



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/2005/SR.4
2 August 2005

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-seventh session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 27 July 2005, at 10 a.m.

Chairperson: Mr. KARTASHKIN

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

later: Mr. KARTASHKIN
(Chairperson)

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GE.05-15060 (E) 280705 020805

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COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES:
REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS
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The meeting was called to order at 10.10 a.m.

ORGANIZATION OF WORK (agenda item 1) (E/CN.4/Sub.2/2005/2-5;
E/CN.4/Sub.2/2005/CRP.1; E/CN.4/Sub.2/2005/NGO/7; E/CN.4/Sub.2/2004/46;
E/CN.4/2005/90, annex) (continued)

1. The CHAIRPERSON asked whether the regional groups had decided on the membership of the sessional working groups.
2. Mr. BOSSUYT said that the Group of Western and other States wished to nominate Mr. Alfredsson to serve on the working group on transnational corporations, Ms. Hampson to serve on the working group on the administration of justice and Ms. Koufa to serve on the working group on terrorism.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (E/CN.4/Sub.2/2005/NGO/2-5, 7, 8, 10, 13, 15, 16, 21, 28, 29 and 31) (continued)

3. Mr. LE BLANC (Dominicans for Justice and Peace), speaking also on behalf of the Dominican Leadership Conference and Franciscans International, said that the people of Iraq were still suffering from the extreme violence and insecurity in the country. Almost 25,000 civilians, police officers and army recruits had been killed or wounded since the beginning of the war in March 2003. Over 2,000 people, mostly civilians, had been killed in suicide bombings. Over 14,000 members of the United States-led Coalition forces had been killed or wounded. Access to health care, education and services such as electricity and gas was affected.
4. One of the major priorities of the new Iraqi authorities and the Coalition was to re-establish security and protect the civilian population. It was essential to restore the rule of law and bring offenders to justice.
5. The United Nations no longer had a special rapporteur or a presence in Iraq to monitor the human rights situation there. He called upon the Sub-Commission to discuss the human rights situation in Iraq at its current session, and to bring the urgent necessity for a special monitoring procedure to the attention of the Commission on Human Rights, either in a communication or in the summary records of the session.
6. Ms. O'NEILL (International Federation of Human Rights Leagues) expressed the concern of her own organization, the League for the Defence of Human Rights in Iran and the Defenders of Human Rights Center about the resurgence of human rights violations in the Islamic Republic of Iran, the persecution of the Baha'i minority and the corrupt presidential elections. Two teenage boys, one aged 18 and one still a minor, had been publicly flogged and hanged in Mashhad on 19 July, apparently because they had been homosexuals. Over 30 minors were awaiting execution in the Islamic Republic of Iran, despite the concluding observations

adopted by the Committee on the Rights of the Child in January 2005, in which the Committee had called upon the Government to suspend the execution of all death penalties imposed on persons for having committed a crime before the age of 18 (CRC/C/15/Add.254, para. 30). She was also concerned about the deteriorating health of an Iranian journalist, Akbar Ganji, currently on hunger strike in prison.

7. The Israeli withdrawal from Gaza would not resolve a situation which was intolerable for the Palestinian population. Israeli border checks would continue, no provision had been made for travel between Gaza and the West Bank and the Israeli settlers might simply be transferred to East Jerusalem or the West Bank. Travel and economic activity within Gaza were affected, which contributed to the area's increasing poverty. She was also concerned about proposed amendments to the Israeli law on civil liability, which would prevent Palestinians from claiming compensation for damage caused by the Israeli armed forces.

8. In Uzbekistan, the army had opened fire on demonstrators in the city of Andijan on 13 May 2005. The official death toll was 200, but other groups claimed that up to 700 people had died. The Office of the High Commissioner for Human Rights (OHCHR) had sent a mission, but it had not been allowed into the country. Several hundred refugees had fled to the Russian Federation and Kyrgyzstan, but some had since been sent back to Uzbekistan, where they had been arrested.

9. She was concerned about the situation of human rights in the Russian Federation, particularly the persistent violations taking place in Chechnya. A recent move to place the appointment, dismissal and disciplining of judges and the judicial administration in the control of the executive would jeopardize the independence and impartiality of the administration of justice in that country.

10. Turning to Africa, she said that the presidential elections in Togo in April 2005 had been marred by fraud on a massive scale and by violence between law enforcement officials and opponents of the newly elected President, Faure Gnassingbé. Several hundred civilians had been executed, and opposition militants, journalists and human rights activists were still being persecuted by the militia. Violent clashes between communities in Côte d'Ivoire continued, and had caused several hundred deaths. The International Federation of Human Rights Leagues and the Mouvement ivoirien pour les droits de l'homme (Ivorian Movement for Human Rights - MIDH) called for the report of the international commission of enquiry into the human rights violations in Côte d'Ivoire between 2002 and 2004 to be made public and its recommendations to be implemented.

11. Her organization was still concerned about detention conditions and alleged torture in prisons under the jurisdiction of the United States at Guantánamo and in Afghanistan and Iraq. No special rapporteurs of the Commission on Human Rights had been allowed to visit the Guantánamo detention centres: the Commission had accordingly decided to study the situation there on the basis of credible information available from other sources, under four of its special procedures mechanisms. The United States was considering making permanent 14 of the 16 clauses of the Patriot Act, which violated many of the country's international human rights obligations.

12. Ms. AULA (Franciscans International) said that barbaric acts of violence continued to take place throughout the world. In Zimbabwe, hundreds of thousands of people had been expelled from their homes, and the Government continued to threaten national and international humanitarian organizations. At the global level, forced labour and trafficking in persons gave cause for serious concern, as shown by the International Labour Organization report “A global alliance against forced labour”.

13. It was the responsibility of States to protect and ensure respect for human rights. She welcomed the Economic and Social Council’s decision, taken earlier that week, not to endorse decision 2005/11 of the Commission on Human Rights, which called for the preparation of a new version of the pre-draft declaration on human social responsibilities. She was concerned that the principle of prohibition of torture under any circumstances seemed to have been eroded in the fight against terrorism. Her organization called upon the Sub-Commission to adopt a resolution reaffirming the principle of prohibition of torture even in exceptional situations, including situations of terrorism. The Sub-Commission should emphasize the responsibilities incumbent upon States as the major actors in international law, in order to improve the protection of individuals and groups. The Sub-Commission should consider how international jurisdictional institutions could adapt to new types of human rights violations. For instance, the International Criminal Court might be empowered to try international traffickers engaged in contemporary forms of slavery. In the present climate of reform within the United Nations system, the Sub-Commission should show the Commission how valuable a role it could play in the protection and promotion of human rights.

14. Mr. MONOD (International Fellowship of Reconciliation) said that Jehovah’s Witnesses were persecuted in a number of countries, including Armenia and Uzbekistan, because of their refusal to undertake compulsory military service. In the Republic of Korea every year, approximately 700 conscientious objectors, most of them Jehovah’s Witnesses, were sentenced to between 18 months’ and 2 years’ imprisonment. After their release, they were debarred from Government employment and a number of other jobs because they had a criminal record. Over the previous 50 years, some 10,000 Jehovah’s Witnesses had refused to undertake military service: some of them had been imprisoned repeatedly for that single “offence”.

15. He called upon the Government of the Republic of Korea to abide by the provisions of the International Covenant on Civil and Political Rights, to which it was a party. The increasing incidence of conscientious objection on anti-war and pacifist, rather than religious, grounds had made it more than a simple human rights issue: conscientious objection was becoming a non-violent movement for peace.

16. Mr. VALDES (American Association of Jurists) said that the human rights situation in Haiti had deteriorated further since the coup d’état of February 2004. Only \$90 million of the pledged \$1.1 billion of foreign aid had actually been received. The peacekeeping troops sent by the Latin American countries remained mere bystanders, while the real power lay in the hands of States which had no desire to see democracy, prosperity or self-determination in Haiti. Murders and other human rights violations were a daily occurrence. According to the World Food Programme in Haiti, 76 per cent of people lived on less than \$2 per day. The unemployment rate was well over 50 per cent.

17. Elections were planned for November 2005, but only 200,000 of the 4.5 million people entitled to vote had been registered, according to official figures. The elections could, therefore, not be truly representative, and would merely return a government which would be a puppet of those States which had provoked the coup d'état. The Sub-Commission should urge the international community to fulfil its promises of assistance and ensure that the elections were held in a climate of security, freedom of expression and universal participation.

18. The country office of OHCHR in Colombia had strongly criticized the "Justice and Peace" law adopted by the Colombian Congress on 22 June 2005 which, it said, promised generous reductions in prison sentences to people who had committed serious offences and might thus be tantamount to providing impunity. He called upon the Sub-Commission to adopt a resolution endorsing that statement.

19. Mr. OZDEN (Europe-Third World Centre) said that the proposed reform of the United Nations human rights system might threaten the very existence of the Sub-Commission. In the current climate of the fight against terrorism, he doubted whether any new human rights body would be strong, effective or fully representative. In his opinion, the present system, in which activities were shared between OHCHR, the treaty-monitoring bodies, the Commission's special procedures and the Sub-Commission, worked well. It would be better to strengthen the existing mechanisms (including OHCHR, which should become more independent) rather than create new ones.

20. His organization's views on the reform process were available in a statement issued jointly with the American Association of Jurists (E/CN.4/Sub.2/2005/NGO/7). It was essential to preserve the Sub-Commission as a body of independent experts, and it was also vital to ensure the continued participation of NGOs in the work of all United Nations human rights bodies. The Sub-Commission must make clear its views on the proposed changes, and particularly its own place in a reformed United Nations human rights system.

21. Mr. KATYA (Society for Threatened Peoples) said that his organization was gravely concerned about the declared intention of the Government of the People's Republic of China to appoint the next Dalai Lama, or spiritual leader of the Tibetan people, on the death of the present Dalai Lama, now aged 70.

22. Gedhun Choekyi Nyima, whom the Dalai Lama had pronounced to be the eleventh reincarnation of the second-highest-ranking spiritual leader, the Panchen Lama, had disappeared in 1995, at the age of 6. His present whereabouts, and those of his parents, were unknown, but the Chinese Government had stated that he was in good health and living under Government protection in order to safeguard his privacy. The Committee on the Rights of the Child, the Working Group on Enforced and Involuntary Disappearances of the Commission on Human Rights and Mrs. Mary Robinson, during her term of office as High Commissioner for Human Rights, had asked for information about his whereabouts, but to no avail.

23. The campaign to promote atheism in Tibet had led to restrictions on public expressions of faith, including pilgrimages and the hoisting of prayer flags. The very essence of Tibetan Buddhism was under threat. He appealed to the Sub-Commission to reaffirm its

resolution 1991/10, which urged the Chinese Government fully to respect the fundamental human rights and freedoms of the Tibetan people, and to support the request of the Committee on the Rights of the Child to visit Gedhun Choekyi Nyima in order to ascertain his physical and mental state, level of education and cultural awareness.

24. Ms. ALAI (Baha'i International Community) said that persecution of members of the Baha'i community in the Islamic Republic of Iran had intensified since the beginning of the year. In January, three Baha'i homes had been attacked in the city of Yazd, and in February a cemetery there had been desecrated. Those events had coincided with a defamation campaign against the Baha'i faith in the Government-controlled media. Between March and May, 37 Baha'is had been arrested in Teheran, Shiraz and elsewhere. Most of them had been detained without charge for up to three months, and had been released only on payment of substantial bail. Only one had been convicted. Baha'is were prevented from participating in religious gatherings or attending university. Younger members of the community encountered discrimination which made it hard for them to earn a living, while older members were denied their rightful pension.

25. There was no reason why the Baha'is should be treated as they were by Government officials who enjoyed total impunity. The Baha'is had been systematically targeted for many years because they refused to give up their faith. She called upon the Sub-Commission to express its grave concern about their situation.

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

27. Mr. ALY (Interfaith International) drew the Sub-Commission's attention to the situation of the Saharawi population in Western Sahara, which had worsened considerably since 21 May 2005 following the violent repression of peaceful demonstrations calling for the right to self-determination and a stop to the flagrant human rights violations committed with impunity by the Moroccan regime. There had been hundreds of victims, dozens of Saharawi homes had been ransacked and more than 35 human rights activists detained, one of whom, Aminatou Haidar, had been savagely tortured and deprived of treatment, visits or a fair hearing.

28. Morocco's response had been widely condemned by international organizations, including Amnesty International, political parties in various countries including France, Spain and Italy, and members of the European and national parliaments. However, delegations made up of members of parliament, NGOs and journalists had been turned back on arrival at the airport of El Aaiun and thus prevented from investigating the situation.

29. There was reason to fear that the situation would escalate into full-scale ethnic cleansing in the region. It was therefore urgent to put an end to the grave human rights violations by providing effective protection to the Saharawi population through the United Nations Mission for the Referendum in Western Sahara. All human rights defenders and Saharawi political prisoners should be released immediately and unconditionally, and the whereabouts of more than 500 disappeared Saharawis should be clarified. An international mechanism should be established to monitor the human rights situation in Western Sahara and the territory should be opened up to observers, the press and international organizations. The

perpetrators of human rights violations should be brought before an impartial and independent tribunal. The 2,500 km-long “wall of shame” erected by Morocco, and its accompanying anti-personnel mines, should be demolished. Finally, the Saharawi people should be allowed to fully exercise their right to self-determination through a free and democratic referendum.

30. Mr. KASHMIRI (European Union of Public Relations) condemned the human rights situation in Jammu and Kashmir and Pakistan. Recent examples of the continuing widespread human rights violations included the killing on 20 July 2005 of eight people in Gilgit by Inter-Services Intelligence agents and army personnel masquerading as unidentified gunmen. Large contingents of police had been deployed to suppress any political protests against those brutal killings of innocent people.

31. The Human Rights Commission of Pakistan (HRCP) had cautioned the Government against using the war against terrorism to create a reign of fear in the country, and had condemned the death of 15 women and children in a recent operation by security forces in Miranshah. The fact that human rights activists and media were denied access to those areas made it impossible to establish the truth behind the authorities’ contention that the attacks had been directed at terrorists. The HRCP had demanded that an inter-parliamentary mission should be sent into the area to assess the human rights situation.

32. Military dictator General Musharraf had retained power on the basis of a rigged referendum, manipulated elections and an unconstitutional Legal Framework Order, and weak, unstable and corrupt governments had been installed while leaders of major political parties remained in exile. Religious intolerance and theo-fascism continued to make inroads into the polity, with obscurantist forces that preached religious intolerance and hatred assuming power at the provincial level. The result had been an increase in the frequency and intensity of sectarian violence. Political activists were harassed, imprisoned and tortured.

33. The European Union of Public Relations called upon the Sub-Commission to recommend the establishment of a mechanism to examine the human rights situation in Pakistan and Jammu and Kashmir, and suggest methods of redress for victims of human rights violations.

34. Mr. RUIZ (International Association against Torture) said that the Chilean Government had drafted Act No. 19,992, aimed at establishing the truth and compensating victims, on the basis of the report of the National Commission on Political Imprisonment and Torture, to which thousands of Chileans had testified. However, the new law violated various international conventions to which Chile was a State party. For example, although article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment clearly stated that all States must punish the crime of torture, Act No. 19,992 provided that documents and testimony submitted to the National Commission should be kept secret for 50 years. That provision also violated the Inter-American Convention to Prevent and Punish Torture, according to which States parties should guarantee an impartial hearing to all alleged victims of torture, as judges were refused victims’ testimony. The law also violated the Convention against Torture on the question of reparation and compensation, in that the Government awarded an “austere, minimal and symbolic” monthly allowance of approximately \$200, which was not adequate. To argue that such minimal compensation was justified by the fact that the country was not yet sufficiently

developed was unacceptable, particularly when it was considered that perpetrators of torture were detained in specially constructed prisons for military personnel convicted of human rights violations, and the armed forces, in addition to their regular budget, received 10 per cent of the revenue from the sale of copper, the country's principal resource.

35. Among other violations, the law did not consider the damage caused to the spouse and children or cases where a torture victim died while in exile, and did not entitle detained children to their own allowance.

36. An association of 160 former underage victims of political imprisonment and torture had recently publicly condemned the fact that the Ministry of the Interior was negotiating underhandedly with the victims of certain cases that had been excluded from the Commission, presumably to weaken the unity of organizations of former political prisoners and force them to negotiate separately. The association was seeking the establishment of a permanent dedicated commission to recognize and compensate victims of torture and a new law on reparation which recognized widows and children. Minors should also be recognized as direct victims of torture and political imprisonment, the provision guaranteeing 50 years of silence and impunity should be eliminated, and perpetrators of torture prosecuted.

37. His organization called upon the Sub-Commission to urge the Chilean Government to respect the aforementioned international instruments and accept the recommendations of the Committee against Torture in terms of guaranteeing the full protection of human rights, investigating reports of torture, punishing perpetrators and providing fair and adequate compensation to victims.

38. Mr. LAHUI (Indigenous World Association) drew the Sub-Commission's attention to recently enacted United States legislation on the federal recognition of the Kanaka Maoli Indigenous Hawaiians, entitled the Native Hawaiian Government Reorganization Act, or the Akaka Bill, modelled on the 1971 Alaska Native Claims Settlement Act (ANCSA). In response to the legislation, indigenous organizations had stated that the sovereignty of the indigenous Hawaiians was inherent, and the United States must recognize their sovereignty and right to full self-determination under international law and cease its illegal occupation of the country.

39. The United States imposed dominion in Hawaii and Alaska in violation of the Constitution of the United States, the Charter of the United Nations and international law. Regrettably, the United States Congress was using the ANCSA model to nationalize international situations through federal legislation. The Akaka Bill disregarded the international status of the Kingdom of Hawaii, a formerly independent State.

40. The Indigenous World Association recommended that the Sub-Commission should reconsider the question of what was country-specific, and use the precedent of Sub-Commission resolution 2001/1 as a means of thematically addressing such situations.

41. Ms. SAHUREKA (International Association of Democratic Lawyers) condemned the persistent human rights abuses being perpetrated by Indonesia in Maluku. Over the previous year, tens of thousands of people from the overpopulated island of Java had been settled in Maluku and had received land titles to the indigenous Alifuru land, thus ousting many original

inhabitants from their ancestral grounds. The situation was exacerbated by the Indonesian Laskar Jihad and the predominantly non-Indonesian Laskar Mudjahidin forces, which had reiterated their Jihad against Maluku in February 2005. They had transformed the lands into training grounds and were the cause of the eruptions of violence such as the bomb blast in Loki in May, which had killed seven people.

42. The Indonesian authorities accused the Maluku people of causing the war in their homeland, but the true cause was the military occupation of Maluku since 1950. The Indonesian State had obstructed the decolonization process and replaced Dutch colonialism with Indonesian neo-colonialism. The unitarian State of Indonesia had come into being in August 1950, almost four months after the proclamation of independence of the Republic of South Moluccas (RMS). After 55 years, Moluccan nationalists were still being killed, persecuted, mistreated, tortured and detained for flying the RMS flag. Religious segregation still existed at work and in schools, and roadblocks separated the Christian and Muslim areas. Young boys and teenage girls were forcibly abducted from their parents who, out of fear of reprisals by local Indonesian military, did not file complaints. The Indonesian perpetrators of human rights violations in Maluku enjoyed full impunity.

43. Her organization recommended that the Sub-Commission should send a letter to the Commission, indicating its urgent concern with regard to the serious human rights violations in Maluku. Peace in Maluku could only be restored if all Indonesian forces and the Javanese transmigrants left. Indonesian military and their Jihad and Mudjahidin forces should be indicted before an international tribunal.

44. The International Association of Democratic Lawyers welcomed the working paper on agenda item 2 prepared by Ms. Hampson, which could serve as a useful guide for NGOs.

45. Ms. PARKER (Minnesota Advocates for Human Rights), presenting a joint statement by several NGOs, encouraged all countries to extend standing invitations to the special mechanisms. While 51 countries had extended such invitations, only 19 of the 53 Member States of the Commission had done so, and 6 of the 10 members of the Expanded Bureau had not. There had been many refusals to grant access for such visits, and three of the four Governments whose country was the subject of an item 9 mandate and report at that year's Commission - Belarus, the Democratic People's Republic of Korea, and Myanmar - had all refused to give access to their country for a visit by the special rapporteur appointed by the Commission to investigate allegations of serious human rights violations. All three Governments were urged to promote and protect human rights in accordance with their international obligations and to fully support all working methods necessary for experts to effectively carry out their mandate.

46. Even though country-specific resolutions were no longer possible, it remained important to the work of NGOs to be able to identify particular country situations through agenda item 2.

47. With a view to finding new and useful approaches to agenda item 2, the Minnesota Advocates had carried out research to assess the highest-priority human rights issues for NGOs. The first step had been to review and compile human rights country cases mentioned on 13 major NGO websites, which had resulted in a list of 91 countries. In order to narrow the results down, any country mentioned four or more times was included in the final list. The

nine countries of most concern to NGOs were Indonesia, Iran, Myanmar, Israel, the United States, Colombia, Zimbabwe, the Russian Federation and Uzbekistan. The second step had been to evaluate the NGO statements made at the sixty-first session of the Commission on Human Rights and identify countries which were not referred to in any Commission resolutions. Of the 31 countries, 5 had been mentioned 4 times: India, Nepal, the United States, the Sudan and the Russian Federation.

48. The results of the research should be considered by authors of working papers for the following session, and if such a prioritization of country situations was considered useful, perhaps other organizations could be invited to speak to give a view of grave country situations. Minnesota Advocates requested that the research should be included in any summary of the debate on item 2.

49. Mr. NAQSHBANDI (International Islamic Federation of Student Organizations) said that in his statement at the latest session of the Commission on Human Rights the Secretary-General had captured the importance of human rights by placing them on the same pedestal as development and security. The international community needed to do much more to deal with persistent violations of human rights, which posed the biggest challenge to security and to the entire human rights edifice.

50. In Indian-occupied Jammu and Kashmir the Government of India had enacted a series of laws, including the Armed Forces (Jammu and Kashmir) Special Powers Act, which gave the occupation forces a free hand to suppress the people's demand for exercise of the right to self-determination. Under those laws thousands of Kashmiris had been held without charge or trial and sometimes subjected to interrogation and torture, in violation not only of article 9 of the International Covenant on Civil and Political Rights, to which India was a party, but also of the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

51. The Armed Forces Act authorized the armed forces to fire on any person even without orders to fire, in contravention of article 6 of the Covenant, which allowed no derogations from the exercise of the right to life. The Act also protected the armed forces against prosecution, encouraging them to indulge in human rights abuses, including arbitrary arrest and detention, summary execution, torture, molestation, harassment and destruction of civilian property. As a subject of international law, India was responsible for the human rights violations committed by its forces. The international community should focus its attention on such abuses, and the Sub-Commission must not remain silent on a situation in which the law facilitated human rights violations. It should in fact appoint a special rapporteur on Indian-occupied Jammu and Kashmir.

52. Mr. KHAN (International Institute for Peace) said that the Government of Pakistan was doing everything it could to prevent people from speaking out about human rights violations in Pakistan. The International Institute for Peace wished to draw attention to two shameful cases of rape, in the provinces of Punjab and Balochistan. The first case concerned Mukhtar Mai, a victim of a gang rape ordered as a punishment in the name of honour. Instead of delivering justice, the Government of Pakistan had put her name on an exit-control list and prevented her

from participating in a conference on women's rights in the United States. In the second case, Dr. Shazia Khalid had been raped by an officer of the Pakistan army, who had not been punished. Instead, Dr. Khalid had been compelled to seek refuge abroad. The President himself had declared the army officer to be innocent even before the judicial enquiry had been completed.

53. The human rights situation was even worse in Jammu and Kashmir, where Pakistan was still using terrorism as a means of attaining its strategic objectives. Attacks by religious and fundamentalist elements on peaceful demonstrators were officially encouraged; and false accusations had been lodged against political workers and young people in "Azad" Kashmir and Gilgit-Baltistan, forcing hundreds to seek asylum in other countries. Pakistan had illegally occupied Jammu and Kashmir and was plundering its natural resources, depressing the economy and causing widespread unemployment. One example was the involvement of army officers in the smuggling of firewood, which was rapidly depleting the forests.

54. The International Institute for Peace requested the Sub-Commission to examine urgently the deteriorating human rights situation in "Azad" Kashmir and Gilgit-Baltistan, which remained under illegal occupation by Pakistan.

55. Mr. BALOCH (Commission to Study the Organization of Peace) said that his organization condemned the recent acts of terrorism which had flagrantly violated the right to life in London and Sharm al-Shaikh. According to the British Government, the suicide bombers had probably been indoctrinated in Pakistan. It was certainly true that the intelligence services of the Pakistan army had been financing and giving military training to religious extremists. Furthermore, some of the religious leaders who had been giving ideological training to the Taliban had become members of parliament and had formed an alliance called Muttahidda Majlis-e-Amal (MMA), known in the media as the Military-Mulla Alliance. The Government's bogus opposition to the MMA was designed only to deceive the international community.

56. A repetition of terrorist attacks like the ones in London could be prevented only if the use of religion as a political weapon was eliminated from the whole world, and from Pakistan in particular. The ban imposed on extremists in Pakistan should be implemented on the ground. NGOs and OHCHR should bring pressure to bear on the Pakistan Government in that regard.

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

58. Mr. MARIQUEO (International Committee for the Indian Peoples of the Americas) said that in recent years several NGOs had sent missions to investigate the persistent reports of violation of the fundamental freedoms and human rights of the Mapuche people. Amnesty International, the International Federation of Human Rights Leagues, Human Rights Watch and the World Organization against Torture had produced reports expressing their concern and making recommendations to the Chilean authorities concerning the so-called Mapuche conflict. Furthermore, the Special Rapporteur of the Commission on Human Rights for indigenous people had made specific recommendations after his visit to Chile in July 2003. In a letter dated 19 July addressed to the Chilean Government the Special Rapporteur had reiterated his concern about the charges brought against the traditional leaders, which were out

of all proportion to the acts allegedly committed. He had also said that the application of Chile's anti-terrorist legislation in the Mapuche conflict might be interpreted as an act of persecution. On 22 July 2003 the leaders in question had been acquitted for a second time by a Chilean court but they remained in prison.

59. The Chilean Government had ignored the concerns of the international community and had responded by applying indiscriminately the repressive legislation introduced under the dictatorship of General Pinochet. That legislation was being applied not against crimes but against acts of protest by the Mapuche people in violation of their exercise of the right of association. The human rights of the Mapuche people were being violated with apparent legality, with clear abuses of power by the police in their physical and psychological intimidation of the Mapuche people.

60. After giving full details of four cases involving such abuses, he said that members of the Mapuche people were often tried under laws which did not fit the offence in question, and their procedural guarantees were impaired by the application of such laws. The impartiality and independence of the courts might also be questioned, as when they quashed verdicts in favour of Mapuche defendants. The rule of law in Chile was being seriously discredited among the Mapuche people, and the administration of justice was being seriously questioned.

61. The territorial conflict mentioned by human rights organizations in their reports had been going on since the annexation of Mapuche territory by Chile and Argentina between 1860 and 1885. During the intervening 120 years Chile and Argentina had continued their systematic policy of genocide and cultural assimilation. The plunder of Mapuche land and resources was continuing. Democracy and economic advances in Chile had not changed the economic and social situation of the Mapuche communities. Chile did not recognize the right of the Mapuche people to self-determination, the Constitution did not recognize its existence, and Chile had not ratified the ILO Indigenous and Tribal Peoples Convention (No. 169).

62. The International Committee appealed to the Sub-Commission to fulfil its mandate by putting pressure on the Chilean Government to end its repression of the Mapuche people, to ratify the international conventions, and to apply the universally recognized human rights standards.

63. Mr. CHEIKH (International Youth and Student Movement for the United Nations) said that his organization was gravely concerned about the continuing deterioration of the human rights situation in Western Sahara as a result of Morocco's indiscriminate repression of the Saharawi people following peaceful demonstrations calling for respect for human rights and the organization of a referendum on self-determination. Since 21 May 2005 a series of peaceful demonstrations against Morocco's occupation of Western Sahara had been brutally repressed by the Moroccan security forces. Reports from Western Sahara indicated that more than 300 persons had been injured, 110 had been arrested and more than 40 had disappeared. Three young Saharawis had been sentenced to imprisonment for terms of 15 to 20 years, marking a new stage in the repression and a return to the old methods. After naming 12 other persons who had also been imprisoned, he drew attention to an international campaign launched in several European countries for the release of Aminatou Haidar and other political prisoners. He also gave details of several other cases of imprisonment on political grounds.

64. In addition to the major deployment of security forces and urban security guards (GUS) the Moroccan Government had sent troops into the main Saharawi towns to hunt down human rights militants, dozens of whom had been arrested. Other violations of human rights included harassment and intimidation campaigns, confiscation of travel documents, campaigns of denigration on radio and television and in the press, deportations, sealing of the territory and confinement of its people. In the light of that brutal repression there was a clear need to protect a people in real danger. Faced with the solidarity manifested by international public opinion and the growing number of denunciations, Morocco continued to expel from Western Sahara journalists, parliamentary delegations and representatives of NGOs likely to report on the situation. The climate of fear and the scale of the repression reflected the nature of the Moroccan system, which remained shrouded in a cult of violence and terror.

65. Morocco was responsible for the sense of injustice, frustration and hatred which had built up in the region over 30 years. By turning its back on international legality, Morocco constituted a threat to peace. Morocco could not continue to refuse to carry out the United Nations plan for Western Sahara, which provided for a referendum on self-determination. The United Nations must use its authority to bring Morocco into line, for Western Sahara was the last African territory under foreign domination. Furthermore, the international community must take the necessary action to protect Saharawi civilians and restore their rights to freedom and independence.

66. Mr. FATTORINI (Movement against Racism and for Friendship among Peoples - MRAP) said that his organization welcomed the recent decision of the Frente Polisario to free all prisoners of war unconditionally and hoped that all the parties would quickly agree on the modalities of their release. Against that background, it was profoundly concerned about developments in Western Sahara. There was no doubt that the repressive measures of the Moroccan Government had been intensified since 22 May 2005 following the demonstrations at El Aaiun; the traditional police forces had been supplemented by urban security guards (GUS) and by troops. There had been other examples of repressive measures against students and the expulsion of journalists. The security forces had also brutally intervened in several other peaceful demonstrations in other parts of Western Sahara. Furthermore, an observer mission from Spain had been turned back, a similar mission from Norway had been obstructed; and a journalist from Madrid had had his photographic equipment and press accreditation confiscated. Many persons had stated that they had been victims of acts of torture or ill-treatment. MRAP also drew attention to the severe restrictions imposed by the Moroccan authorities on the freedoms of opinion and information.

67. While acknowledging the progress made by Morocco in terms of legislation, MRAP denounced the serious violations of fundamental freedoms and human rights by the Moroccan authorities, in particular with regard to the Saharawi people. It called upon Morocco to ensure that all the allegations of torture were investigated impartially, independently and in detail, that the Special Representative of the Secretary-General on human rights defenders should intervene with the Moroccan authorities and demand the protection of human rights defenders in Morocco and Western Sahara, and that OHCHR should also attempt to persuade Morocco to comply with international human rights standards.

68. Ms. ABBASI (World Muslim Congress) said that the Kashmiri people continued to face death, torture and disappearance at the hands of Indian forces in Jammu and Kashmir. At least a dozen were killed every day. Meanwhile, India was succeeding in its campaign to malign the Kashmiris' freedom struggle, which it labelled terrorism to justify its brutal repression and its refusal to allow a plebiscite. The "foreign terrorists" killed were innocent Kashmiris. Moreover, thousands of women had been raped and tens of thousands of houses and shops burnt down by Indian forces.

69. The Indian army, 800,000 strong, severely restricted freedom of movement: frequent curfews, security personnel at every corner and brutal crackdowns had made the region a virtual prison. Innocent people were detained and beaten. Their mutilated bodies were sometimes even thrown into the street. Political gatherings were dispersed by force. The army used batons and tear gas. Publication of any material bearing on military atrocities was prohibited. Telephones were tapped and mail intercepted. India forfeited any claim to democracy when it abused its power by committing serious human rights violations in Jammu and Kashmir.

70. Ms. PARKER (International Educational Development) found acceptable the Commission's rule limiting the Sub-Commission's activities to situations that it did not have under active review itself but regretted the withdrawal of the Sub-Commission's right to address individual States in its resolutions. The political motivation of States that sought to hamstring the Sub-Commission was clear. With regard to the suggestions contained in the working paper on the work of the Sub-Commission under agenda item 2 (E/CN.4/Sub.2/2005/4), she denied that NGOs needed extra training. Most were aware of existing international documents, bodies and mechanisms. If several NGOs made statements about the same country, they usually did so from different perspectives, so their statements were complementary rather than repetitive. Secondly, the charts contained in the annex would be enhanced by greater detail. A brief review of particularly urgent situations should be prepared by a member of the Sub-Commission and issued as a separate document. In Sri Lanka, specifically, the peace process was at a standstill and the army and paramilitary forces were engaged in a shadow war. After nearly 20 years of war, the Tamil people were also suffering from the Government's failure to allow international aid to reach them following the tsunami of 26 December 2004. The Sub-Commission should voice its concern on Sri Lanka and also on Iraq: her organization's concerns on that score were set out in document E/CN.4/Sub.2/2005/NGO/13. Lastly, she drew attention to the successful conclusion of a conference organized by the Association of Humanitarian Lawyers that had been attended by several legislators from Pakistan, the head of a major Indian political party and representatives of the Kashmiri people.

71. Mr. WANI (International Human Rights Association of American Minorities) said that the Kashmiri people were denied their right to self-determination - the cornerstone of the human rights framework - in clear defiance of international law and Security Council resolutions. More than 700,000 Indian troops, during 58 years of occupation, had perpetrated gross and systematic human rights violations. Over 80,000 Kashmiris had been killed since 1989. Kashmiris were denied freedom of movement because of the constant presence of Indian troops manning bunkers, checkpoints and blockades. As many as 8,000 civilians, including political leaders, were under detention and their whereabouts unknown. Passports of political leaders and human rights activists were confiscated and permission to travel even for mandatory religious rites was denied. Peaceful gatherings were dispersed by brute force, the media were censored, and journalists

reporting on human rights violations were subjected to physical violence. The Kashmiri people had welcomed the dialogue between India and Pakistan with hope and optimism. The Indian army had, however, taken advantage of the peace process to intensify its repression of the Kashmiri people and the Indian Government had wasted the historic opportunity of resolving the dispute over Jammu and Kashmir by refusing to include Kashmiri representatives in the composite dialogue. He called on the Sub-Commission to recommend effective international action to liberate the Kashmiri people and give them a chance to determine their own future.

72. The CHAIRPERSON noted, before inviting statements from observer Governments, that delegations should normally avoid referring to human rights situations in countries other than their own.

73. Mr. KHAN (Pakistan) said that it would be a mistake to disband the Sub-Commission and replace it with a body of ad hoc appointees, as had been suggested. Since its creation in 1947, the Sub-Commission had produced an impressive body of normative work. It must continue with its task. The nomenclature was immaterial, but an independent think tank should continue to give expert advice to the Commission and put forward proposals for new laws and treaties.

74. The world had recently been jolted once again by horrendous terrorist acts, in London, Iraq and Egypt. The international community must act together to fight the perpetrators of such acts, who were criminals, with their own perverted agenda. They should not be treated as ideologues. Muslim nations and communities abhorred such terrorists. The alleged bombers in London were British nationals of Pakistani lineage; but their philosophy of hate belonged to neither country. The problem would not be solved by making scapegoats of a particular community. The facile use of the term "Islamic terrorism" sowed seeds of hatred and swelled the ranks of religious fanatics. Islam should not be blamed for suicide bombers. Indeed, the majority of suicide bombers or assassins over the past 40 years had been non-Muslims. Timothy McVeigh in the United States or paramilitary police in Serbia and Montenegro were simply terrorists rather than Christian terrorists. The concern must be that recent terrorist attacks would provide further ammunition for the peddlers of hatred against Islam and Muslims living in Western societies. Some young people were moved to become suicide bombers not by religion but because they were susceptible to indoctrination by violent organizations.

75. Pakistan, led by the President and Prime Minister, had come a long way in advancing human rights. New legal and administrative infrastructures had been put in place. The media were free and vibrant. Legislators, political functionaries and government officials had become ardent defenders of human rights. Students in schools and universities debated ways of dealing with human rights violations. A human rights perspective was an integral part of all training modules for lawmakers, civil servants and police.

76. A key part of the country's human rights policy had been to empower women and minorities. Through unprecedented affirmative action, the representation of women in decision-making bodies had been enhanced: some 18 senators, 75 members of parliament and 141 provincial law-makers were women. The case of Mukhtar Mai had convulsed the entire nation. His delegation believed that full justice for her would bring salvation to a deeply anguished community.

77. The President of Pakistan had said that the guiding principle of his human rights agenda was improvement in the quality of life of ordinary Pakistanis, without which talk of rights remained a meaningless slogan. The rapid growth of the economy - at 8.4 per cent - was being translated into the achievement of social goals through poverty reduction and job creation. The war in Afghanistan had left a toxic brew of sectarianism, terrorism and extremism in its trail. The war on terrorism was being fought with vigour and resolution; but the more insidious threat was posed by extremism. The President had appealed to the Muslim world and the West to help propagate enlightened moderation. Pakistan could not succeed in that task on its own. It was trying to create a moderate polity through democracy, reform and renewal. One approach was to deal with extremism at its source; the second was to modernize and upgrade the curriculum; and the third was to root out the causes - poverty, injustice and frustration - that fed terrorists' demonic dreams of deliverance.

78. Mr. OMOTOSHO (Nigeria) said that basic human rights and fundamental freedoms, as enunciated in the Universal Declaration of Human Rights and his country's Constitution, should be enjoyed by all without discrimination, limited only by the bounds of morality and responsibility to the interests of the larger community. In that framework, his delegation commended the continued relevance of the Sub-Commission, especially in providing expert advice to other treaty bodies. Members of the Sub-Commission were appointed on the basis of their expertise and independence, although, as pointed out in the working paper on the work of the Sub-Commission under agenda item 2 (E/CN.4/Sub.2/2005/4), "The greater freedom of action of the Sub-Commission carries with it great responsibilities." Since their statements carried significant weight, members should consider how much credence should be given to information supplied by NGOs concerning sensitive matters. Any information, whatever its source, should be checked for veracity and, if necessary, the State concerned should be consulted before action was taken. His delegation was by no means opposed to NGO involvement in providing information to members of the Sub-Commission; but such members should ensure that such information was factual and not calculated to embarrass States or injure individual reputations and that due notice was taken of existing State mechanisms on dealing with reported violations of human rights. The Sub-Commission should encourage greater interaction and dialogue between Governments and civil society.

79. His delegation also welcomed the suggestion that dialogue with States should be improved. One approach would be to begin at ambassador level in Geneva, moving on, if necessary, to other levels. OHCHR should establish a liaison unit specifically devoted to consultation with Permanent Missions in order to facilitate the exchange of information on human rights situations in individual countries, thus obviating the need for third-party intervention, which usually led to unnecessary suspicion, delay and missed opportunities.

80. With regard to the important question of whether the Sub-Commission should or should not adopt country-specific resolutions, decisions or Chairperson's summaries, his delegation believed that the Commission's decision should be paramount. Where urgent cases of serious human rights violations arose, however, the Sub-Commission should act immediately. As for the perceived gravity of human rights violations as between one region and another, his delegation felt constrained to observe that undue emphasis was placed on reported violations in Asia, Africa and Latin America in relation to other regions. That was not to say that human

rights violations should be invented where they did not exist; but, where they did exist, they should be given equal significance, regardless of where they occurred. Such an approach would have a profound effect on the way that States would feel about the Sub-Commission's work.

81. Mr. DUMONT (Argentina) said that his delegation wished to emphasize the importance of Commission on Human Rights resolution 2005/66 which, introduced by his country and sponsored by 50 other States, had been adopted without a vote at the sixty-first session of the Commission. Its importance lay in the fact that it advanced the universal recognition of the right to the truth. OHCHR was currently preparing the study requested under the resolution, which would serve as the basis for the treatment of the topic in the years ahead. States and NGOs had been consulted by the High Commissioner's Office, and his delegation would be submitting further ideas about the concept, basis and scope of the right to the truth.

82. He drew attention to the decision by the Supreme Court of Justice of Argentina, on 14 June 2005, confirming the validity of Act No. 25,779 under which, in 2003, Congress had withdrawn the amnesty extended to those involved in repression. The Supreme Court had thus endorsed the actions of the legislature and the executive, in accordance with international human rights treaties in investigating and punishing crimes, that had occurred during the dictatorship in his country. There remained no further obstacles to the attainment of justice. In that context, he noted the growing tendency on the part of the Court to incorporate international human rights law as a basis of its decision.

83. He drew attention to progress achieved by Argentina in implementing the Durban Declaration and Programme of Action. With assistance from the technical cooperation services of OHCHR, Argentina had recently completed a draft national plan against discrimination. The draft plan contained 200 practical proposals to eliminate discriminatory practices in the three broad areas of racism, poverty and exclusion and State and society. Lastly, his delegation supported the proposal that human rights should be given equal importance with international security and development. It therefore supported the establishment of a human rights council. It hoped that the reform process would preserve and further the Sub-Commission's traditional support for the promotion and protection of human rights.

The meeting rose at 1 p.m.