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Chairman: Mr. Al-Hinai (Oman)

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The meeting was called to order at 10.20 a.m.

Agenda item 119: Human rights questions

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/56/168, 190, 204, 207 and Add.1, 209, 212, 230, 253, 254 and Add.1, 255, 256, 258, 263, 271, 292, 310, 334, 341 and 344)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/56/210, 217, 220, 278, 281, 312, 327, 336, 337, 340, 409 and Add.1, 440, 460, 479 and 505; A/C.3/56/4 and 7)

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (*continued*) (A/56/36 and Add.1)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/56/36 and Add.1)

1. **Mr. Mavrommatis** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq) said that he continued to be deeply concerned about the situation of human rights and also the humanitarian situation in Iraq. Almost every day he received reports from a broad range of sources claiming violations of human rights, inter alia, discrimination against women, religious and political persecution, torture, extrajudicial killings and arbitrary executions and forced transfers of the population ("Arabization"). In that regard, he clarified that paragraph 36 of his report (A/56/340) did not reflect the current situation faithfully, since he had still not received the detailed information that he expected from other sources to bring to the attention of the Government of Iraq. He reviewed all the information received and investigated a key selection. As indicated in his report, he had addressed several letters to the Government of Iraq requesting it to respond to the allegations. With regard to the humanitarian situation, he noted that the Secretary-General, in his report of 28 September 2001 (S/2001/919), had commented on "the unacceptably high level of holds placed on applications

by the Committee, with a total value of over \$4 billion".

2. He emphasized that he did not see his mandate as that of an "accuser". His role was to collect information and report on the human rights situation in Iraq; the purpose was to improve the situation. In that regard, he had, on a number of occasions, sought to engage in a constructive dialogue with the Government of Iraq in order to contribute to the promotion and protection of human rights in the country, in a spirit of confidence and transparency. He had also indicated at various times that he wished to visit Iraq. He had suggested that a government delegation could travel to Geneva, or elsewhere, to initiate discussions and, unofficially, he had received a positive reaction from the Government.

3. Regrettably, however, despite his efforts, the Iraqi authorities, stating that his sources were not reliable, had still not given him their response officially. It was up to the Government to authorize him to visit Iraq so that he could collect information on the situation, in situ, and to respond in detail to his letters, rather than simply making general denials.

4. In view of those difficulties, the cooperation of other Member States was absolutely essential. As mentioned in his report, he had asked several States to authorize him to visit their countries and some had not been entirely cooperative. Nevertheless, he was pleased to report that, since the submission of his report, he had received authorization from the Government of Iran to visit Iran to interview Iraqi refugees, alleged victims of human rights violations, who had recently arrived in that country. He had initially planned to visit Iran in October 2001 but, following the tragic events of 11 September 2001, he had been advised to postpone his visit. He hoped to be able to carry out that mission, and perhaps one more, before submitting his report in 2002. He also hoped that other States would listen to his appeal for cooperation. During his stay in New York, he had been able to meet with representatives of the Iraqi Government from the oil-for-food programme and with representatives of the specialized agencies.

5. **Mr. Al-Nima** (Iraq) said that, for over 11 years, the Iraqi people had been subjected to a total embargo, which deprived them of their fundamental rights to a decent life, education, health and work in particular. Added to that were the military attacks on civilian facilities and the country's infrastructure, as well as the

daily attacks in the so-called air exclusion zones, which had caused hundreds of deaths among the civilian population, including 23 children and teenagers killed the previous June in Tal Afar on a football pitch bombed by United States and British aircraft.

6. While welcoming the concern expressed by the Special Rapporteur at the consequences of the embargo, he was surprised that he should have called those consequences involuntary. Such a remark, which would have been acceptable during the first year of the embargo, was intolerable after a period of over 11 years and the death of more than one and a half million Iraqi victims. The suffering of the Iraqi people was the consequence of a deliberate policy, as amply demonstrated by the comments made by the former United States Secretary of State, Madeleine Albright, during the airing of "60 Minutes" on 12 May 1996, when she had answered in the affirmative the presenter's question of whether the death of half a million Iraqi children was an acceptable price to pay.

7. Various bodies established under international instruments had drawn attention to the effects of the embargo on the situation of human rights in Iraq. In 1996, the Committee on the Rights of the Child had stated that the economic embargo deprived Iraqi children of the right to life, health and education. Additionally, in 2000, the Committee on the Elimination of Discrimination against Women (CEDAW) had highlighted the sharp rise in maternal and infant mortality rates and in the number of patients suffering from cancer, particularly leukaemia, as a result of the sanctions regime.

8. In his preliminary report (A/56/210), the Special Rapporteur of the Commission on Human Rights on the right to food had stated that subjecting the Iraqi people to a harsh economic embargo since 1991 had placed the United Nations in clear violation of the obligation to respect the right to food. The Special Rapporteur on the situation of human rights in Iraq should closely examine the question of the violation of the human rights of the Iraqi people and refer to the statistics contained in various national and international reports concerning the number of victims and the material damage, as well as to the resolutions adopted, inter alia, by the Subcommission on the Promotion and Protection of Human Rights.

9. The interim report of the Special Rapporteur on the situation of human rights in Iraq (A/56/340)

contained some omissions, failing as it did to report the difficulties experienced by Iraqi women since the beginning of the embargo in maintaining the cohesion of the family and Iraqi society, the situation of Iraqi children, who were denied many of their rights, and the serious effects of the use of depleted uranium on human beings and the environment. Furthermore, the bulk of the allegations contained in his report were based on unreliable sources, as they consisted of accounts provided by Iraqi nationals who had fled Iraq to settle in a neighbouring country, outlaws who had committed crimes such as murder, rape, theft, looting and the destruction of public and private property by arson during the troubles following the aggression of 1991 against Iraq. Those individuals, who also committed terrorist acts aimed at harming Iraq's security and stability, specifically by detonating car bombs in public places and residential areas, were funded by the United States and British intelligence services, as well as by neighbouring countries, as demonstrated by the so-called Iraq Liberation Act adopted by the United States Congress, pursuant to which the sum of \$97 million was allocated to financing terrorist acts in Iraq.

10. The allegations concerning religious intolerance, the persecution of Shiites and the restrictions imposed on religious ceremonies were aimed at dividing the Iraqi people. Every one of them was false; as the Special Rapporteur knew full well, all forms of discrimination were prohibited under the Constitution and various Iraqi laws, in particular Act No. 50 of 1981 and Ordinance No. 32 of 1981 concerning the protection of religious communities. Moreover, most of the allegations concerning extrajudicial and arbitrary executions were unsubstantiated by the names of the supposed victims.

11. Iraq, which had already replied to the questions of the Special Rapporteur concerning missing Kuwaitis, was ready to participate in the meetings of the Tripartite Commission on Missing Persons, together with the parties whose nationals were reported missing and under the supervision of the International Committee of the Red Cross (ICRC). The United States and the United Kingdom, however, hampered the work of the Commission by persistently seeking to attend its meetings, even though none of their nationals was missing, with the aim of politicizing the humanitarian question involved.

12. Conscious of the humanitarian nature of the question of missing persons, the Iraqi Government had carefully pursued all the genuine initiatives proposed to it. In a letter dated 16 August 2001 addressed to the Secretary-General of the League of Arab States, it had requested the League to participate actively in the efforts aimed at finding a solution to the problem and to create an Arab committee to examine the question in conjunction with ICRC as the neutral international party responsible under the Geneva Conventions of 1949 for following up such humanitarian issues. In another letter dated 16 August 2001, it had requested the Secretary-General of the United Nations to urge the United States and the United Kingdom to cease an unwarranted participation in the Tripartite Commission, in order to allow countries which had files on missing persons to take part. If the two countries persisted in participating in the meetings of the Commission, it was the view of the Iraqi Government that the three neutral countries of the Russian Federation, India and China should also attend those meetings. The Iraqi initiatives, however, together with those taken by international and regional authorities, remained a dead letter. In that connection, attention should equally be devoted to the case of the 1,250 Iraqis whose whereabouts were unknown and of whom no mention was made in any Security Council resolution.

13. Instead of seeking to exacerbate the suffering of the Iraqi people, the Special Rapporteur should follow the example of human rights bodies and demand the lifting of the embargo. The Iraqi Government was ready to resume its dialogue with the United Nations. It was also ready to join in all genuine efforts to promote human rights, devoid of all political manoeuvring aimed at harming the security, sovereignty and unity of third States.

14. **Mr. Mavrommatis** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq) said that he took note of the statement by the representative of Iraq that the Government of Iraq intended to provide a detailed reply to his report. He would include that reply, as appropriate, in the report which he would be submitting to the Commission on Human Rights at its next session.

15. As to the expression “unintended human rights consequences” in paragraph 20 of his report, referring to the effects of the embargo, which the representative

of Iraq had said was inaccurate, he did not intend to justify it, since his mandate was simply to give an account of the human rights situation in Iraq. However, he had commented at some length on the effects of the embargo in his previous report, and he always endeavoured to give as complete an overview as possible of the human rights situation in Iraq.

16. Regarding the question of the reliability of testimony, he said that he scrutinized carefully the allegations of human rights violations which were brought to his attention, and only when he had decided that they were sufficiently serious and well-founded did he seek information from the Government of Iraq. There was nothing else he could do if the Government of Iraq failed to reply to his letters, which had been the case until a short time ago, as could be seen from the list in annex I to his report (A/56/340), and if it denied him the opportunity to go to Iraq. As stated in his report, he had offered to meet with an Iraqi delegation, in Geneva or elsewhere, to discuss some of the testimony; he hoped that the Iraqi Government would react favourably to his proposal.

17. With regard to the question of prisoners of war and missing Kuwaiti and third-country nationals, he said that the parties had agreed to discuss it within the framework of the existing ad hoc mechanisms. For its part, the International Committee of the Red Cross was doing its best to elucidate the question. All he could do was to try to facilitate the work in progress, and that presupposed cooperation from the parties concerned.

18. **Mr. Pope** (United States of America) said that the best way for Iraq to refute the contents of the report was undoubtedly to let the Special Rapporteur do his work on the ground. The fact that not once in 10 years had Iraq given permission for an independent enquiry into the human rights situation indicated that the situation was not what it should be. He was glad that the Special Rapporteur would soon be going to Iran, and he encouraged all States to communicate to him any relevant information they had and to cooperate fully with him.

19. Turning to the report itself (A/56/340), he drew attention to the appalling nature of the information in it. Paragraph 24 mentioned an official decree providing for the arrest of women with a relative wanted by the authorities who had fled the country. That provision was intended to exercise pressure on the relative concerned. Paragraph 32 stated that persons accused of

insulting the President of Iraq would have their tongues amputated without trial. Chapter VII referred to the forced relocation of non-Arabs, akin to the sinister practice of “ethnic cleansing” in the former Yugoslavia, and chapter VIII stated that the Iraqi Government was not helping in any way to trace persons unaccounted for since the time of the Iraqi occupation of Kuwait, or to find out what had happened to them.

20. He was eagerly awaiting the final report of the Special Rapporteur. Once more, he requested the Iraqi Government to cooperate with the Special Rapporteur, and urged all States to reflect on the seriousness of the information in the existing report.

21. **Mr. Al-Enezy** (Kuwait) said that he shared the Special Rapporteur’s concern at the continuing deterioration in the human rights situation in Iraq, as evidenced by the violations of the rights of women and religious minorities, the use of torture and summary executions, and the forced relocation of non-Arabs. It was also disturbing that Iraq was still refusing to reveal what had happened to the missing Kuwaiti and third-country nationals, although its attention had been drawn to the humanitarian nature of the issue, and was also refusing to take part in the meetings of the Tripartite Commission. Its initiatives with regard to the prisoners of war and missing persons were actually nothing more than delaying tactics to enable it, as in the past, to avoid implementing the relevant Security Council resolutions. Moreover, the fact that Iraq was tying the question to the existence of the air exclusion zone proved that it was trying to politicize the issue. As to the question of the missing Iraqis, it was curious that it had waited six years after the end of war to raise the subject, which seemed to show that it did not attach much importance to it. Nevertheless, he was again asking the Iraqi Government to implement the Security Council resolutions on prisoners of war and missing persons, Kuwaitis and others, and invited the Special Rapporteur to come to Kuwait at his convenience.

22. **Mr. Mavrommatis** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq), reverting to the question of the removal and forced relocation of non-Arabs in Iraq, said that since the information he possessed was not sufficiently reliable and specific, he would have to continue trying to obtain information from the displaced persons themselves. That would require him to go where they were, and would call for cooperation by the Governments of the countries concerned.

23. On the question of the Iraqis reported missing, in 2000 he had been told by the Kuwaiti authorities that he was free to visit any part of Kuwait, with or without prior notice, to carry out his enquiries, but he was counting on the active cooperation of the Government of Kuwait. Since the question of the prisoners of war and missing Kuwaiti and third-country nationals was a humanitarian question, everything possible must be done to solve it, either through the mechanisms in place or through other mechanisms or arrangements.

24. **Mr. Maertens** (Belgium) said that the European Union was concerned at the references in the interim report of the Special Rapporteur (A/56/340) to an official decree on women with a relative wanted by the authorities who had left the country (para. 24), and to a terror campaign against women and the execution of prostitutes by paramilitary units (para. 26). It requested further information on the fundamental rights of women in Iraq. Paragraph 4, subparagraph (l), of Commission on Human Rights resolution 2001/14 had called on Iraq to continue its efforts to distribute all humanitarian supplies purchased under the oil-for-food programme in a timely and equitable manner and without discrimination. He wondered whether those supplies were genuinely reaching the most needy. Since the Special Rapporteur was unable to visit Iraq and could not therefore gather first-hand evidence easily, he asked whether it was possible to improve the Special Rapporteur’s sources of information. He also asked for further details of the Special Rapporteur’s forthcoming visit to the Islamic Republic of Iran.

25. **Mr. Knyazhinskiy** (Russian Federation) pointed out that Commission on Human Rights resolution 2001/25 had reaffirmed the right of everyone to have access to food. He asked to what degree that right was fulfilled for the people of Iraq.

26. **Ms. El-Hajjaji** (Libyan Arab Jamahiriya) welcomed the various positive aspects of the interim report on the situation of human rights in Iraq (A/56/340), particularly the fact that the Iraqi Government had shown increased willingness to cooperate with the Special Rapporteur. The beginnings of a dialogue existed, thanks to the contacts which the Special Rapporteur had established with the Permanent Mission of Iraq in Geneva. Her delegation encouraged the Iraqi Government to continue on that path. It also welcomed the information that the Special Rapporteur’s methods were objective: paragraphs 8 and 10 of the interim report explained that the Special

Rapporteur carefully examined all information, attempted to verify all allegations and sought to obtain reliable information to serve as a point of departure for finding ways to improve the human rights situation in Iraq. She supported the proposal for an Iraqi delegation to travel to Geneva to initiate a dialogue on the issue, since the Iraqi Government was not currently prepared to accept a visit from the Special Rapporteur. In the interests of the Iraqi people, the Government should cooperate fully with the Special Rapporteur and allow him to visit Iraq to examine the human rights situation on the ground and verify the information he had received.

27. During the most recent session of the General Assembly, her delegation had asked the Special Rapporteur to make an in-depth examination of the human rights situation in Iraq and to report on it to the Commission on Human Rights or to the General Assembly. It was not enough for the Special Rapporteur simply to state that he continued to be concerned about the unintended human rights consequences of the international embargo against Iraq, that he associated himself with the concern expressed by the Secretary-General in his report of 18 May 2001 to the Security Council (S/2001/505) and that paragraph 29 of that report had expressed the grave concern of the Secretary-General that since his report in March 2001 (S/2001/186) the total value of applications for contracts placed on hold by the Security Council committee established by resolution 661 (1990) had increased from \$3.1 billion to \$3.7 billion, as at 14 May 2001 (A/56/340, paragraph 20). She requested the Special Rapporteur to examine the consequences of the embargo for the human rights (including the right to life) and living conditions of the Iraqi people. The Special Rapporteur's allegations of religious persecution were difficult to believe; he should study closely Iraq's millennia of history as a country which had been home to people of many different religious minorities, sects and faiths and in which such individuals had lived in peaceful coexistence with the rest of the population. Such allegations seemed to be aimed at dividing the Iraqi population to produce political Balkanization. The report having surprisingly failed to mention anything about the almost daily attacks on northern and southern Iraq, she called on the Special Rapporteur to recognize that they were violations of fundamental rights, such as the right to life.

28. Like the Special Rapporteur, she appealed to all parties to respect the purely humanitarian and non-political nature of the issue of missing persons, in order to end the crisis which divided Iraq and Kuwait, restore friendly relations between them and defuse the explosive political situation in the region to enable its peoples to take charge of their development and guarantee their stability.

29. **Mr. Mavrommatis** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq) said that he had asked the Government of Iraq whether there was an official decree allowing the arrest of women with a family member wanted by the authorities who had fled the country, as a means of exerting pressure on the absent individual. His report (A/56/340) gave an account of the answers he had received, but he was awaiting further information, particularly regarding the alleged harassment of families. He had heard reports that 30, 60 and then over 100 prostitutes had been sentenced to death by beheading; since the information was inconsistent, he had written to the representative of the Government of Iraq in Geneva to ask for more details of the sentences for prostitution and for desecration of national symbols including the national flag. He had received no written reply, even though such allegations could be easily refuted. The Government of Iraq had however answered his questions regarding religious persecution in detail. The Special Rapporteur had endeavoured to stay in contact with the administrators of the oil-for-food programme. His previous report had set out the consequences of the embargo, and he had new information on the matter, but had been unable to include it in his most recent report for lack of space. He would follow the method he had tested and used with other human rights mechanisms, as it enabled him to verify facts and suggest methods of overcoming obstacles. One could not accuse a government of intentionally or unintentionally violating the right to life if other factors had a bearing on the translation into action of that right. The Special Rapporteur had had several meetings with an Iraqi representative, but he would have preferred an official exchange over several days, as that would have given him the opportunity to make his own judgement and have detailed and irrefutable information.

30. **Mr. Reyes Rodríguez** (Cuba), endorsing the stance of the representative of the Libyan Arab Jamahiriya, said that the peoples of the Arab world

must themselves find a just solution to the problems that had been left in abeyance while, at the same time, taking account of the interests of all the States in the region.

31. His delegation was of the opinion that the report (A/56/340) was not impartial, since it was silent on the very serious humanitarian situation in Iraq. The approach it had adopted was at odds with that followed by United Nations agencies, especially the United Nations Children's Fund (UNICEF), when they had examined the question. Admittedly, the Special Rapporteur was bound by the provisions of Commission on Human Rights resolution 1991/74, which had created and defined his mandate. That resolution, however, by reflecting geopolitical considerations, served as a pretext for masking or ignoring flagrant human rights violations by certain countries which took it upon themselves to flout Security Council decisions and committed acts that clearly violated the right to life of the civilian population of Iraq. Why should a State be obliged to cooperate with a Special Rapporteur whose mandate, from the very beginning, had been premised on considerations which were not directly related to the defence of human rights?

32. It was also regrettable that the High Commissioner for Human Rights had not expressed concern to the Security Council or to the four executive committees set up under the Organization's reform programme that the humanitarian situation of the Iraqi people and the effects of sanctions should be borne in mind.

33. **Mr. Al-Nima** (Iraq) stated that it was no surprise that the representative of the United States of America had again voiced the biased views of his Government regarding the human rights situation in Iraq. The adoption by the Commission on Human Rights of a resolution appointing a Special Rapporteur to study that situation shortly after the Gulf War, in February 1991, formed part of a political campaign to strangle Iraq. He wondered why the Iraqi Government had not become the focus of attention until 1991, although it had been leading the country for many years. He deplored the needless death of 1.5 million Iraqis as a result of an embargo which remained in force owing to the United States categorical refusal to alleviate the suffering of the Iraqi people because of Iraq's intention to remain a sovereign State.

34. As for the fate of missing persons, a question raised by Kuwait, Iraq had officially proposed that Kuwait should enter into bilateral negotiations under the supervision of the International Committee of the Red Cross, with a view to reaching a settlement.

35. It had been tactless of the Special Rapporteur to mention solely the rights of prostitutes in the report's only passage devoted to women. Of course prostitutes had rights and, as his Government had told the Special Rapporteur, Iraqi legislation contained no provisions establishing the death penalty for prostitution. He had deep trust in the Special Rapporteur and was sure that the latter would take account of all the factors in question.

36. **Mr. Mavrommatis** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq) assured all the parties concerned that he had no part in any political machinations. It was up to the parties to supply the Special Rapporteur with information, which he then evaluated. The responsibility for choosing the points he stressed and the information to which he referred sparingly was his entirely. The main chapter of the most recent report he had submitted to the Commission on Human Rights had dealt with the embargo's impact on the humanitarian situation. He understood the feelings of the Iraqi Government with regard to the question of prostitutes and assured it that, as soon as he received the information he had requested and provided that it was convincing, he would consider the matter to be closed.

37. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) said that, as part of his fact-finding mission, he had met senior officials from the State Peace and Development Council (SPDC), the Government party, who had fully cooperated with him, as well as officials of the National League for Democracy (NLD), the opposition party.

38. While it was important to tackle the human rights situation in Myanmar on various fronts, it was also necessary to proceed in stages and to address a specific issue each time. Headway had been made in a number of fields; for example, the NLD had been able to reopen several offices in the country. There were signs of development in the ceasefire area of Shan State, but there were still some problems to be solved, such as the restrictions placed on the activities of political parties

and freedom of expression. Furthermore, he had received reports of gross violations of civilians' basic rights in areas where clashes were occurring between the army and armed groups.

39. Visits to prisons, labour camps and detention centres were central to his mandate. Although his team had found the prisons it had visited to be reasonable, it had received many allegations of deplorable conditions and a high death rate in labour camps. It emerged from talks with the prison authorities and detainees that prison conditions, which, for many years, had left much to be desired, had slightly improved and that cooperation between the SPDC and the International Committee of the Red Cross was exemplary. He had urged the SPDC authorities to free all political prisoners. In that connection, while he was glad to note that 198 political prisoners had been released since the beginning of the year and that the number of political arrests had gone down considerably, there were still some 1,500 to 1,600 political detainees in the country, including about one hundred women. Against that background, only the real release of all political prisoners would pave the way to dialogue, national reconciliation and a genuine democratization process.

40. The humanitarian situation obtaining in Myanmar was so complex that it might deteriorate, unless it was addressed promptly by all those concerned. To that end, it was necessary to be able to count on the commitment of the Government and to secure the participation of the NLD in the planning and management of international humanitarian assistance.

41. Although the complicated situation in Myanmar certainly called for patience, the confidence-building process between the Government and the NLD was already one year old and, in the eyes of some people, it was moving rather slowly. It was therefore vital that the SPDC should lend fresh momentum to the democratization process, above all by freeing the political prisoners and setting the goals of and a timetable for the political transition.

42. **Mr. Kyaw Win** (Myanmar) was thankful for the fact that for the first time in a number of years he had not had to make a rebuttal to the report on the situation of human rights in Myanmar. The Government of the Union of Myanmar, which had always agreed to cooperate with the United Nations and its representatives, had certainly, at the end of the 1990s, undergone a period of destabilization which had forced

it to put off the visit of the then Special Rapporteur. However, since the end of 2000, the situation having improved, various prominent personalities, notably the Special Envoy of the Secretary-General, envoys from the European Union, the United States and the United Kingdom, missions from the International Labour Organization, and the Special Rapporteur of the Commission on Human Rights, within a few months of his appointment, had been invited to and received in Myanmar.

43. At the national level, the Government had been able to authorize the partial resumption of political activities (the official registration of political parties and the release of high security detainees). It could not be overemphasized that genuine protection of the individual rights of every citizen was a major priority of the Government, as was the protection of the rights of millions who preferred to live in peace and tranquillity. In that connection, he recalled that his country was made up of more than 130 different ethnic groups, which had been continuously at war with one another throughout the second half of the twentieth century. After a decade of negotiations with the various armed factions, it was a miracle that 17 of the 18 armed insurgent groups had been able to return to Myanmar and, having been peacefully resettled, to undergo rapid development with the Government's support.

44. The Government of Myanmar had resumed its cooperation with the United Nations and had allowed the Special Rapporteur unrestricted access to all parts of the country. As he had pointed out in his interim report (A/56/312), "political transition in Myanmar is a work in progress and, as in many countries, to move ahead incrementally will be a complex process". His delegation paid tribute to the transparent and detailed manner in which the Special Rapporteur had drafted his report and to his determination to remain fair and factual. It noted that his observations confirmed what the Secretary-General had stated in his report (A/56/505), namely that "important positive developments [had] taken place since January 2001".

45. His delegation wished to emphasize that the current improvement in the country's political climate had been brought about by the engagement, cooperation and encouragement of the international community. If the international community continued to assist Myanmar rather than criticize or try to isolate it, bearing in mind that it was situated in the midst of friendly Asian countries inhabited by half the world's

population, the chances of improving the situation of human rights and of speeding up the process of political transition would be enhanced.

46. **Mr. Van den Bossche** (Belgium), speaking on behalf of the European Union, asked the Special Rapporteur what tendencies he had been able to identify during his fact-finding mission to Myanmar. Apart from the dialogue between the Government and the opposition, he wondered what other measures the Special Rapporteur could recommend for promoting respect for human rights in that country.

47. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) said that, since his fact-finding mission was still at an early stage, it was difficult to make an overall assessment of the situation in the country. Important initiatives had been taken during the past year. The confidence-building process was well under way, and it was now a question of establishing a genuine dialogue between the Government and the opposition. As had been seen elsewhere with liberalization processes, it was necessary to tackle a number of issues such as censorship, access to information and freedom of expression and assembly for political parties. It was necessary to look at prison conditions and the functioning of the judicial system and at serious violations of human rights committed against the civilian population.

48. Neither the international community nor the United Nations nor the Special Rapporteur could propose a plan on political transition to the Government of Myanmar. It was for the Government to draw up a programme, setting objectives and establishing a timetable. The international community could then provide assistance.

49. **Ms. Mudie** (Australia) welcomed the productive relationship which the Special Rapporteur had established with the Government of Myanmar and which had enabled him to gather various pieces of information. She also approved the approach he had adopted, which had consisted of determining mechanisms for dialogue and seeking information. It emerged from the report he had prepared that the Government of Myanmar was adopting an increasingly constructive attitude, which included making officials more aware of some of the norms relating to human rights. Furthermore, a national human rights

commission had apparently been established. She would like to know the Special Rapporteur's views on developments in those two areas. She would also like to know what measures the Government of Myanmar could take to promote the establishment of international norms relating to human rights in Myanmar.

50. **Mr. Pope** (United States of America), while welcoming the positive and encouraging developments in the human rights situation in Myanmar, laid emphasis on the fact that the Government should immediately release all political prisoners so as to open the way for dialogue and national reconciliation. He agreed with the representative of Myanmar that it was necessary to establish an inclusive, transparent and accountable democratic process. He also welcomed the fact that the Special Rapporteur had been allowed to visit prisons and hoped that he would be able to continue with that activity in the future. He asked the Special Rapporteur if he could provide an estimate of the number of child soldiers, and whether he knew the conditions in which they were enrolled. Furthermore, while noting with satisfaction that public officials had been made aware of human rights norms, he asked whether that had had any real impact at local level. Finally, he wished to know how many people belonging to ethnic minorities had been displaced in Myanmar and whether they would be able to benefit from humanitarian assistance in the event of a decision to grant assistance to Myanmar.

51. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) said that the effort to make public officials more aware of human rights was a positive, if laborious, first step, which he strongly encouraged; he called on the Government of Myanmar to ratify human rights instruments. It was important to associate civil society in the near future with that effort so that it was aware of its rights and the progress made over the past year, which represented advances on behalf of human rights victims, his fundamental concern.

52. He was not in a position for the time being to report on child soldiers, but had received some information and had engaged the authorities on the matter. The issue would be dealt with in the next report. With regard to internally displaced persons, resources must be found to provide them with humanitarian assistance.

53. In conclusion, in the context of efforts to combat HIV/AIDS, it would be unfair to defer action pending the transition to democracy, particularly with regard to the granting of humanitarian aid to the victims of the pandemic. Members of the NLD should be involved in those efforts; however, such matters did not fall within his mandate. He called on the international community and the various United Nations agencies not to lose sight of the interests of the victims in the initiatives they were taking to promote national dialogue between the Government and the NLD with a view to encouraging a transition to democracy.

54. **Mr. Kyaw Win** (Myanmar) said that the people of Myanmar, who had suffered the consequences of the Second World War and insurrection over the following 50-year period, were not in a position to develop a modern political system. Peace had been restored only 10 years previously, and the people must learn to live in respect for legality and the Constitution. In that connection the Commission on Human Rights and the Australian Government, in particular, provided valuable assistance.

55. With regard to ethnic minorities, Myanmar had 132 ethnic groups, the most important being the Burmese, who occupied most of the country. It was important to recognize the rights of other ethnic groups, and the former name of the Kingdom of Myanmar had been adopted instead of Burma precisely to include all ethnic groups. The separatist movements were the consequences of the colonial period; the different ethnic groups were now assimilated and lived in all regions of the country. It was important to maintain the cohesiveness of the population so as to reconstruct the nation of Myanmar.

56. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) concluded by thanking the regional groups whose support was vital to ensuring the protection of victims of human rights violations. It was important to grasp the opportunity now present, not only in Myanmar, but also at the United Nations and within the international community, in order to encourage the democratic process in the country.

57. **Mr. Cutileiro** (Special Representative of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina and the Federal Republic of Yugoslavia), introducing his first report (A/56/460), said that the report dealt separately

with Serbia (excluding Kosovo), South Serbia, Kosovo and Bosnia and Herzegovina. In Serbia proper advances had been made recently on the major questions of detainees and missing and displaced persons. However, the lack of clarity in the future constitutional arrangements and in relations between the Federal Republic of Yugoslavia, Serbia and Montenegro was a serious impediment to institutional reform. Judicial reform would need outside financial and technical support, but the Government must also adopt legislative measures that met international standards. To start with a clean slate the Government must diligently address the question of impunity, and investigate the mass graves recently found around Belgrade and other places.

58. In South Serbia the deal brokered in May under NATO auspices had kept the peace, with the two protagonists demonstrating their commitment. However, the pace of implementation of agreed changes was very slow, as in the lack of progress in electoral reform that would allow full participation of all ethnic groups in public life. He urged the two parties to continue their endeavours, but more could be done by countries and organizations running assistance programmes in Yugoslavia to provide financial and technical support for projects aimed at bringing about change in the country.

59. Serious human rights questions persisted in Kosovo after two and a half years of United Nations/NATO administration. The security of minorities was far from assured, the popular mood and political rhetoric were unpropitious, and the police and the judiciary were deficient in means, methods and impartiality. Full participation by the Serbs in the general elections to be held on 17 November would represent a critical step on the road towards a multi-ethnic Kosovo.

60. In Montenegro the lack of clarity regarding future relations with Serbia and a dysfunctional relationship with the Federal Republic of Yugoslavia had stalled progress in carrying out institutional reform. The key political parties had recently abandoned any real dialogue and attention had shifted to a referendum on independence. The situation should become clear by the following summer. The Montenegrin authorities should be persuaded to deal with those aspects that were independent of the constitutional dilemma. He underlined the need for a free and independent press,

particularly at a time of important public debate on political and constitutional matters.

61. The notion of the State was not clearly defined in Bosnia and Herzegovina. The Dayton Agreement had created a complex system with several layers of authority that often competed with each other; the wounds of war had not yet healed; and the international community was playing an unusually large role in the country's governance. That situation was bad for human rights because it made accountability difficult to establish. The undue influence that people alleged to have committed war crimes continued to have increased the difficulty of reconciliation, particularly in small towns and villages. He favoured the establishment of a truth and reconciliation commission, which, if properly supported, could go some way towards improving inter-ethnic relations.

62. The return of refugees and displaced persons and the restitution of property were very serious questions. Legislation existed, but its implementation was far too slow. Discrimination was practised by all sides and at all levels, even that of the police and the judicial system. The more blatant cases occurred in Federation cantons run by nationalist parties and in most of Republika Srpska. The presence of three ombudsmen (one for each community) could not reverse that trend. Organized crime had benefited from the porous borders, and illegal migration and trafficking in women were serious problems. In the context of the current fight against terrorism, relevant legislation was being strengthened. The protection of human rights in Bosnia and Herzegovina was a structural problem. There could be no real progress as long as the country depended on foreign legislators and foreign military. Only genuine inter-ethnic reconciliation would be able to bring about sustainable improvements.

63. **Mr. Sāhović** (Yugoslavia) said that his delegation considered the views and recommendations of the Special Representative on certain aspects of human rights in the Federal Republic of Yugoslavia constructive, particularly the measures taken to redress the violations committed by the former regime and reform government institutions. It also felt that consideration of the human rights situation in the country must take into account the exceptionally serious economic and social situation that the current Government had inherited and that the part of the report on Kosovo and Metohija reflected the situation realistically. In that regard, the assessments concerning

the need to implement Security Council resolution 1244 (1999) and increase cooperation between the competent Yugoslav authorities and UNMIK were particularly important. A common document had recently been signed by the Government and UNMIK.

64. With regard to the legislative and judicial reforms mentioned in the report, he pointed out that work in that field had been intensified: new criminal procedures and a set of laws on the judiciary in Serbia had been adopted. Other laws relating to human rights issues, such as the amnesty law and the citizenship law, had also been adopted. Referring to the issue of ethnic Albanians from Kosovo and Metohija in detention in Serbia, he said that the exact number of prisoners released was 1,684 and that the cases of 200 others were under review. The recently signed common document should speed up that process with a view to transferring the detainees to Kosovo and Metohija.

65. The failure to establish the rule of law in Kosovo and Metohija was due in part to the undisguised negative bias of ethnic Albanian judges in trials involving ethnic Serbs and other minorities, as indicated in the Special Representative's report (A/56/460). It was therefore necessary to consider carrying out a comprehensive review of all trials involving minorities that had failed to meet the minimum standards of due process of law. With regard to the investigations under way in Serbia proper of missing persons in the conflict, Government officials and experts were working to establish the identity of the remains found in mass graves. A similar effort should be made in Kosovo and Metohija, where about 1,500 non-Albanians, most of them Serbs, had been reported missing.

66. Security was the main issue of ongoing concern in Kosovo and Metohija. Since freedom of movement was one of the most basic human rights, his delegation would welcome suggestions from the Special Representative on ways to address that untenable situation. Referring to the question of returnees, he pointed out that, of the almost 250,000 people forced to leave Kosovo and Metohija, only 126 Serbs had been able to return. His delegation, therefore, joined the Special Representative in his appeal to UNMIK and KFOR to take all necessary steps to protect the physical safety and human rights of all those who chose to return to the province.

67. The end of the violence in southern Serbia and the improvement of the human rights situation had resulted in the return of more than 8,000 displaced Albanians to their homes. The training and deployment of multi-ethnic police, an example of cooperation between the Yugoslav Government and the international community, should further improve the situation. Yugoslavia would like the pace of reforms to be faster. It was aware that that was a continuous process in which the cooperation of United Nations institutions was invaluable.

68. **Mr. Prica** (Bosnia and Herzegovina) said that the report of the Special Representative indicated modest improvements in the human rights situation in Bosnia and Herzegovina and acknowledged that more had to be achieved. The country's economic situation, as a result of three and a half years of war as well as communism, had had a negative impact on the reconciliation process, the return of refugees and respect for human rights. Measures had been taken by the authorities at the State, Entity and local levels to fight illegal activities and corruption. With the help of the international community, the police in both Entities had been restructured in accordance with European standards, and the reform of the judiciary system would soon be under way. All the authorities should cooperate fully with the International Criminal Tribunal for the former Yugoslavia to ensure that those who had already been indicted or would be in the future were brought to justice without delay.

69. The reconciliation process was of paramount importance. Reconciliation was a slow process and could not be imposed, but it could be facilitated. His delegation recognized the positive role played by the international community in facilitating the return of members of the ethnic minorities. Nevertheless, economic assistance was needed more than ever in order to help returnees start a normal life. The high unemployment and therefore the weak economy were jeopardizing the whole process.

70. The Constitutional Court's decision on the constituent peoples of Bosnia and Herzegovina, issued in September 2000, would soon be implemented and would ensure that Serbs, Bosnians and Croats were constituent peoples of the State, not solely of one entity or the other. The initiative designed to create adequate conditions for rebuilding all religious sites and guaranteeing freedom of religion should promote mutual tolerance and respect among peoples.

71. The help of international experts and financial assistance would be crucial in speeding up the economic reforms and success in achieving that goal would do much to promote the reconciliation process, full respect for human rights and political stability in the nation. He stressed the importance of significantly improving relations with neighbouring countries. An agreement would soon be reached with the Federal Republic of Yugoslavia on the issue of dual citizenship; similar to that which had been concluded with Croatia, it would diminish tensions between ethnic groups. Cooperation between the three countries was the key to reconciliation and thus to improvement in the human rights situation and to the repatriation of refugees. Only by strictly observing borders in the Balkans, diminishing the significance of borders between the South-Eastern European States and strengthening cooperation with a view to merging their economies could inter-ethnic conflicts finally be resolved and the quality of life be improved. Positive signals and messages from the European Union regarding the prospect of future membership were another important factor in normalizing life in Bosnia and Herzegovina. Membership in the Council of Europe, expected to begin in early 2002, would boost confidence among the peoples and improve the human rights situation.

72. **Mr. Knyazhinskiy** (Russian Federation) noted that in his report to the General Assembly at its fifty-fifth session (A/55/282), the Special Representative had painted a dramatic picture of the situation in Kosovo, where ethnic cleansing, looting, domination by criminal gang families and the threat of terrorism were common, and had stated that Serbs, regardless of age or sex, were living in the shadow of violence and harassment. As long as that situation persisted, the inhabitants of Kosovo, whatever their ethnicity, would be unable to enjoy the fruits of democracy. He asked to what extent the Special Representative's observations were still valid and what the real situation of Serbs in Kosovo was.

73. **Mr. Van den Bossche** (Belgium), speaking on behalf of the European Union, said that the European Union was encouraged by the improvement in the situation which the Special Representative had described in his report (A/56/460). It would be useful to have more information on the situation of Albanian prisoners. The European Union wondered what the international community could do to address the problems of refugees which the representative of

Bosnia and Herzegovina had mentioned. The Special Representative had been requested to hold consultations and to cooperate closely with international bodies in the region and, in particular, with the representatives of the Organization for Security and Cooperation in Europe (OSCE) and with the United Nations High Commissioner for Human Rights offices in Belgrade and Sarajevo. The European Union would appreciate details on that cooperation and on the way in which organizations were apportioning tasks in order to avoid duplication.

74. **Mr. Cutileiro** (Special Representative of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina and the Federal Republic of Yugoslavia) said that, although the situation of Serbs in Kosovo had improved since the return of calm, it was far from satisfactory. The only real progress was of a political nature since it concerned the attitude of Albanian political parties and the relationship between UNMIK and the Government, which had recently succeeded in concluding an agreement. Despite the remaining difficulties, the political mechanism which would allow continued improvement in the situation was beginning to be put in place. The Serbs could only strengthen their position by voting in the elections; however, there was no doubt that much remained for UNMIK and local communities themselves to do.

75. The situation of minorities in Kosovo was still precarious, but there was a growing trend towards the search for a solution, which the international community should support.

76. The Office of the High Commissioner for Human Rights in Belgrade and the Special Representative himself had stressed that the Albanian prisoners must be released and that civilian prisoners should be transferred to another prison in Kosovo. There were signs of the Belgrade authorities' good will in that regard.

77. The statistics suggested an improvement in the return of refugees, mentioned by the representative of Bosnia and Herzegovina; however, as he had stated repeatedly, he considered that that question was part of the general issue of reconciliation and must be resolved by the entire population of that country. The international community could only provide technical assistance and financial support and facilitate rapprochement between the parties; the goal was to

keep the country together without the need for a strong international presence. He thought that it was possible to make progress towards that goal.

78. There was indeed cooperation between the various agencies working in the region. There were so many international and national bodies involved in the bilateral process that some confusion was inevitable. On the whole, all those systems worked, but cooperation and coordination between them could be improved.

79. Lastly, he had been struck by the willingness of the two Governments to overcome the problems of the past and to turn towards the future, and he thanked the authorities of Bosnia and Herzegovina and Yugoslavia and the representatives of the international community in those two countries for the support that they had given him.

The meeting rose at 1.05 p.m.