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Chairperson: Ms. AL-HAJJAJI (Libyan Arab Jamahiriya)

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The meeting was called to order at 3.10 p.m.

STATEMENT BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS OF NORWAY

1. Mr. HELGESEN (Norway) said that, at a time when humankind faced so much fear and insecurity, it was important not to lose sight of the progress made during the 56 years of the Commission's existence. More people than ever before lived in democratic countries, the number of which had risen from 44 to 82 since 1985 and in which 57 per cent of the world's people lived. The Commission had played a significant part in that achievement. To preserve its relevance and ensure further progress, it must be protected from the danger of polarization and discord; it should not lose its focus on the basic elements of human rights protection. Constant efforts must be made to improve human rights work within the United Nations. Words were not enough: sufficient funds must be allocated to the human rights machinery and to the Office of the High Commissioner for Human Rights (OHCHR).

2. Respect for human rights and the rule of law was central to the security and prosperity of individuals and States alike. Human rights protected the individual's dignity, life and safety. The same applied to international humanitarian law, observance of which could prevent or alleviate human suffering. In that context, the population of Iraq had been suffering from human rights violations for a very long time. The civilian population always paid too high a price in any conflict; it was to be hoped that hostilities would come to an end as soon as possible. Norway had already provided humanitarian assistance and stood ready to assist in any humanitarian action led by the United Nations. Respect for international humanitarian law was vital and must not be subject to relativism. Indeed, it was ultimately in the interests of all parties to a conflict, however much weapons technology or the ways of warfare might change. All States parties to the Geneva Conventions should seek ways of adhering ever more closely to the Conventions.

3. Although every conflict had its own dynamic, it often originated in human rights abuse. Any peace and reconciliation process must therefore address human rights issues. As facilitator of the Sri Lanka peace process, his Government was pleased that the parties had agreed to continue work on a human rights road map, including the early drafting of a declaration on human rights and humanitarian principles. Efforts were also under way to protect and rehabilitate children affected by the war and to put an end to the recruitment of child soldiers. Dialogue during such a process was crucial. He welcomed the High Commissioner's interest and involvement.

4. In post-conflict situations, the need for human rights monitoring, confidence building and human rights education could not be overestimated. In the case of Iraq, they would be crucial elements in assisting the country to achieve stability, a culture of human rights and the rule of law.

5. The recent inauguration of the International Criminal Court had been a moment of great importance for the international community. In future, the perpetrators of war crimes and crimes against humanity could not be safe anywhere. The Court would serve as an incentive for States to prosecute the perpetrators of mass atrocities. It would also serve as a deterrent and promote reconciliation.

6. Terrorism, which was meant to inspire fear, threatened the very foundations of democracy. In its efforts to protect and defend itself, however, the international community must remember that free and open societies were themselves the best bulwark against terrorism. The fight against terrorism must take place within the boundaries of international law. His Government was concerned that many countries had passed security legislation that infringed human rights. International human rights norms left enough space for States to protect themselves in difficult times. That space should not be exceeded.

7. The use of torture should be condemned at all times and in all circumstances. It was an abhorrent practice that no cause could justify. His Government therefore greatly welcomed the recent adoption of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which would, it hoped, enter into force as soon as possible.

8. Respect for human rights had often to be promoted against a complex backdrop, sometimes one of conflict and poverty. Even though responsibility for its human rights record lay firmly with the nation State, international cooperation was also important. Human rights should be fully integrated into national and international efforts to combat poverty. His Government was willing to do its share. It would continue to be a major partner in development and was firmly committed to the United Nations Millennium Development Goals. It was also committed to working towards the adoption of a United Nations declaration on the rights of indigenous peoples and he welcomed the progress that had been made. Every effort must be made to complete the draft declaration before the end of the International Decade of the World's Indigenous People.

9. Women and children were particularly vulnerable to human rights abuses and, over the past few years, an increasing number had been falling victim to trafficking, exploitation, sexual abuse and slavery-like conditions. It was the responsibility of the individual State to prevent trafficking, assist the victims and investigate and prosecute the traffickers. His Government had just finalized an extensive national plan of action to combat trafficking in women and children. Cooperation at the regional and international levels was also crucial, however.

10. The right to life was the most fundamental of all human rights. His Government was strongly opposed to the use of the death penalty, believing that there was no justification for such a repugnant practice. It urged all States to work towards its abolition. The use of capital punishment against child offenders and offenders with mental disorders was of particularly serious concern.

11. The freedom to hold and express opinions without fear of being persecuted lay at the very basis of democratic societies, where dissent was not a threat but a proof of strength. In many parts of the world, however, the men and women who tirelessly defended human rights at their own peril were harassed and pursued. They deserved the attention and protection of the Commission.

THE RIGHT TO DEVELOPMENT (agenda item 7) (continued) (E/CN.4/2003/7, 25, 26, 122, 125 and 128; E/CN.4/2003/NGO/5, 33, 67, 124, 156, 163, 210, 251 and 254)

12. Mr. MAHESAR (International Institute for Peace) said that agricultural and industrial wealth in Pakistan was concentrated in the hands of a tiny ruling elite. Moreover, 80 per cent of the national budget was spent on defence and debt servicing. There was little left for health, education or social services.

13. Government regulations on agriculture hurt medium-level farmers, who were forced to sell rice, paddy, cotton and sugar cane to the Government at fixed prices. The Government had also fixed international rates for agricultural inputs like fertilizers, tractors and pesticides. The absence of proper agricultural planning had contributed to widespread unemployment in Sindh. Law and order had broken down in the villages. Democratization in Sindh was constantly being subverted by the federal Government. Despite winning a majority, the Pakistan People's Party had not been allowed to take office.

14. Such action was not isolated: in 1984, the army had helped to create the Muttahida Quami Movement (MQM), a movement supported by the Muslim refugees from India, the Mohajirs. The rural areas of Sindh suffered because MQM attempted to divert resources to urban-based Mohajirs. The Government had just appointed as governor of Sindh an MQM representative, who was an absconder from a criminal case. He called upon the Commission to recognize the fact that the common people of Sindh were being robbed of their natural resources and their right to development.

15. Mr. CHOUDHARY (World Peace Council) said that, in 1967, the Pakistani authorities had built the Mangla Dam in Kashmiri territory, in defiance of international law and local Kashmiri laws forbidding foreigners to buy or own land in Kashmiri territory. The local government had not been paid any royalties, on the grounds that the area was not legally part of Pakistan. An earlier dam that had been planned in Pakistan itself had been strongly recommended by the experts. The project would have created 35,000 jobs and brought enormous benefits to Pakistan, but it had been strongly opposed by the local people. The Pakistani authorities had therefore decided to upgrade the Mangla Dam, uprooting over 100,000 people by force. The opposition of the people of Mirpur had been subdued by paramilitary Pakistani forces, which had been given a free hand to deal with the demonstrators.

16. Mr. MORA SECADE (Centro de Estudios Europeos) said that the acceptance of the right to development as a basic human right appeared to have been resolved by the consensus reached in the Vienna Declaration and Programme of Action. No one could have imagined at the time the vicissitudes that would have been implied by the neo-liberal concepts imposed by the transnational enterprises and the Governments of the developed countries. In the decade in question, the international climate had been extremely negative for the right in question. For the realization of that right, each State would have to take steps at the national level, but its genuine capacity to adopt such policies had been systematically reduced. The heavy burden of external debt consumed most of the developing countries' resources and structural adjustment programmes imposed by the International Monetary Fund (IMF) had had a negative effect on the

possibilities of education, health, employment and social security. The liberalization of trade between parties at different levels of development had inevitably had a negative impact on the economic development of the poorer countries; and the deregulation of investments had exacerbated the pillage of the developing countries by transnational corporations.

17. Economic sanctions continued to be imposed unilaterally against developing countries to obtain political concessions and billions of dollars were spent on wars of aggression, as in the current case of the United States action against Iraq. And, if that were not enough, official development assistance (ODA) had dropped to about 0.2 per cent of gross domestic product (GDP). The negotiations currently starting at the World Trade Organization (WTO) on liberalizing the trade in services would be the culmination of a negative process that would not only affect the developing countries but would also open the door to the dismantling of the "welfare State" activated by many European countries after long campaigns by their citizens. It was essential that a human rights focus should be given to those negotiations. The extent to which the current agreements affected the enjoyment of human rights and the protection of the environment should be assessed to establish whether they were contrary to commitments on realizing the right to development.

18. Mr. AHMAD (World Muslim Congress) said that the gap in wealth between the developed and non-developed countries continued to widen at an alarming rate. Indeed, the net flow of wealth was from the poor to the rich and the number of least developed countries (LDCs) was almost twice what it had been 30 years previously. The situation called into question the validity of the diagnosis and the suitability of the remedies routinely imposed by imported technicians on poor societies, as well as the huge farm subsidies and the tariff structures with which the developed States blocked the import of products from the poorer countries. Being unable to repay their monumental debts, the developing countries were often obliged to incur new ones. Policies dictated by the IMF had led, in the developing countries, to rising unemployment, higher commodity prices, recession, population increase, loss of control over national wealth, speculative foreign, non-productive investment and the domination of multinational corporations.

19. A new system must be found whereby nations ungrudgingly helped each other out of their difficulties. The debts incurred by the poor countries must be completely written off, irrational capital flows must be prevented and labour mobility must be facilitated. If not, the prospect of a peaceful and progressive human community would remain a mirage.

20. Mr. WATCHMAN (International Indian Treaty Council) said that, if his people, the Dineh (Navajo) from Big Mountain, Arizona, were removed from their holy ancestral homeland, they would be unable to practice their religion and their way of life would end. Yet the Peabody Western Coal Company, with the connivance of the United States Government and the Bureau of Indian Affairs, was proposing to extend its strip-mining activities to include his people's land.

21. There was already a problem with groundwater: Peabody Western Coal Company had been pumping it out for over 30 years to carry coal 287 miles to two generating stations to produce electricity for the big cities. The Dineh attached great importance to rain, water and the earth. With more than 3 million gallons of water pumped from their lands every day, the sacred springs were drying up, their sheep could not drink and their corn did not grow. At the

Third World Water Forum, the transnational corporations had been told by the whole of civil society that water was not a commodity, but life itself. The United Nations Educational, Scientific and Cultural Organization (UNESCO) had recognized the sacredness of water to indigenous peoples, who made an important contribution to the world's cultural diversity, and had recommended to Governments and companies that indigenous rights be given due attention. He appealed to the Commission to prevent the loss of the last of his people's land and sacred water.

22. Mr. OZDEN (Europe - Third World Centre (CETIM)) said that Commission resolution 1998/72 asked the independent expert to carry out a "study on the current state of progress in the implementation of the right to development". Instead, the expert had attempted to redefine the right to development, had proposed a development compact and had made no in-depth analysis of the impact of the economic and financial issues. His definition of the right to development had not been accepted by the Working Group and his proposed development compact appealed for international cooperation and the mobilization of voluntary funds even though the international cooperation demanded by the Declaration involved much more than the provision of funds. He had also declared that greater access to markets would increase economic growth, despite the fact that the current neoliberal globalization was not reconcilable with the right to development.

23. His organization called on the Commission to extend the mandate of the Working Group so as to enable it, inter alia, to study the advancement of the implementation of the right to development and the impact of international economic issues on that right; to establish ways of strengthening international cooperation and to ascertain ways in which the developing countries could be freed from the burden of debt and ensured equality in international relations.

24. Mr. MUMTAZ KHAN (European Union of Public Relations) said that the right to development of the peoples of Azad Kashmir and Gilgit Baltistan was being continuously violated and that the areas were being used to facilitate Pakistan's military activities against Indian-held Kashmir. Religious schools had been set up to indoctrinate young people with extremist philosophy and opposition to them was interpreted as an anti-Islamic and anti-State act which risked prosecution. In both India and Pakistan, resources were wasted on military hardware instead of being directed towards the people's welfare and development.

25. Ms. KHAMMAS (General Arab Women Federation) said that Iraq had been subjected to eight days of military aggression by the United States of America and the United Kingdom without any distinction being made between combatants and civilians. Infrastructure was being destroyed and innocent people massacred in the full view of the international community. Water was being contaminated, radioactive war materials were being used and there were shortages of food and medical supplies. It was already the case that only one in eight Iraqi children reached his or her fifth birthday and 60 per cent of all Iraqi women were anaemic. The aggressors had bombed schools and universities, making them unusable. She called for an immediate end to the bombing and declared that it was unacceptable that the Commission should have failed to adopt a position in the face of such massacres.

26. Mr. JAHANGIR (Himalayan Research and Cultural Foundation) said that the Commission had come a long way since 1995 when the General Assembly had adopted its resolution 50/184 requesting the Secretary-General to continue coordination of the various activities with regard to the implementation of the Declaration on the Right to Development. OHCHR had made a particular contribution in 2002 by organizing successful international conferences that had expanded the relationship between development and human rights.
27. However, the realization of the right to development was dependent on specific social and political conditions and the phenomenon of international terrorism, by generating a violent environment, was threatening the realization of that right. The situation in the State of Jammu and Kashmir in India was an illustration of that fact. Caution had to be exercised to ensure that international assistance and aid for development were actually used for those purposes and not for sponsoring and exporting terrorism.
28. Commission resolution 2002/69 had recognized that poverty eradication was one of the critical elements in the promotion and realization of the right to development, but the key to realizing such a right was a peaceful environment.
29. Mr. SÁNCHEZ (American Association of Jurists) said that the idea of equity, incorporated into the right to development, should take the form of a more equitable distribution of income, both among countries and among individuals. For example, external debt could be abolished or substantially reduced in the case of the most heavily indebted countries; fairer prices could be paid for raw materials and products from the LDCs and a policy introduced to achieve full employment with wages that would allow workers and their families decent living conditions.
30. The question of the right to development needed to be clarified and proposals should be elaborated to encourage an economy of peace involving disarmament and significant reductions in military spending in all countries so that the right to development could be given its proper place at the centre of the development of the human being.
31. Mr. PAUL (Voluntary Action Network India) said that development policy should make the human being the main focus and beneficiary of development. The international community had a special responsibility to eliminate the continuing imbalance in the global order whereby the developed countries paid lip service to their commitment to eradicate poverty whilst elaborating rules and standards that deprived the developing countries of the benefits of international trade. Serious inequalities also existed in education, health and income distribution between countries and between the sexes, while the unacceptably high consumption levels of the developed world had serious implications for sustainable global development.
32. He called upon the Commission to strengthen the processes for making the right to development a reality; to take action to reduce inequality; to reform the rules of world trade; to end the conditionalities imposed by the global financial institutions on the developing countries; to ensure the right of equal participation by the developing countries in the formulation of international economic and trade rules and to encourage a process of globalization which worked for the majority.

33. Ms. BORRELLY (Movement Against Racism and for Friendship among Peoples) said she regretted that the report of the Working Group on the Right to Development on its last session (E/CN.4/2003/26) had not been made available sooner.

34. She underlined the danger of regarding foreign direct investment (FDI) as the ultimate means of financing development and eradicating poverty. It was difficult to demonstrate that the benefits it offered were greater than the costs it generated. As the High Commissioner had pointed out in her report (E/CN.4/2003/7) FDI could have undesired effects where there was insufficient regulation to protect human rights (para. 20). It should not be forgotten that such investment involved remuneration and that the repatriation of profits was much more rigid (less avoidable) than debt servicing. Research had revealed that FDI had little positive effect on the productivity of national companies and was a precarious solution in that the interest of the foreign investors in the development of the poorer States was entirely contingent; a factory opened one day could be transferred elsewhere the next.

35. Ms. PLUMMER (December Twelfth International Secretariat) said that the right to development was crucial but the fact was that the progress of the developing nations was directly tied to their deliberate exploitation by the developed nations. It should not be forgotten that Africa's current status was derived from crimes against humanity committed by the very States which wished to link the right to development to Western approval of developing countries' human rights records. There could be no serious discussion about the right to development without a plan to provide restitution and compensation to those whose labour and resources had been stolen. The Durban Declaration and Programme of Action had the potential to make that a material reality. Human rights for all could not be achieved while glaring inequalities still existed, caused by the refusal to implement the right to development.

36. Ms. SALOMON (Minority Rights Group International) said that, without the full integration of standards to secure the rights of minorities and indigenous peoples in development processes, development was unlikely to meet the needs of marginalized groups. Her organization had recently published a series of reports on the rights of minorities and indigenous peoples and the right to development, including studies on the indigenous peoples of the Philippines, the Ogiek of Kenya and the Ogoni of Nigeria. One conclusion reached was that, due to their political marginalization, indigenous peoples were largely absent from the planning, design and implementation of developments and programmes that directly affected their lives and territories.

37. In its resolution 2001/9 on the right to development, the Commission had taken an important first step in addressing the exclusion of minorities and indigenous peoples from the right to development. The next year, 2002, the reference to minorities and indigenous peoples had been omitted. Her organization urged the Commission to reinstate that paragraph in its next resolution on the right to development and to recommend that all State reports on the realization of the Millennium Development Goals should include disaggregated data on minorities and indigenous peoples. The Commission and the Working Group on the Right to Development should also seek constructive methods of engagement.

38. Mr. SENGUPTA (Independent expert on the right to development) said that the discussion had been a very enriching one and he hoped to be able to reflect certain of its aspects in the future activities of the Working Group, possibly by adopting a framework for the realization of the right to development that would facilitate the realization of all rights. There should also be some consensus regarding the follow-up to discussions, possibly by adopting a method for the periodical examination of how different countries were trying to adopt the right to development, what obstacles they faced and how they could be overcome. There would also have to be some discussion on how the behaviour of national and international actors affected the developing countries as a group and on the establishment of basic principles relating to the right to development, such as the acceptance of the Millennium Goals. Follow-up mechanisms would also have to be set up with a view to drafting a convention on the right to development.

39. Mr. BOWA (Zambia) (Chairperson-Rapporteur of the Working Group on the Right to Development) said that he had listened very carefully to the views of the delegations and had recognized that, although there were differences of opinion on some issues, there was a general consensus on which to build. Further discussion was needed on the conceptual issues and, more importantly, on the practical issues for implementing the right to development so as to change people's lives. It was important that political differences should not be allowed to cloud members' judgement in their efforts to move towards a world which guaranteed all human rights. It was also clear that the Working Group needed to give direction to the work of the independent expert, to elaborate on the proposal of a "development compact" and to examine the preliminary study on the impact of economic and financial issues. He asked the Commission to renew the mandate of the Working Group for a further year and thanked its members for their support.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 8) (E/CN.4/2003/27-29, 30 and Add.1, and 130; E/CN.4/2003/G/2, 3, 5, 6, 8-12, 14, 16-21, 24-27, 29, 30, 33, 39 and 40; E/CN.4/2003/NGO/19, 34, 47, 128, 129, 133, 180, 211, 215, 221 and 261; A/57/207 and 366 and Add.1)

40. Mr. DUGARD (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967), introducing his report (E/CN.4/2003/30), said that the situation in the occupied Palestinian territory had deteriorated radically over the past year. Violations of human rights and international humanitarian law were frequent, regular, substantial and effectively unchallenged. The credibility of the legal orders designed to promote human rights and ensure respect for international humanitarian law was thus threatened. If the international institutions established to protect human rights in time of peace and armed conflict could not respond more positively and effectively to the crisis in the occupied Palestinian territory, the major advances of the past 50 years in those areas would be seriously undermined.

41. Over 3,000 lives had been lost since the start of the second intifada in September 2000. Most of those killed and injured had been civilians and several had been foreigners, including some of those killed in suicide attacks; one American peace activist had recently been bulldozed to death by the Israel Defence Forces (IDF). Such killings violated not only the right to life but also the cardinal principle of international humanitarian law that armed forces should direct their operations against combatants and military targets, not civilians.

42. Israeli military operations during 2002 - including bombing, curfews and roadblocks - had created a grave humanitarian crisis and destroyed the foundations of Palestinian economic and social life, with food shortages, widespread poverty and malnutrition, and restricted access to health care and education. Israel, which was directly responsible for that crisis, had violated the most basic principles of the international human rights covenants, as well as the Fourth Geneva Convention, under which, as the occupying Power, it was required to ensure that the occupied population was adequately provided for.

43. Children had probably suffered most from the current conflict, yet many deaths of children had simply been dismissed as "collateral damage". In addition, in the context of a dramatic rise in the number of arrests and detentions generally, there had been reports of torture and inhuman treatment of juvenile detainees, which the Israeli authorities had failed to investigate.

44. The past year had seen an intensification of Israel's practice of destroying Palestinian property, either in the course of military operations or as collective punishment, in violation of the Fourth Geneva Convention. A recent report by the World Bank put the losses from physical damage to property for the first eight months of 2002 at US\$ 423 million. Meanwhile, Israeli territorial expansion continued: the number of settlers had increased by 6 per cent in 2002 while, according to recent reports, the planned security wall between Israel and the occupied Palestinian territory, which had been expected to place an estimated 10 per cent of Palestinian land within Israel, would be extended to include a further 40,000 settlers and 3,000 Palestinians.

45. Nowhere was Israel's material breach of United Nations resolutions clearer than in the area of settlement expansion. As the United Kingdom Secretary of State for Foreign Affairs had said the previous day, there was real concern that the West had been guilty of double standards, on the one hand insisting that Security Council resolutions on Iraq must be implemented while, on the other hand, appearing rather quixotic over the implementation of resolutions concerning Israel and Palestine. In an age when material breaches of United Nations resolutions carried serious consequences, that was a matter that required the Commission's consideration.

46. His current report examined the question whether the measures taken by Israel could legitimately be said to fall within the bounds of proportionality and military necessity. The conclusion was that, even giving Israel a wide margin of appreciation, it was very difficult to justify such action.

47. Mr. LEVY (Observer for Israel) said that, although the Special Rapporteur's report demonstrated the beginnings of an understanding of the unlawful and justifiable nature of terrorism and of the right of States to take steps against it, it still failed to recognize the terrorism and security threats that necessitated them. The report had not cited a single instance of Israel's actions against terrorism that was considered to be legitimate and proportionate.

48. The humanitarian situation in the territories was indisputably serious, but the Special Rapporteur ignored a more immediate cause of the poverty and deprivation there: the appalling and widespread corruption throughout the Palestinian Authority, as a result of which much of the

international donor aid had been siphoned off for personal gain. The Special Rapporteur did not address the resulting dilemma facing the international donor community, namely, whether it was supporting corruption and financing terrorism by funding the current Palestinian regime.

49. As in previous reports, the Special Rapporteur ignored the calculated use of Palestinian children by terrorist organizations, both as combatants and as human shields, in explicit violation of the fundamental principles of international law. Nor did he mention the indoctrination of Palestinian children in school and in summer camps and through television propaganda.

50. The security fence was one of a series of defensive measures Israel had been forced to adopt after the Palestinian leadership had rebuffed repeated overtures to resolve the security crisis. Its location had been determined purely by security considerations and his Government had clearly stated that it had no political significance with regard to future agreements. On the contrary, the Special Rapporteur's suggestion that the fence should follow the 1967 line was tantamount to determining its location according to political criteria and indicated that he himself was taking up a political position on the issue of borders - an issue that even the Palestinians had agreed should be left to permanent status negotiations.

51. The report's treatment of the issue of proportionality was highly inconsistent. Not only did the Special Rapporteur contradict the statement made in paragraph 45 by continually passing judgement on the proportionality of Israel's measures, he had also edited out of the scenario the Palestinian terrorism that necessitated Israel's action. Similarly, in painting a picture of random and arbitrary interruptions to the functioning of health and humanitarian services, the report made no reference to the use of ambulances and humanitarian vehicles for smuggling ammunition and terrorists.

52. Every step taken by Israel cited in any of the Special Rapporteur's reports to date had been presented as excessive, if not illegal. Yet in such an appalling scenario - not of Israel's making - the choices were far more complicated than the report suggested. An effective fight against terrorism could not be conducted without risk to civilians if terrorists resorted, for example, to disguising themselves as pregnant women or aid workers.

53. He said that, in paragraph 11 of the report, the Special Rapporteur had made his clearest statement to date that terrorists were in a different moral league from those fighting terrorism. The report also noted that the right to life applied to Israelis as well as Palestinians (para. 6). Nevertheless, his delegation would have hoped for a more clear-cut statement, along the lines of the recent concluding observations on Israel's initial report to the Committee on the Rights of the Child, which had recognized the climate of fear created in Israel by the continuing acts of terror, in particular the deliberate and indiscriminate targeting of Israeli civilians, including children, by Palestinian suicide bombers.

54. Mr. RAMLAWI (Observer for Palestine) said there were no reasons to hope that renewed consideration of the situation of human rights in the Palestinian territories would bring about any improvement. None of the human rights violations would have taken place had it not been for Israel's continued military occupation, which was itself a grave violation of human rights.

55. The violations were clearly premeditated, since they followed systematic patterns and extended to all aspects of Palestinians' everyday life. Insofar as they involved, inter alia, the wilful killing of Palestinians, deliberate exposure of civilians to harsh living conditions, denial of food and medicine, and collective punishment, the actions of the Israeli occupying forces violated the Convention on the Prevention and Punishment of the Crime of Genocide. Daily killings of Palestinians by Israelis continued to add to the death toll of civilians, including children; 8,000 of the 25,000 Palestinians injured had been permanently disabled; over 30,000 homes, shops and other Palestinian properties had been destroyed.

56. More than ever before, the world was called upon to uphold the principles and objectives of the United Nations in the face of a challenge from a State that behaved as if it was above the law. Nazism had been condemned in the past for acts of killing and genocide over a period of six years; the world had also condemned Israel for similar crimes against the Palestinian people over a period of 50 years. Yet, though the old nazism had been eliminated, the new Nazi zionism had not.

57. Mr. SALLOUM (Syrian Arab Republic) said that there were only five Syrian villages left in the Syrian Golan, with 25,000 Syrian inhabitants out of the original 160,000, the Israeli occupying forces having destroyed most of the towns and farms there and built more than 40 civil and military settlements.

58. Referring to the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/57/207), he said the occupation per se was a gross violation of human rights and that the only way to put a stop to human rights violations was to end the occupation. In particular, Israel's decision to impose its national laws on the inhabitants of the Syrian Golan constituted an attempt to annex it and impose a de facto situation on the international community, in violation of Security Council resolution 497 (1981), which called upon Israel to rescind its decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan.

59. The continuing Israeli occupation had had a catastrophic effect on all aspects of the Syrians' lives: employment opportunities were limited and they were effectively prevented from exporting their agricultural produce, while little of their income was left after paying high taxes. The objective was simple: to force them to abandon their lands. At the same time, Israel provided a range of facilities to settlers, in contravention of the relevant Security Council resolutions, which considered the settlements to be a flagrant violation of international law.

60. In the educational and cultural field, Israeli policy was to impose the Hebrew language, culture and history on the Arab inhabitants of the Golan, while not allowing them to use their own language and forcing them to use school books that distorted Arab history and culture.

61. He called on the United States of America, as one of the sponsors of the peace process, to shoulder its full responsibility and abandon its biased support for Israel so that it could function as an objective mediator. The United States should not only reject racist Israeli policies and

legislation, but also take a firm position reflecting that conviction. Mere verbal condemnation of Israeli human rights violations had already prolonged the occupation and undermined the peace process.

62. It was high time that the Commission members and the international community as a whole united to force Israel to respect human rights by obliging it to withdraw unconditionally from all the Palestinian, Syrian and Lebanese territories occupied in 1967, in accordance with United Nations resolutions and with the principle of land for peace.

63. Lastly, he said his delegation welcomed the High Commissioner's proposal to visit the region to assess the situation on the ground, and hoped it would be possible for the visit to take place during the current session: it would be too late after the end of the session.

64. Mr. KRIEKOUKIS (Observer for Greece), speaking on behalf of the European Union, drew attention to the obstacles facing the Union's humanitarian and development programmes in the occupied territories and asked the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 for his assessment of the Israeli restrictions on the access of international humanitarian personnel to the occupied territories and how the situation might be improved.

65. In the context of Israel's settlements policy, he asked about the possible impact of the construction of the new security fence on human rights. Noting that the debate in the Commission had been adversely influenced by the disparity between developments in the field and the Special Rapporteur's mandate, he wondered whether the time had not come for the Commission to reformulate the mandate so that it was more in keeping with such developments.

66. Mr. VIGNY (Observer for Switzerland) said that his Government supported the Special Rapporteur's mandate. He asked whether the Special Rapporteur had had any contacts with the Israeli authorities during his visits, and whether there was any way in which Israel might be persuaded to take part in a constructive dialogue on its human rights and humanitarian law obligations. The Special Rapporteur's recommendations in that regard would be of interest to the Commission.

67. Ms. KAMINSKY (United States of America) said that her delegation noted with sorrow some glaring deficiencies in the report. Did the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 mean to suggest that some rough moral equivalence existed between indiscriminate suicide bombings in Israel and the excessive use of force by the IDF? Was he suggesting that there need not be zero tolerance for terrorism? Was he implying, by omission, that organizations like Hamas or Islamic Jihad did not warrant explicit condemnation as terrorist organizations?

68. Mr. KHABBAZ-HAMOUI (Syrian Arab Republic), having paid tribute to the wisdom of the Special Rapporteur and expressed the hope that his mandate would be renewed, said he would like to know whether there was any possibility of cooperation - if cooperation did not already exist - between the Special Rapporteur and the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, whether information was exchanged between them and, if so, to what extent.

69. Mr. RAMLAWI (Observer for Palestine) said that the mandate of the Special Rapporteur did not cover violations of human rights in Arab administered or occupied territories. His mandate was to study infringements by Israel of international humanitarian law and the Fourth Geneva Convention and human rights violations by Israel. The Secretariat should correct the title of the report to bring it into line with the Special Rapporteur's mandate.

70. Mr. SOUALEM (Algeria) said that the Special Rapporteur's report painted a faithful picture of the violent, barbaric acts perpetrated against the Palestinian people for five decades. He doubted whether any other State member of the international community which had committed so many abominable crimes would have benefited from impunity for so long. The Palestinian Authority and the League of Arab States had always distanced themselves from acts of terrorism and had condemned them. In a similar vein, his Government wished to express its disapproval of acts of terrorism committed by an army which engaged in deliberate destruction, planned sabotage, political assassination, the dismantling of democratic structures and the razing of infrastructures that had been financed by the international community.

71. Mr. DUGARD (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) said that the issue in question required a careful weighing up of Palestinian actions and Israeli responses. He agreed with the observer for Israel that an attempt should be made to grapple with the real humanitarian dilemma of the situation. Personally he approached the matter from the perspective of human rights or humanitarian law, whereas the observer for Israel tended to emphasize the security aspect. Israel could not, however, always justify its action on the grounds of security. He failed to see how the increase in the number of settlers in the West Bank and Gaza or the deprivation of the Palestinian population of food, education and medical services could be regarded as security measures.

72. Replying to the observer for Greece, he said that his own impression was that access to the West Bank and Gaza for donor agencies was possible, albeit severely restricted by roadblocks and checkpoints, which were sometimes manned by very young soldiers without proper instructions.

73. The security wall or fence had a wide range of implications for human rights. Palestinians who were cut off from their land and employment suffered economic loss. Families were separated. But the main issue was the de facto annexation and fragmentation of Palestinian land, which rendered self-determination meaningless. His own mandate was quite correctly defined, since Israel was in effective military occupation of the West Bank and Gaza. The focus of attention should therefore fall on Israeli human rights violations in those territories.

74. With regard to the comments by the observer for Palestine, he said that it was difficult to avoid examining the actions of Palestinian militants within Israel itself. His credibility would be zero if he ignored suicide bombings and failed to appreciate that, to some extent at least, the response of the Israelis was a reaction to them.

75. In answer to the observer for Switzerland, he explained that he had had no contact with the Israeli authorities. The Israeli Government disapproved of his mandate and, while he was not

denied access to the West Bank or Gaza and was allowed to travel freely in the occupied territories, he was not permitted to meet Israeli government officials despite the fact that such contacts would be constructive, helpful and in the best interests of Israel.

76. In reply to the questions by the representative of the United States of America, he said that acts of terror and suicide bombings should be condemned and there should be zero tolerance for terrorism committed by non-State and State actors alike. As for the moral equivalence of such actions, the situation was a complicated one, inasmuch as civilian deaths were being caused by both suicide bombing by non-State actors and military action carried out by a disciplined State actor in reckless disregard of human life. He found it difficult to single out one sort of killing as being more morally reprehensible than the other, because the outcome was the same, namely the loss of innocent life.

77. Lastly, in reply to the representative of the Syrian Arab Republic, he stated that he read carefully the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, but acted independently of it.

78. Mr. RAMLAWI (Observer for Palestine) said that the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 had not ended with the Oslo agreement. It would cease only when Israeli occupation of Palestinian territories came to an end. He suggested to the representative of the United States of America that she recommend to her Government that Israel be added to its list of terrorists.

79. Mr. UMER (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said that the liberation of Palestine from Israeli occupation, the establishment of a Palestinian State with Al-Quds al-Sharif (Jerusalem) as its capital, the return of all Palestinian refugees to their homeland, restoration of the dignity and security of Palestinian life and the rehabilitation of damaged infrastructure were among the fundamental objectives of OIC. Israeli occupation of Palestinian lands was taking on more sinister forms and the behaviour of the Israeli authorities constituted a flagrant violation of international law. Israeli atrocities against innocent civilians had risen sharply since the Commission's previous session and had left over 2,000 dead and more than 25,000 wounded, including 500 children. Palestinian homes had been destroyed and the Israeli army had re-occupied six towns.

80. OIC rejected all attempts to equate the legitimate freedom struggle of the Palestinian people with terrorism. Liberation from tyranny and occupation was a universal right and those who denied it were the real terrorists. The international community had failed to provide ordinary Palestinians with protection from Israeli terror and repression and their isolation was giving rise to despondency and frustration. The intifada was therefore a manifestation of the popular will to recover freedom and dignity.

81. He called upon the international community to act forcefully to prevent further bloodshed, since the prospects of peace in the Middle East were inextricably bound up with justice. For that reason, it was also incumbent upon that community to ensure the physical protection of the Palestinian people and the provision of humanitarian assistance to the occupied territories.

82. Mr. AL-FAIHANI (Bahrain) said that the human rights situation in the occupied Arab territories had deteriorated in the past year and was likely to worsen still further unless serious negotiations were resumed between the Palestinians and Israelis. He thanked the Special Rapporteur for his perspicacious report. The immense sufferings of the Palestinians had been aggravated by their inhuman treatment and the destruction of their property. Violations of their civil, economic, social and cultural rights were becoming more frequent and the unacceptable acts of terrorism which had been committed were a response to that situation. Israel must understand that its policies would not generate security and that all parties had to enjoy a secure environment.

83. To that end, Israel must withdraw from all the Palestinian territories and from all the Arab territories occupied since 4 June 1967. Such a withdrawal and the establishment of a Palestinian State with Jerusalem as its capital would help to end the Middle East conflict. The international community must intervene immediately to halt Israel's maltreatment of the Palestinian people and to revive peace initiatives, so that stability and security could be established and the cycle of conflict and violence could be replaced by fruitful cooperation.

84. Mr. LEVY (Observer for Israel), speaking in exercise of the right of reply, said that the words spoken by the observer for Palestine at the end of his statement should have set off the alarm bells. The silence of the Chair, the High Commissioner and the Special Rapporteur was perplexing. It was hardly surprising that the observer for Palestine was pleased with the one-sided report.

85. Ever since its establishment as a democratic State, Israel had been committed to upholding human rights and the rule of law. Despite the continuous threats to its very existence and an ongoing state of emergency, his Government had never claimed that security dilemmas constituted an exceptional circumstance justifying the use of unlawful means. On the contrary, Israeli society had always been self-critical, pluralistic and open. An independent judiciary had been in the forefront of safeguarding human rights and the Chief Justice had been internationally recognized and praised.

86. Paradoxically, his Government's concern for human rights and its openness and willingness to subject its security measures to judicial and public review had made it an easy target for criticism from other, undemocratic States which repressed their own people and denied them their basic human rights. In seeking to find a correct balance between security and human rights concerns, every issue of his Government's public policy was subjected to public scrutiny and debate, in which the Hebrew and Arabic media enjoyed freedom of speech and opinion.

87. His Government took a keen interest in sharing its human rights dilemmas with the international United Nations human rights forums, hence the regular and detailed reports it submitted to the treaty-monitoring bodies. Nevertheless, for such a dialogue to take place, basic rules of equity and conduct must be scrupulously observed. Similarly, the principle of reciprocity implied that the same criteria must apply to all States.

88. It was ironic that Governments which regularly violated human rights and the rule of law in their own countries, professed their devotion to those principles in other States. It was also inconceivable that, notwithstanding the existence of many other conflicts and disputes, only the

Arab-Israeli conflict should form the subject of a separate agenda item. The credibility, professionalism and moral standing of the Commission had been critically undermined by a biased and discriminatory approach.

89. Mr. RAMLAWI (Observer for Palestine), speaking in exercise of the right of reply, said that the representative of Israel had talked about sounding the alarm over a comparison of nazism and zionism and also about Israel's upholding of human rights. The alarm bell had started ringing, however, at the founding of Israel back in 1948. The Middle East had never experienced a war before the establishment of Israel. Israel had been set up by committing crimes against humanity and by acquiring land through force and those practices were still being employed. The war in Iraq was being waged because of Israel. Colin Powell had intimated that, after the war, the map of the whole region would be redrawn in accordance with the interests of Israel, to make the latter stronger than any other Arab country in the region, or even than all the Arab States put together. Every war in the region had been fought because of Israel. Alarm bells had rung in 1948 because Israel had been established on the basis of a Nazi ideology. The current killing, torture and human rights violations being committed by Israel were even worse than what had been done by the Nazis.

The meeting rose at 6.05 p.m.