welcomed the courageous decision by Kosovo's former Prime Minister to cooperate with the International Criminal Tribunal for the Former Yugoslavia,

which was evidence of the democratic orientation and maturity of Kosovar society. The appointment of a new prime minister, the maintenance of the momentum which had been gathered and the launching of a dialogue on the final status of Kosovo were vital steps in fostering minority protection and thereby enhancing security and stability in Kosovo and the region as a whole.

47. Lastly, a more representative Commission on Human Rights would allow all countries to contribute more effectively to the promotion of human rights, in accordance with their obligations under the Charter of the United Nations and other human rights instruments, while a stronger role for OHCHR would improve respect for human rights throughout the world and enhance international cooperation in that area.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF SLOVENIA AND  
CHAIRMAN-IN-OFFICE OF THE ORGANIZATION FOR SECURITY AND  
COOPERATION IN EUROPE

48. Mr. RUPEL (Slovenia), speaking in his capacity as Chairman-in-Office of the Organization for Security and Cooperation in Europe (OSCE), said that the human dimension, meaning the protection of human rights, democracy and the rule of law, cut across all aspects of the work of OSCE, which was tasked with monitoring the implementation of agreed standards and helping States to strengthen civil society from the human rights perspective. The mechanisms used for that purpose were the Office for Democratic Institutions and Human Rights, the Office of the High Commissioner on National Minorities, the Representative on Freedom of the Media and field missions. As emphasized in the 1991 Moscow Document, all issues relating to the human dimension were matters of direct and legitimate concern to all participating States and did not belong exclusively to the internal affairs of the State concerned. That approach underpinned OSCE work in all areas.

49. As part of its efforts to stamp out intolerance and discrimination, OSCE had held three major events in 2004 on the following themes: combating anti-Semitism; tolerance and the fight against racism, xenophobia and discrimination; and promoting tolerance and media freedom on the Internet. Three Personal Representatives of the President had been appointed to promote greater tolerance and combat racism, xenophobia and discrimination. Cooperation in that field was vital. In that connection, paragraph 15 of the Maastricht Ministerial Council Decision on Tolerance and Non-Discrimination called on OSCE to intensify its cooperation with relevant international organizations such as the United Nations, the Council of Europe and the European Union, as well as with civil society and relevant non-governmental organizations. In order for basic human rights principles to take root in society, efforts were needed to raise awareness among young people. Accordingly, during its chairmanship of OSCE, Slovenia would devote special attention to human rights education.

50. On the economic and environmental front, migration and integration were priority issues. In the political and military domain, OSCE stressed the need to respect basic human rights principles when confronting security challenges, and it had drawn up a code of conduct on political and military security that established norms for the conduct of armed forces in democratic societies. It was also developing its policing capacities in order to help States address the threats posed by criminal activities and uphold the rule of law. In its counter-terrorism work, OSCE cooperated closely with the relevant United Nations institutions,

while its work on combating trafficking in human beings was geared towards strengthening the capacity of States with respect to investigation, law enforcement and prosecution. He had had interesting talks on that subject the previous day in Moldova.

51. A lively debate was under way in OSCE. Some States wanted to reform the Organization, which they perceived as applying double standards and failing to use the same evaluation criteria for all States, particularly when it came to election monitoring. While the views of those States had to be taken into consideration, it must be made very clear that human rights were non-negotiable.

52. The year 2005 marked the thirtieth anniversary of the Helsinki Final Act, an historic document embodying the key link between security and human rights which had been a source of inspiration for human rights activists during the communist era. The principles of the Helsinki Final Act were still relevant. For example, principle 7 stated that respect for human rights and fundamental freedoms was an essential factor for the peace, justice and well-being necessary to the development of friendly relations and cooperation among States.

53. Speaking in his capacity as a representative of the Slovenian Government, he said that Slovenia supported the strengthening of OHCHR, including by increasing its budget. The strengthening of OHCHR was also one of the main recommendations made in the report of the High-Level Panel on Global Threats, Challenges and Change. He welcomed the fact that the human dimension figured prominently in the recommendations, particularly the recommendation on close cooperation between OHCHR and the Security Council. While the Security Council's increased sensitivity to gross violations of human rights was a welcome development, it should also pay attention to chronic violations, which were not always in the media spotlight. He hoped that the summit to be held in New York in September 2005 would mark the beginning of a new era of active implementation of human rights standards and increase the overall effectiveness of the United Nations human rights system. Slovenia also supported the United Nations Action 2 programme aimed at strengthening national protection systems.

54. Human rights protection was a central concern of Slovenia's foreign policy. Slovenia had helped improve the humanitarian situation in post-conflict areas such as Bosnia and Herzegovina, Kosovo, Timor-Leste and Afghanistan. It was particularly proud of its psychosocial rehabilitation programmes, which had helped more than 200,000 children. Slovenia also took part in demining activities in South Eastern Europe and the Caucasus, through the International Trust Fund for Demining and Mine Victims Assistance. Lastly, his Government had decided to take its commitment to the promotion and protection of human rights worldwide one step further by presenting its candidacy for membership of the Commission on Human Rights for the period 2008-2010.

#### STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF MEXICO

55. Ms. OLAMENDI (Mexico) welcomed the previous day's statement by the High Commissioner for Human Rights urging Governments to rethink the Commission's work and to consider the need to transform it into an instrument that was truly capable of preventing human rights violations and protecting the victims of such violations. She also welcomed the

process of reflection and discussion on United Nations reform initiated by the Secretary-General of the United Nations with a view to presenting a set of proposals to the high-level plenary meeting of the General Assembly at its sixtieth session. Mexico was actively involved in that process and had promoted, together with other States, the establishment of the Group of Friends for United Nations Reform. The Group had presented the Secretary-General and the President of the General Assembly with 14 non-papers, including one on reform of the human rights area.

56. Her Government took the view that reform should be system-wide and should mainstream a human rights perspective in all areas of the Organization's work. It should also emphasize the importance of the promotion and protection of human rights as key elements for conflict prevention. Her Government was open to proposals such as those for including all States Members of the United Nations in a new Commission on Human Rights, as long as the increase in membership was not an end in itself but a means to enhance that body's authority within the system. Mexico was also considering whether the High Commissioner might prepare a global report on the human rights situation, using all available sources of information. Lastly, reform of the human rights area should not be limited to the Commission, but should involve a re-examination of the roles of all the relevant bodies, mechanisms and procedures and include measures to improve the financial and budgetary position of OHCHR.

57. At the regional level, Mexico was promoting spaces for dialogue, discussion, exchanges of experience and cooperation among the countries of Latin America and the Caribbean. The more than 500 million people living in the region expected their Governments to implement policies and laws guaranteeing respect for human rights.

58. Mexico had ratified the vast majority of human rights instruments; to implement them, it had established institutional mechanisms, proposed legislative reforms, developed a national human rights programme and widened opportunities for participation by civil society.

59. She thanked the High Commissioner and the Commission's special rapporteurs for their support and cooperation and non-governmental organizations for their help in implementing international human rights instruments, particularly those concerned with torture. International norms clearly prohibited torture under any circumstances and there was no room for their reinterpretation. Mexico had ratified the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its prosecutorial authorities were bound by the Istanbul Protocol, which contained practical instructions on medical evaluations of persons alleged to be victims of torture.

60. Mexico welcomed the decision taken by various States not to impose the death penalty on minors or persons who were minors when they committed a criminal offence. Not only was the imposition of the death penalty contrary to human rights, but its efficiency was highly questionable. With regard to women's rights, the enjoyment of which was often hampered by violence, her Government had promoted the establishment of a follow-up mechanism to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, or Convention of Belém do Pará. Mexico was the first country to have asked the Organization of American States to use the new mechanism to evaluate it.

61. Her Government was committed to the fight against terrorism, but stressed that it must not undermine human rights. Millions of human beings were marginalized by the unjust international economic order and the rights of migrants, as people searching for better living standards who also benefited host societies, must be guaranteed. Mexico called on all States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and thus become part of the group of States that had ratified the seven fundamental instruments on the promotion and protection of human rights. Lastly, the international community was working on a convention to protect the rights of persons with disabilities. It would be desirable to conclude as soon as possible a comprehensive instrument that protected such persons from discrimination.

#### STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF INDONESIA

62. Mr. WIRAJUDA (Indonesia) thanked the international community for the help which it had given to his country in the aftermath of the earthquake and tsunami disaster that had struck the Indonesian provinces of Aceh and North Sumatra on 26 December 2004. The election of Mr. Wisobono as Chairperson of the Commission reflected not only recognition of his personal qualities but also the trust placed by the Commission in Indonesia.

63. Indonesia had won its independence after a centuries-long struggle against colonial rule. It found it unacceptable that the Palestinian people was still being denied its right to independence and hoped that the recent positive developments in the Middle East would soon lead to the establishment of an independent Palestinian State living alongside Israel in peace and security.

64. Since Indonesia had gained its independence, the issue of human rights had not always shown the country in its best light. The experience of six decades had shown that human rights and fundamental freedoms were indivisible and that a balance must be maintained between political and civil rights on the one hand and economic, social and cultural rights on the other. For more than three decades, the Government had focused on promoting economic rights, demanding in return that the people accept an authoritarian regime. Throughout that period, Indonesia had seen a surge in economic growth, becoming a major player in the so-called Asian economic miracle. The authorities at the time might have guaranteed economic prosperity, but they had also sought to monopolize power by suppressing freedom of the press, freedom of expression and freedom of assembly. The 1969 Anti-Subversion Act had been the main tool for purging dissent. However, when the Asian financial crisis had struck in 1997-1998, the Indonesian economy had collapsed. No longer able to capitalize on economic success, the regime had lost its legitimacy and, in response to the people's desire for democratization, an era of reform had been launched.

65. The Indonesian press was currently among the freest in the world and, together with a dynamic civil society, served as an important pillar of democracy and human rights. The promotion and protection of human rights had become a top priority in the reform process. The 1969 Anti-Subversion Act had been repealed in 1999. The 1945 Constitution had been amended to include an entire chapter on the principles enshrined in the International Covenant on Civil and Political Rights, and a new human rights law had been enacted. Human rights courts had been established, including an ad hoc human rights court to try cases of reported human rights violations committed prior to and immediately after the referendum held in East Timor in 1999.

The country's main political institutions had also been reformed. The mandate and powers of the President, which had once been absolute, had been curtailed and the elected Parliament was no longer merely a rubber stamp for the executive branch. The judiciary was now managed by the Supreme Court independently of the Ministry of Justice. The national police had been separated from the armed forces and the latter had been relieved of all its socio-political functions and was no longer represented in Parliament.

66. The people had taken their destiny into their own hands. The year 2004 had been a watershed in Indonesia's history; in the space of only six months, there had been three national elections - one parliamentary and two presidential. For the first time in the country's history, the President and Vice-President had been elected directly by the people. Some 125 million voters had voted at one or other of the 575,000 polling stations on some 6,000 islands in the archipelago. Indonesia had, indisputably, become the world's third-largest democracy. Contemporary Indonesia should therefore be measured not by the yardstick of the past, but in the context of ongoing reforms.

67. There would be more changes in the months and years ahead. The Government was taking vigorous action to consolidate economic recovery and attract foreign direct investment to help drive economic growth. On the political front, regional autonomy was being enhanced and democratic processes were being strengthened. Soon, governors and other local officials would be elected directly by the people. At the same time, the Government needed to ensure that social and economic rights were defended as robustly as civil and political rights.

68. With regard to the debate about democracy, human rights and security, he said that terrorism had taken a heavy toll on Indonesia. Three bombings in the past three years had claimed the lives of hundreds of innocent civilians, both Indonesians and foreigners. Thanks to international cooperation, the authorities were proud to have succeeded not only in apprehending the perpetrators and dismantling their networks, but also in bringing them to justice in accordance with due process of law. Democracy, human rights and security were not incompatible; on the contrary, human rights and good governance were instrumental in containing the scourge of terrorism.

69. Like other countries in transition towards democracy, Indonesia had to deal with the legacy of past injustices. A new law had established human rights courts to try cases of grave violations of human rights. As the experience of other countries had shown, standard prosecution and trial mechanisms could not be relied upon to uncover the truth and break the cycle of revenge. Accordingly, a truth and reconciliation commission had been established in 2004 to allow perpetrators and victims of the violations committed in East Timor to tell the truth about what had happened. Working closely with the Government of Timor-Leste, the Indonesian authorities had successfully promoted reconciliation between the two Governments and peoples. The leaders of the two countries had decided, on 14 December 2004, to establish the Commission of Truth and Friendship, the terms of reference of which had been adopted on 9 March 2005. The Commission, which would begin its work by August 2005, had a one-year mandate, renewable once.

70. Having been a member of the Indonesian delegation to the Commission on Human Rights since 1989, he felt justified in observing that the Commission's work had become over-politicized, that there was insufficient dialogue between the Commission and important stakeholders and that there had not been sufficient investment in technical cooperation. One straightforward way of bringing the Commission into closer contact with realities on the ground would be to alternate sessions between Geneva and locations outside Switzerland. Many countries would gladly host a session of the Commission, as that would promote public education and foster dialogue among the relevant stakeholders. Indonesia was one such country.

#### STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF THE NETHERLANDS

71. Mr. BOT (Netherlands) welcomed the High Commissioner's active engagement in the promotion of human rights, especially in the Action 2 initiative. He drew attention to the report by Ms. Asma Jahangir, the Special Rapporteur on freedom of religion or belief, which confirmed the urgency of that issue. As the Special Rapporteur had stressed, it was necessary both to protect freedom of religion or belief and to prevent abuses from being committed in the name of religion. Unfortunately, some Governments did not respect, let alone protect, freedom of religion or belief. In Belarus, for instance, the Government had refused to allow hundreds of worshippers to convert a stable which they had been using as a place of worship into a church, and in Turkmenistan, the President forced mosques to place a book of his own teachings next to the Koran. The right not to believe, or to adhere to humanist views, must also be respected. He agreed with the Special Rapporteur that the right to freedom of religion should not be conditional upon formal registration of a particular religion. States should refrain from all discriminatory practices, whether with respect to traditional or non-traditional religions or beliefs or non-belief. Lastly, States must respect the rights of religious minorities, irrespective of size.

72. Violence perpetrated in the name of religion posed a real dilemma: how were countries to protect themselves from intolerance without becoming intolerant themselves? In other words, what measures should a Government take to protect its citizens from religious extremism while also preserving an open and democratic society? The Netherlands had been confronted with that dilemma following the murder of Theo Van Gogh, the Dutch filmmaker and descendant of the famous painter's brother. Such situations became particularly complex and tragic when individuals tried to take their own religion hostage, dismissing moderate believers as heretics or even non-believers, and when disoriented young people in search of direction were drawn to religious extremism. There was a vital need for discussion of all those and other issues, including the practice of female genital mutilation, which some attempted to justify on religious grounds. In that connection, he called for efforts to revitalize the Global Agenda for Dialogue among Civilizations, adopted by the United Nations in 2001. The launching of inter-faith dialogue, particularly under the auspices of UNESCO, was a positive sign and OHCHR should participate in such activities. He also called on the Commission to support the resolution on the elimination of all forms of intolerance and discrimination based on religion or belief to be introduced at the current session.

73. Lastly, he welcomed the fact that reform of the Commission on Human Rights figured prominently in the High-Level Panel's report. In his view, the Commission should be composed of representatives of the widest possible variety of cultures and identities, provided that the notion of "culture" did not become an excuse for ignoring, or even condoning, human rights abuses. Action was needed, not motions for non-action. In addition, the establishment of a



human rights council occupying a position similar to that of the Economic and Social Council, the General Assembly or the Security Council could help strengthen the United Nations human rights system. His Government would welcome an exchange of views on those recommendations with a view to further discussion at the Millennium Development Goals Review Summit to be held in September 2005.

#### STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF CYPRUS

74. Mr. IACOVOU (Cyprus) joined previous speakers in welcoming the recommendations contained in the report of the High-Level Panel. However, he believed that the reform process should not focus exclusively on the Commission on Human Rights, but should also involve the treaty bodies and OHCHR. He therefore welcomed the recommendation on increasing funding for OHCHR in order to strengthen its independence. As a member State of the European Union, Cyprus concurred fully with the statement made by the Minister for Foreign Affairs of Luxembourg on behalf of the European Union.

75. Turning to the situation in his own country, Cyprus, he informed the Commission that he had been one of the main witnesses in the hearings held by the European Commission of Human Rights on three inter-State applications by the Republic of Cyprus against Turkey. He had also been involved in promoting the human rights of his fellow countrymen in various European forums and subsequently in the Commission on Human Rights. The Commission was therefore familiar with the question of human rights in Cyprus, which had been on its agenda since 1975 and was the subject of Commission on Human Rights resolution 1987/50 calling for the full restoration of all human rights to the population of Cyprus, and in particular to the refugees. There was no doubt that those rights had been violated by the 1974 invasion and the ensuing occupation, as confirmed by the rulings given by the European Commission on Human Rights in the cases brought before it. He recalled, in particular the case of Loizidou v. Turkey, in which the European Court of Human Rights had ruled that Turkey had violated Ms. Loizidou's property rights in occupied Cyprus.

76. Although international tribunals had found that Cypriots' human rights had been violated, no remedies had been provided. There were many reasons for that state of affairs, including, first and foremost, the problem of obsolescence and oblivion. There were those who believed that the fact that a situation had obtained for a long time made it obsolete, allowing it to be cast into oblivion. However, there was no statute of limitations on human rights violations. If victims did not obtain remedies, it was because of international indifference or incompetence. Moreover, some cynics suggested that indefinite postponement was the ultimate remedy. He recalled a former Prime Minister declaring that the problem of missing persons would be solved when the parents of the missing were dead.

77. It was political considerations, however, that had been principally responsible for the lack of progress in the restitution of Cypriots' human rights. Despite the rulings of the European Commission of Human Rights, the Committee of Ministers of the Council of Europe had been unwilling to impose sanctions on Turkey. If things had begun moving in 1996, it was not thanks to the European Commission of Human Rights but to the European Commission, which had made payment of compensation a condition for the commencement of negotiations on Turkey's accession to the European Union.

78. In the same vein, ever since the Greek Cypriot community had rejected the United Nations settlement plan, it had been blamed for all the bad things which had happened to it, including the influx of Turkish settlers and the sale to European investors of land belonging to Greek Cypriots in exile. The fact that the Greek Cypriots had rejected the plan did not mean that they refused to accept any solution to the Cyprus problem. The population wanted the problem solved by means of a referendum, as agreed in New York in February 2004. Cypriots wanted an immediate solution in which all their rights would be respected in a bicomunal, bizonal federation.

79. In conclusion, the protection and promotion of human rights were non-negotiable and could not be sacrificed to political considerations.

80. Mr. Escudero (Ecuador), Vice-President, took the Chair.

81. Mr. AMRIBAYOV (Azerbaijan), speaking in exercise of right of reply, said that the statement by the Minister for Foreign Affairs of Armenia had come as no surprise, since Armenia liked to pass itself off as an eternal victim. That country seemed to have forgotten the ethnic cleansing operations which it had carried out and the influx of refugees and displaced persons caused by its illegal settlement of land in Nagorny Karabakh. Three weeks previously, Azerbaijan had commemorated the occupation of the town of Khojali, in which hundreds of Azeri civilians had been massacred by the Armenian army. Owing to lack of time, he referred the Commission to his written statement, which contained a detailed analysis of the legal status of Nagorny Karabakh. In any case, Armenia's statement showed that the country had absolutely no intention of seeking a peaceful settlement to its dispute with Azerbaijan over Nagorny Karabakh.

The meeting rose at 1 p.m.