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COMMISSION ON HUMAN RIGHTS

Fifty-ninth session

SUMMARY RECORD OF THE 35th MEETING

Held at the Palais des Nations, Geneva,  
on Monday, 7 April 2003, at 3 p.m.

Chairperson: Mr. VOTO-BERNALES (Peru)  
(Vice-Chairperson)

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In the absence of Ms. Al-Hajjaji (Libyan Arab Jamahiriya),  
Mr. Voto-Bernales (Peru), Vice-Chairperson, took the Chair

The meeting was called to order at 3 p.m.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (continued)  
(E/CN.4/2003/5 and Add.1-3, 9 and Add.1 and 2, 10 and Corr.1, 46, 47, 48 and Add.1, 49-51, 52 and Add.1, 53 and Corr.1, 54 and Add.1 and 2, 55, 56 and Add.1 and 2, 57, 58, 117, 122, 128 and 131; E/CN.4/2003/G/4, 34, 45, 52, 62 and 66; E/CN.4/2003/NGO/6, 11, 23, 29, 36, 50, 57, 77, 78, 84-86, 106, 113, 131, 141-143, 154, 158, 172, 173, 175, 176, 182, 185, 187, 205, 213, 216-218, 223, 251, 264, 266 and 270)

1. Mr. de SANTIAGO (Fédération des Associations pour la Défense et la Promotion des Droits de l'Homme) said that many measures had been adopted in support of the right to food such as the 1996 World Food Summit's objective of halving the number of malnourished people in the world by 2015. However, despite good intentions, the situation was still most alarming. A recent report by the Food and Agriculture Organization of the United Nations (FAO) stated that there were currently 840 million malnourished people in the world. The measures proposed to date were not having any positive impact, either on the right to food or, ultimately, on the right to life and human dignity.

2. His organization consequently recommended the continuation of urgent shipments of foodstuffs to populations incapable of supporting themselves for whatever reasons and the establishment of justiciability of the right to food at both the national and international levels, whereby States would be obliged to implement their peoples' right to food. In addition, the Special Rapporteur on the right to food should be given the authority to receive individual complaints against States and an optional protocol should be urgently drafted to the International Covenant on Economic, Social and Cultural Rights, pending the preparation of a treaty on the subject.

3. Mr. ARAVINDAN (Indian Council of Education) said that, in spite of the cultural rights bestowed on people, the hegemonic tendencies of States often created situations of cultural intolerance whereby certain groups in society were placed at a risk of discrimination. Although Governments had a mandate to protect the cultural rights of their people, the implementation of strategies had yet to become a reality. Education had the potential to change people's attitudes and teach them to respect culture. Consequently, although it would not be easy, the phenomenon of intercultural sensitivity needed to be integrated into national school curricula. Intercultural education also needed to be prioritized within the international forums as a means of supporting the cultural rights of people throughout the world.

4. Ms. LOPEZ (Colombian Commission of Jurists) said it was very important that the Commission should have decided to draft an optional protocol to the International Covenant on Economic, Social and Cultural Rights during its current session. Her organization was alarmed about the inequalities in the world with regard to the enjoyment of economic, social and cultural rights. According to a United Nations Development Programme (UNDP) analysis, the

income of the 1 per cent richest people in the world was equivalent to that of the 57 per cent poorest. Yet no measures had been adopted to overcome that situation. On the contrary, the concept of security - which had taken on such importance worldwide - did not cover the basic needs of people but related only to military security.

5. In Colombia, for example, the pretext of security was used to develop regressive policies which violated economic, social and cultural rights. In such situations, international instruments for the protection of economic, social and cultural rights were very important. Her organization appealed to the Commission to adopt a resolution to set up an open-ended working group to prepare a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights on the basis of the report submitted by the Economic, Social and Cultural Committee and the report of the independent expert.

6. Ms. HUANG (Transnational Radical Party) said that the Chinese Government was denying the basic human, social and cultural rights of its people, including the right to education. Girls had even greater difficulties in obtaining an education, especially in the poorer areas. Although the Chinese Government guaranteed compulsory education by law it was an empty promise. Entry into better schools often required a sponsorship fee which was much too high for the average family to afford. Furthermore, China's minorities were denied the right to learn their native languages. The Government claimed to invest a great deal in education but much of the funding went on entertainment. Meanwhile, it had not complied with the provisions of the International Convention on the Rights of the Child, the International Covenant on the Elimination of All Forms of Discrimination against Women and other instruments to which it was a signatory. She urged the Commission to monitor human rights abuses by the Chinese Government and help enforce the basic rights of the Chinese people.

7. Mr. MALIK (Europe-Third World Centre (CETIM)) said that, although free trade, competition and unbridled market forces would not normally be causes of human rights violations, there were situations in which their application contradicted certain rights. In the case of the cultivation of the coca plant and opium poppies, it was generally agreed that preservation of health and protection of the individual should take precedence over free trade, and all countries had strict laws to control such practices. However, in the case of basic foodstuffs, studies had shown that the rules imposed by the World Trade Organization (WTO) on the free circulation of agricultural products would have a negative effect on most of the world's poor farmers, but nothing was done to protect their rights. His organization condemned WTO involvement in agriculture and recommended that measures be introduced to protect small farmers and allow all peoples to devise their own food and agricultural policies based on their own situations, needs, aspirations and culture.

8. Ms. PARKER (International Educational Development, Inc.) said she wished to highlight the violations of the economic, cultural and social rights of children born of parents from two different countries, in particular girls abducted by their Saudi fathers and taken to Saudi Arabia. Once there they were kept as virtual slaves, their health deteriorated and many were subjected to ill-treatment, denied a basic education or forcibly married. In addition to meeting the definition of slavery set out in international instruments, the situation also came under the mandates of most of the thematic procedures of the Commission. She therefore urged the rapporteurs in question to address the issue as a matter of priority.

9. With regard to the economic, social and cultural rights of the Kurdish people in Turkey, she noted that the ceasefire called by the Congress for Freedom and Democracy in Kurdistan (KADEK) had opened the way for the Turkish authorities to grant such rights peacefully. Unfortunately, however, the new Turkish Government had put a stop to any further discussion of Kurdish economic and social rights. The Commission should urge the Government of Turkey to resume discussion of the rights of the Kurdish people.

10. Ms. BIONDI (International Confederation of Free Trade Unions) said that her organization was seriously concerned about the state of the world economy. The global economic slowdown had made the possibility of achieving the Millennium Development Goals more remote than ever. External debt and its servicing had strangled the growth of the developing countries and the international community had a moral and ethical duty to cancel the debt as a prerequisite for economic growth and development. The international financial institutions and the WTO were failing to fulfil their original undertakings and were responsible for the establishment of an unjust economic model. The International Monetary Fund (IMF) and the World Bank needed to reform their policies and help to draw up a global stimulus plan aimed at providing decent employment and improving the living standards of those with the lowest incomes.

11. More prominence needed to be given to workers' rights in the documents submitted to the Commission in the field of economic and social rights. Proper attention should be paid to the standards of the International Labour Organization (ILO) and the prerequisite of free and independent trade unions for a more equitable society. Her organization also expressed its support for the establishment of the working group to draft an optional protocol to the International Covenant on Economic, Social and Cultural Rights.

12. Mr. SANCHEZ (American Association of Jurists) said that the economic policies imposed by hegemonic Powers through the IMF, the World Bank, the WTO and other institutions were the cause of death and suffering for millions of people. Such policies had a direct impact on the right to health, education, a decent standard of living, work, culture and self-determination. For example, the disproportionate earnings of the pharmaceutical monopolies prevented the production and sale of generic medicines at lower prices to poorer countries, with a direct effect on people's health.

13. States were also obliged to submit to the WTO by 31 March 2003 a list of the public services which they would undertake to liberalize under the General Agreement on Trade in Services (GATS). That represented an imminent threat to essential public services such as health, education, culture, water, energy, post etc. which transnationals would then appropriate for themselves.

14. The hegemonic Powers had ensured that the fundamental human rights and principles set out in the Charter of the United Nations were of little value, as reflected within the United Nations - not excluding the Commission - by the refusal to express opposition to the war currently being waged against Iraq.

15. Ms. BANDETTINI di POGGIO (International League for the Rights and Liberation of Peoples) said that, if they were to promote their peoples' economic and social rights, Governments must have the means to do so by controlling their country's resources. The recent discovery of oil off the coast of Western Sahara would enable a future Saharan Government to provide for the needs of its people. The prospect of independence was looking ever more remote, however, and the new proposal once again envisaged limited autonomy under Moroccan sovereignty and a referendum after a transition period of four to five years. It was difficult to accept such a proposal which postponed a final decision on the territory for so long when its people risked losing the last exploitable resource that it had.

16. The Under-Secretary-General for Legal Affairs, the Legal Counsel, of the United Nations had pointed out that the exploitation of the natural resources of a non-self-governing territory was not permitted unless undertaken "for the benefit of the peoples of such territories, on their behalf and in consultation with their representatives". If prospecting and exploration activities went ahead, therefore, they would be in violation of the principles of international law applicable to the mineral resources of non-self-governing territories.

17. Mr. LEUTHOLD (Liberation) called on the Commission to address the most disturbing violations of economic, social and cultural rights, especially those occurring as a result of foreign occupation, armed conflict or oppression, as in India. The Government of India was deliberately oppressing the Punjab, Assam, Tripura, Manipur and Kashmir so as to weaken their peoples economically, socially and culturally.

18. The World Food Programme (WFP) had announced in August 2002 that it would have to cut daily rations for Saharan refugees by 90 per cent as a result of a shortfall in donations. WFP estimated that one third of all Saharan children were already suffering from chronic malnutrition and, if food rations were further reduced, the situation would become even worse.

19. Every year, the Commission was faced by a resolution on human rights in Cuba which provided cover for the economic blockade by the United States of America. The Commission needed to recognize that such unprincipled resolutions undermined its credibility. The blockade had a negative effect on the economic, social and cultural rights of the Cuban people and was both illegal and unjust. It was high time that the Commission condemned the blockade and rejected the efforts by the United States of America to demonize the Cuban Government.

20. Mr. SALEEM (Asian Legal Resource Centre) said that his organization had repeatedly drawn the Commission's attention to violations of economic, social and cultural rights by the Government of Myanmar and had demonstrated that it was not genuine in its stated aspiration to ensure the food security of the people. The denial of the right to food was based on policies designed to fulfil military needs first, without regard to civilian well-being. The worst abuses occurred in remote parts of the country where thousands of people had been displaced, some of whom were starving in the jungle. Food was produced, but people still went hungry. Until the Government's priorities were changed by the influence of the international community, people in Myanmar would continue to go hungry.

21. Ms. RIVERO (Liberal International) said that all aspects of individual development were repressed in Cuba. The Cuban Government had consistently prevented people from engaging in independent activities, for example by confiscating land from farmers expressing independent ideas. The right of workers to form independent trade unions was also denied and they were obliged to join the official Cuban Central de Trabajadores, a union which served the interests of the State. Furthermore, since 18 March 2003, dozens of independent libraries offering access to uncensored information had been raided and their books confiscated for being contrary to the political ideas of the Government. Independent librarians had been arrested and subjected to harsh punishments. The police had also recently prevented the inauguration of an exhibition of the plastic arts by independent artists in Santiago de Cuba. The people of Cuba needed space for personal development, without which social and economic development would also be hindered.

22. Mr. GONDO (International Committee for the Respect and Application of the African Charter on Human and Peoples' Rights) said that, to ensure the enjoyment by the African peoples of their economic, social and cultural rights, it was necessary to determine the ownership of Africa's natural resources. The continent continued to suffer from economic, social and cultural interference by the former colonial Powers. The structural adjustment policies dictated by certain international financial institutions, the exploitation of natural resources by foreign multinationals and the many wars on the continent had resulted in a fragile economic and social structure and were the main cause of poverty in one of the world's richest continents.

23. During the period of the slave trade, colonization and apartheid, Africa had lost not only its people and its land but also many of its works of art. The African people could not enjoy their cultural rights while their cultural heritage was to be found mainly in the museums of Europe and America. His organization urged the Commission to set up a multidisciplinary working group, in partnership with the African Union, to trace the African works of art scattered across the world with a view to returning them to Africa.

24. Mr. AHSAN (Interfaith International) said that the people of Sindh province had long been suffering discrimination, repression and the denial of opportunities for development. By joining the coalition Government, the Muttahida Quami Movement (MQM) had decided to play a constructive role, on the basis that the people's economic, social and cultural rights were best realized when Governments provided a support structure with an ideological and practical basis. The Governor of Sindh, a member of MQM, had thus initiated measures to improve the people's economic development.

25. Some elements were not happy at the prospect of the Mohajirs making efforts to build bridges of understanding with the Sindhis. The representative of the International Institute for Peace had made some irresponsible remarks about the MQM commitment to good governance. Sindh could, however, attain its long-cherished rights only when there was positive cooperation between the Sindhis and the Mohajirs. He therefore appealed to the Sindhis and to the NGO community to support the MQM initiative to bridge the divide.

26. Although a popular Government was in place in Pakistan, much remained to be done. The absolutist ideologies that posed a threat to the solidarity and integrity of Pakistan must be

brought under control. A coalition Government represented the aspirations of various groups of people and should have no hesitation in conceding that ethnic hegemony was a source of discrimination. Traditional societies had their established ways of life and any violent attempt to replace them by emotional ideologies would be tantamount to arresting the free flow of social and cultural rights. With its seat in government, MQM should discard its sense of alienation, thus benefiting the people for which it had long been struggling.

27. Mr. TCHRANI (Organization for Defending Victims of Violence) said that the human family must make the most of the opportunities available at the dawn of the third millennium. Globalization, for example, could have a positive effect by applying new information and communication mechanisms for the good of all humankind, not just the super-Powers. Globalization had, however, caused the gap between the countries of North and South to widen, with the rich getting richer and the poor poorer. Education was one of the most important ways of confronting global issues. It should therefore be provided by relevant institutions both nationally and internationally. The United Nations Decade for Human Rights Education, which was due to end in 2004, should be extended to 2010.

28. Ms. GRATEROL (International Women's Rights Action Watch) said her organization supported the adoption of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, which would acknowledge the struggles of individual victims and survivors by providing States with tools to end impunity. The initiation of the process indicated the commitment of the Member States to the realization of the principle of the indivisibility of all human rights. The drafting process must be informed by the discussions that had taken place during the preparation of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which had resolved concerns regarding the justiciability and indivisibility of human rights.

29. Her organization strongly believed that optional protocols facilitated constructive dialogue not only between States and treaty bodies but also between citizens and their States. The open-ended working group should thus bear in mind the fact that violations of economic, social and cultural rights intersected with questions of race, gender and class. The optional protocol should enable the Committee on Economic, Social and Cultural Rights to enhance the capacity of States to provide redress for violations and thereby ensure justice for all.

30. Ms. DEHOY (Anti-Slavery International) said that the Rohingya Muslims of northern Arakan state in Myanmar were discriminated against on the basis of their race and religion and were denied citizenship rights. Their movements were severely restricted and food insecurity was deliberately created so as to induce them to leave the country. Over 10,000 had fled to Bangladesh in the past year. Once they had left Myanmar, their names were deleted from their family lists, thereby preventing them from ever returning.

31. The food deprivation policy took various forms. Villagers were subjected to compulsory labour of various kinds. There had been a significant increase in illegal taxation and extortion and Muslim couples had to pay exorbitant fees to obtain permission to marry. Arrests for minor



offences led to demands for high bribes for the release of the accused. Expensive business licences were sold for monopolies in specific commodities. The confiscation of land to build villages for new Buddhist settlers and to expand military facilities continued. She urged the Commission to do its utmost to guarantee the right to food to the Rohingya Muslims and to all the people of Myanmar.

32. Mr. SIMMONS (International Indian Treaty Council) said there was a connection between the current war in Iraq, which was prompted by the United States Government's greed for oil, and the threat to the Gwich'in nation of north-east Alaska and north-west Canada, which was fighting for its fundamental right to lead its subsistence way of life. The Arctic National Wildlife Refuge, which was sacred to the Gwich'in, was under threat. The United States Government, multinational oil companies, the State of Alaska and "native" corporations continued to seek access to the coastal plain of the Refuge to extract oil. The war in Iraq had brought the threat of gross exploitation and degradation in the sacred Gwich'in lands ever closer, under the guise of "homeland security". There were still no effective measures for redress within the United Nations for indigenous peoples whose survival was threatened. The Commission should call upon the United States Government to protect the Arctic Refuge.

33. Ms. SANTANA CRUZ (Centro de Estudios sobre la Juventud) said that the economic, social and cultural rights of people the world over were under threat as never before. The contempt for those rights had brought about such barbaric actions as the absurd and unjustified war led by the United States of America against Iraq, in the teeth of worldwide public opinion. That war, like the foreign debt burden, the misuse of technology and the unilateral application of measures such as the Cuban blockade, violated the most elementary human rights. No economic rights could be realized in the face of neo-liberal globalization that imposed political and economic instability on peoples whose cultural rights were threatened by the impending loss of their cultural identity and social development was also impossible when official development assistance (ODA) continued to be reduced.

34. Young people, who made up 18 per cent of the world's population and 85 per cent of whom lived in developing countries, had new ways of looking at life. They were more aware than ever of the devastating effect of exploitative systems. The young people in Cuba knew that, even living in an underdeveloped region, they were able to enjoy an adequate standard of living, education, food, culture and physical and mental health, when their people's aspirations for social justice were respected.

35. Mr. WARIKOO (Himalayan Research and Cultural Foundation) said that the number of States that had ratified the International Covenant on Economic, Social and Cultural Rights was currently 147, which might seem to indicate progress. It was, however, an increase of only 23 ratifications since the 1993 World Conference on Human Rights. The realization of economic, social and cultural rights in parts of south and central Asia presented particular problems. Recent studies had shown that the region had been suffering from diminishing resources and the situation had been complicated by ever-increasing balance-of-payment deficits. The transition from a welfare State to a market-driven regime had led to acute unemployment.

36. In his home State of Jammu and Kashmir, the consequences of terrorism and religious extremism had been devastating. Over the past 13 years, 1,345 government buildings, 820 educational institutions, 11 hospitals, 354 bridges, 3,000 shops and more than 32,000 private houses had been destroyed by terrorists. Over 220 million rupees had been stolen or extorted by terrorists from banks, government officials, businessmen and private individuals. The real figure was probably much higher, since many cases went unreported. The tourism sector had been destroyed. Foreign tourists had been abducted and killed and pilgrims had been attacked.

37. Ms. LACHENAL-MERRITT (World Federation for Mental Health) welcomed the report on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (E/CN.4/2003/58), which marked the first time that the Commission had specifically addressed the issue of the human rights of persons with mental problems since the adoption by the General Assembly in 1991 of the Principles for the protection of persons with mental illness and the improvement of mental health care.

38. Her organization had, for over 50 years, cooperated closely with the Mental Health Department of the World Health Organization (WHO), which had been responsible for a number of landmark programmes in its endeavour to improve mental health care and eliminate the stigma and discrimination still too often suffered by those with mental and behavioural disorders. In October 2002, her organization had launched a campaign entitled “The effects of trauma and violence on children and adolescents”, in honour of World Mental Health Day, which was commemorated in over 100 countries through public-awareness activities and public rallies. It also served on the NGO Committee on Mental Health, which it had been instrumental in setting up, to support the inclusion of issues relating to the human rights of persons with mental and emotional disabilities in the proposed convention on the human rights of persons with disabilities. She urged the Commission to support that approach.

39. Ms. INAYATULLAH (All Pakistan Women’s Association) said that the Government of India had unleashed every known atrocity to prevent Kashmiris from realizing their right to self-determination, with the result that the economy of Jammu and Kashmir had collapsed, its cultural identity was abused and social life had been demolished, to be replaced by fear and insecurity. Nearly the whole rural population of Indian-occupied Kashmir currently lived below the poverty line and the inhabitants of urban areas fared no better. Tourism, the major source of employment, was dead. Some 45,000 shops had been destroyed since 1990 and cottage industries had been almost wiped out. World-renowned Srinagar University was at a standstill, owing to shutdowns and the curfew. The Hazratbal library and other symbols of the Kashmiri people’s heritage had been destroyed. The calculated denial of the rights of the people of occupied Jammu and Kashmir was a recipe for a human catastrophe. The force of reason must prevail over the reason of force.

40. Mr. MARQUEZ (Andean Commission of Jurists) said that, in the Andean region, forced labour was one of the most serious and frequent violations of human rights, despite national and international provisions that should provide protection. The definition of forced labour was not as simple as that contained in ILO Forced Labour Convention, 1930 (No. 29). In the modern

world, forced labour could take various forms as a result of discrimination, marginalization and poverty combined with insufficient political will on the part of the State concerned. Cultural practices could promote slavery-like situations, which had a disproportionate effect on women, children, migrants, people of African descent and indigenous people. Precarious work, voluntarily undertaken by the worker concerned, could easily turn into forced labour.

41. Some situations were common to all the Andean countries, such as child and adult domestic service, forced prostitution, traffic in persons and compulsory military service. Other forms of exploitation were specific to a particular country. Thus, in Bolivia, female sugar plantation workers and chestnut sellers were exploited; in Chile, flower sellers; in Colombia, factory workers and miners; in Ecuador, child workers in banana and flower plantations; in Peru, gold washers and women in the brick-making and timber industries; and in Venezuela, workers in the construction industry. Street cleaners and refuse collectors were victims of forced labour in several countries.

42. Mr. SUAREZ (Christian Democratic International) said that, although democracy was the seed of liberty and development, international organizations and democratic countries were far too complacent in accepting totalitarian systems disguised as democracies. Such regimes should no longer be provided with the economic resources that helped to sustain them. Zimbabwe, for example, could not be called a democratic country, since it was afflicted with electoral fraud, persecution, and the imprisonment and murder of opposition activists. Uganda, too, could not be called a democracy, since there was only one political party. In Equatorial Guinea, any politician able to obtain a significant number of votes was jailed and political parties were outlawed if they were likely to win seats. The Commission should denounce such abuses and urge the Governments concerned to cease such practices that violated human rights.

43. Ms. PATRAMIJAYA (Third World Movement against the Exploitation of Women) said that, in Indonesia, a sum of about US\$ 50 million was “lost” annually because payable taxes were excluded from the State budget, unhealthy banks were subsidized and products such as fish, timber and sand were stolen. The Government had repeatedly made economic crises a pretext for its failure to provide for economic, social and cultural rights. If it succeeded in banishing corruption and promoting bureaucratic efficiency, however, more than enough funds would be available to protect the people’s basic rights and needs. In that connection, her organization welcomed the report of the Special Rapporteur on the right to education issued following her mission to Indonesia (E/CN.4/2003/9/Add.1), which drew attention to the “notorious KKN” (para. 63), the initials of the words for corruption, collusion and nepotism. The Commission should put pressure on the Government of Indonesia to banish corruption; prosecute the violators of economic, social and cultural rights; and invite various special rapporteurs to visit conflict areas in Indonesia.

44. Mr. MARZOUK (Atlas - Association tunisienne pour l’auto-développement et la solidarité) said that his organization had set out to eradicate poverty in the north of Tunisia through local, cooperative projects aimed at improving living conditions and generating income. Its approach was predicated on active solidarity, a notion inherent in the culture of his country and which had also prompted the launching by President Ben Ali of the Fonds Mondial de

Solidarité. That fund deserved support, because globalization, far from creating a global village, was causing imbalances and even greater marginalization and exclusion. While civil society should promote and protect human rights in their entirety, special attention should be paid to economic, social and cultural rights to facilitate the emergence of a fairer, more caring world.

45. Mr. AL AKHLAG (Netherlands Organization for International Development Cooperation) said that all State institutions in Indonesia were corrupted. Money which should have gone to the realization of the people's economic, social and cultural rights had been embezzled by State officials, who often remained in office even after the courts had found them guilty of criminal activities.

46. Neo-liberal policies and globalization were also undermining the protection of economic, social and cultural rights, as multinational and transnational corporations successfully exploited the country's ineffectual law enforcement. For that reason, the international community should press the Indonesian Government to banish corruption, to prosecute those who violated economic, social and cultural rights, to ratify the International Covenant on Economic, Social and Cultural Rights and to invite the Special Rapporteurs on adequate housing, the right to food and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to visit the conflict areas.

47. Ms. SCOTT (FIAN - Foodfirst Information and Action Network) said that millions of peasants and indigenous communities had been forcibly expelled from their land so that it could be used for export crops or to build tourist facilities. Biodiversity was being destroyed by the green revolution and peasants did not even receive a fair price for their agricultural produce. The violation of their rights meant that they were suffering from hunger and malnutrition and their health was deteriorating. They had little access to education and were denied the right to play a political role in society. Peasants who had been fighting for their rights should be freed from prison and the struggle for access to the land should be decriminalized; the WTO, the World Bank and the IMF should refrain from interfering in agricultural policies and should end the human rights violations stemming from their programmes; a legal mechanism should be set up to guarantee the transparency of human rights standards; all States should ratify and implement the International Covenant on Economic, Social and Cultural Rights; and the Commission should draft an international covenant on peasants' rights with the participation of peasants' organizations.

48. Mr. KUMAR (Voluntary Action Network India) said that democracy and human rights were interdependent and so civil, political, economic, social and cultural rights could not be realized without a deepening of democracy at all levels. The neo-liberal policies of the WTO not only curtailed the budgetary resources available for the poor but also put poor countries under pressure not to subsidize their agricultural sector, although the rich countries continued to do so.

49. As it was the international community's responsibility to ensure work for all at a living wage, people from one country should be allowed to seek employment in another without the need of a work permit.

50. Since the caste system in India had resulted in the marginalization of the Dalits, the Indian Government should honour its constitutional obligations and engage in affirmative action and land reform to empower them. It should also give more powers and resources to the National Human Rights Commission and the National Commission for Women.

51. Ms. WAHEED (International Human Rights Association of American Minorities) said that economic, social and cultural rights would not materialize unless a people had sovereignty over its resources and was able to devote a just share of them to welfare and development. In many parts of the world, however, including Jammu and Kashmir, military occupation entailed a denial of the fundamental right to social and economic advancement. The Kashmiri people were suffering because the economy had been ruined and laws, such as the Prevention of Terrorism Act (POTA), allowed the army and police to ransack business and residential property with impunity. The Indian military occupation must end, so that the Kashmiri people could realize their economic, social and cultural rights.

52. Ms. PALLARES (Pax Romana) said that it was unlikely that the poorest countries in the world would be able to respect, fulfil or protect economic, social and cultural rights when they received a derisory amount of humanitarian funding, or when a substantial proportion of post-conflict aid was spent on a luxury hotel rather than on adequate housing. If a complaints mechanism under the International Covenant on Economic, Social and Cultural Rights had existed, it might have prevented deaths during the recent cold weather in southern Asia. Similarly an optional protocol to the Covenant might be the best way of addressing extreme poverty.

53. Turning to the report of the Special Rapporteur on toxic waste, she highlighted the need to prevent health hazards and to implement the most disadvantaged groups' right to health education. The policies of the relevant ministries had to be coherent and consistent and in keeping with a rights-based approach to health. At the same time, obstacles to migrants' right to health in host countries should be removed and all Member States should be encouraged to recognize the right to health in their constitutions.

54. Mr. ISHAQ ZAFAR (International Islamic Federation of Student Organizations) said that the economic rights of individuals implied the right to succeed through personal skill, foresight and industry. No one should be artificially handicapped, but the people of Jammu and Kashmir were being denied their fundamental economic and social rights because of Indian military occupation, which had led to the destruction of infrastructure and the tourist industry. Cottage industries and agriculture were also contracting and, as a result, poverty and hunger were on the rise. The Kashmiri people needed the support of the international community to save them from the double jeopardy of death from an Indian bullet or from starvation.

55. Ms. DOLMA (International Fellowship of Reconciliation) said that the Chinese authorities were not respecting the Tibetans' right to preserve their cultural, religious and national identity. China's education policy in Tibet was designed to inculcate a love of communism and political loyalty to the Chinese Government and to create the impression that Tibetan culture, language and history were of little value. The educational index in Tibet was the lowest of all the 31 provinces of the People's Republic of China and illiteracy and

semi-literacy rates were high, because many parents in rural areas could not afford school fees. Seen against that background, the failure of the People's Republic of China to honour its reporting obligations under the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child was deeply disturbing.

56. Ms. LEGRAND (Fraternité Notre Dame, Inc.) said that her organization was a humanitarian association which ran soup kitchens for the homeless and provided food and clothing for the needy, in the belief that social tension could be dissipated by such action. It also managed orphanages, schools, hospitals and dispensaries and visited AIDS sufferers and prisoners. Its concern that children in the underdeveloped countries received too little schooling lay behind its endeavours to provide former street children with food and education in an environment that promoted their physical and intellectual development. Young people brought up amidst violence, immorality and indifference to the destitute would not be capable of building stable and prosperous societies.

#### Statements in exercise of the right of reply

57. Ms. SOYLU (Observer for Turkey) said that, contrary to the baseless allegations by the observer for the Greek Cypriots, the Turkish presence in Cyprus was not an occupation, but was based on international agreements. Turkish intervention to prevent the illegal annexation of Cyprus had been undertaken under the 1960 Treaty of Guarantee.

58. The cultural heritage of both parts of Cyprus emanated from the diverse and rich cultures and civilizations that had populated the island throughout history. It was the common heritage of humanity and should be protected and preserved regardless of its origin. The authorities in the north of Cyprus were working diligently to conserve that heritage, whereas the Greek Cypriot administration of southern Cyprus was showing its contempt for the Turkish heritage, which was threatened with destruction, disintegration or desecration. Those facts had been confirmed by the Committee on Culture, Science and Education of the Council of Europe.

59. Ms. KHALIL (Observer for Egypt) said that a host of social problems were encountered in slum areas on the outskirts of large towns. Those areas had expanded because of population growth in the major cities. Her Government had, consequently, adopted a number of plans and projects to build safe and decent housing and to clear slum areas in cooperation with international agencies. The State plan had concentrated on providing adequate housing before old homes were demolished. Buildings were demolished only after certain legal procedures had been completed. Failure to comply with an eviction order could result in accidents, injury or death. Her Government was striving to promote the economic and social rights of the inhabitants of slums by improving their living conditions.

60. Ms. LANITOU-WILLIAMS (Observer for Cyprus) said that the protection of the entire cultural heritage throughout the island was one of the priorities of her Government. Systematic and well-documented destruction of the cultural heritage had been taking place for 29 years in the occupied part of the island. Her Government had been active in various international and academic forums in an endeavour to end that abhorrent practice. In some cases, the prompt response of the international community had yielded results. Despite such cooperation and

support, however, it had proved impossible to contain that policy, which was being pursued on a grand scale. Her Government was, however, very grateful to all those who had assisted its attempts to preserve a cultural heritage which went back 7,000 years and which was the common property of humankind.

61. Mr. HUSSAIN (Pakistan) said that the Indian delegation's brazen distortion and outright lies were a miserable attempt to conceal the doom and gloom that had spread under the rule of the Bharatiya Janata Party. Over the previous 50 years, Indian citizens' modest hopes for lives of dignity, security and relief from abject poverty had been snuffed out. Every democratic institution had shown itself to be unaccountable and inaccessible and unwilling or incapable of acting in the interests of genuine social justice. Every strategy for social change, land reform, education, public health and the equitable distribution of natural resources had been rendered ineffectual. Indian defence expenditure had increased by 50 per cent since 2000, whereas, in real terms, Pakistan's defence expenditure had fallen significantly. In fact, the 28 per cent increase in Indian defence spending in 2001/02 had been equal to the whole of Pakistan's defence budget for that year. The exorbitant increase in Indian defence expenditure under a Hindu fundamentalist Government was accompanied by a more confrontational and belligerent stance towards Pakistan and fitted in well with the policy of refusal of dialogue.

#### CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

- (a) TORTURE AND DETENTION
- (b) DISAPPEARANCES AND SUMMARY EXECUTIONS
- (c) FREEDOM OF EXPRESSION
- (d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY
- (e) RELIGIOUS INTOLERANCE
- (f) STATES OF EMERGENCY
- (g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

(agenda item 11) (continued) (E/CN.4/2003/3 and Corr.1 and Add.1 and Corr.1 and Add.2-4, 8 and Add.1-3, 59, 60, 61 and Add.1, 62 and Add.1, 63, 64, 65 and Add.1-4, 66 and Corr.1 and Add.1, 67 and Add.1-2, 68 and Add.1-3, 69, 70 and Corr.1 and 2, 71, 119, 120, 128 and 129; E/CN.4/2003/G/22, 42, 43, 46, 49, 53, 54, 57, 63, 67 and 69; E/CN.4/2003/NGO/4, 9, 12-16, 24, 25, 37, 46, 49, 51, 53, 55, 62, 64, 65, 69, 79, 80, 87-94, 103, 105, 144-150, 153, 159, 165, 167, 170, 172, 177, 183, 192, 196, 200, 201, 208, 222, 227, 240, 248, 255 and 265; A/57/268 and A/RES/57/200)

62. Mr. JOINET (Chairperson-Rapporteur of the Working Group on Arbitrary Detention) said that his appearance on behalf of the Working Group at the current session would be his last, as his mandate was to end shortly. Introducing the Working Group's report (E/CN.4/2003/8 and

Adds.1-3), he said that the Group had a comparatively good record in terms of communications; for example, 37 per cent of its urgent appeals to Governments had received a response. China, Cuba, the Islamic Republic of Iran and Mexico deserved special mention, as they had systematically responded to all the urgent appeals transmitted by the Group. He asked other States to do likewise. The report contained the responses of Governments to the Opinions issued by the Group, which, unfortunately, were often delayed, thus making its work more difficult.

63. The Working Group had paid official visits to Australia (E/CN.4/2003/8/Add.2) and Mexico (E/CN.4/2003/Add.3) in 2002 and, more recently, had visited the Islamic Republic of Iran. All three countries had granted unrestricted access to their detention centres. He was particularly impressed that the Mexican authorities had allowed, at short notice, a visit to a military prison. Granting access to prisons was just the first stage of the cooperation process, however; Governments had also to ensure that they acted on the Group's recommendations. He expressed satisfaction that, since the publication of the report, the Australian Government had made a decision to close the Woomera detention centre and to open the centre in Baxter. He also welcomed the fact that some positive measures had been taken to improve the situation of vulnerable groups - such as women and children - held in compulsory detention. He hoped that his successor would witness some further positive developments.

64. With regard to Mexico, he welcomed the fact that the Government had acted on the Group's recommendation and had brought domestic legislation into line with international standards. The Group had noted a significant improvement in the relations between the Government and civil society.

65. The Working Group had failed to declare arbitrary the detention of an individual who had been acquitted by the International Criminal Tribunal for Rwanda because no country could be found to receive him. The difficulty had eventually been overcome, as the country where he was residing had agreed to cooperate by granting him asylum. The case had, however, raised the question of the significance and scope of the obligation of all States to cooperate with the International Criminal Tribunal.

66. The Group was currently discussing an Opinion concerning the detention in Egypt of individuals on grounds of sexual orientation. The report contained Egypt's response, namely that the individuals concerned had been detained on grounds of debauchery and not of sexual orientation.

67. The Group did not wish to become involved in the political debate surrounding the detention of persons at the Guantánamo Naval Base, but had tried to focus solely on the legal nature of the detention measures. The United States court dealing with the case had declared itself incompetent *ratione loci*, on the grounds that, as the territory of Guantánamo Bay was governed by an agreement concluded in 1903 between the United States and Cuba, the detention centre could not be considered as being on United States soil. However, the Working Group recalled that, in 1995, it had been invited by the United States authorities to visit Haitian migrants and asylum-seekers detained at the Guantánamo Naval Base. That visit had finally had to be postponed indefinitely, following a 1996 decision by a United States court which, after



declaring itself competent, had ordered the release of the detainees. The Group suggested that that precedent should be taken into consideration in the current debate on the applicability of the Third Geneva Convention.

68. Mr. SMITH (Australia) said that, although his Government had been given only a week in which to comment on the Working Group's report, it had provided extensive feedback. Disappointingly, the Working Group had not been prepared to amend the report, thereby allowing some factual errors to remain. The Group should review its consultative processes with States, in order to minimize such inaccuracies.

69. His Government took its international obligations very seriously, especially with regard to the detention of immigrants. Australia had a long history of migration and an enviable record in welcoming not only migrants seeking economic improvement and family reunification, but also refugees and other individuals in humanitarian need. It remained firmly committed to that approach. For example, its migration programme for 2002-2003 was the most comprehensive in a decade; its integrity was underpinned by immigration detention, as the Australian public had to have faith that the borders were controlled and that the Government was able to determine who was attempting to enter the country and respond to those in greatest need.

70. Australia did not detain asylum-seekers; it detained only persons who tried to enter the country illegally, allowing appropriate checks to be undertaken within a clear legal framework, under the scrutiny of the Parliament and various independent bodies. When a detainee entered an asylum request, every effort was made to ensure a quick and thorough assessment and anyone entitled to protection was promptly released. Arrangements for detention other than in an immigration detention centre could be made if necessary, especially for women, children and unaccompanied minors. Detainees could challenge the lawfulness of their detention before the Australian courts and could file complaints about their treatment. They could also gain access to the United Nations High Commissioner for Refugees (UNHCR), the Red Cross or consular staff, if they so desired. They were provided with legal advice and translation services and legal aid was available in some cases.

71. His Government had invested substantially in ensuring that the physical conditions and services available within detention centres were of a high standard and that the detainees were treated with respect. The Working Group's focus on immigration detention in Australia diverted attention from the egregious detention practices elsewhere that were of greater concern to the international community. The resources spent on the Group's visit could perhaps have been better spent in other ways.

72. Mr. GOMEZ (Mexico) expressed his gratitude to the Working Group for its visit and for the recommendations it had made. His Government had extended a standing invitation to the international human rights monitoring bodies to visit Mexico because it was aware of how valuable constructive criticism from an external source could be. The Government had recently taken steps to develop its national human rights mechanisms, with the active participation of civil society; for example, a national human rights commission had recently been established, responsible, inter alia, for drafting human rights policies and for deciding how best to implement the recommendations of the various human rights mechanisms. It had also recently signed a

technical cooperation agreement with the Office of the United Nations High Commissioner for Human Rights (OHCHR), involving a national assessment of the human rights situation in Mexico and the removal of any obstacles preventing the authorities from implementing the recommendations of international bodies. His Government would continue to cooperate fully with the Working Group in the future and keep it informed of any developments.

73. Mr. FERRER RODRÍGUEZ (Cuba) expressed his gratitude to the Chairperson-Rapporteur of the Working Group for his significant contribution to the work of the Group over the years. The report raised several questions regarding detention procedures in the Guantánamo Naval Base. The fact that a United States court had declared the United States to be void of all responsibility for its actions in the Naval Base made a mockery of the Commission's work. Its decision had been made on the grounds that, since the territory of Guantánamo Bay was governed by an agreement concluded in 1903 between the United States and Cuba, the detention centre could not be considered as being on United States soil. However, Cuba considered the agreement to be illegal, as the United States had used its power as an occupying force to take over the territory in question, and was therefore responsible for it. It was utterly astonishing that the United States was currently trying to make Cuba shoulder the responsibility for the situation in Guantánamo Bay. International humanitarian law clearly established the responsibilities of occupying forces in that regard.

74. Mr. JOINET (Chairperson-Rapporteur of the Working Group on Arbitrary Detention), replying to the representative of Australia, said that, while it had not been possible to include Australia's 30-page response in his report due to the length constraints on country mission reports, the document had been made available for public distribution. He acknowledged that the report contained some technical errors, which should have been avoided. However, under the circumstances, there had been no alternative.

75. In the case of Mexico, the most important point was that the relationship between the Government and civil society was improving. Regarding the statement by the representative of Cuba, he reiterated that the Working Group could not become involved in an ongoing political debate between two Governments. It had simply drawn attention to the fact that a precedent existed.

76. He was pleased to announce that, despite the criticism it had made, the Working Group had received official invitations to visit Argentina, Canada, China and Latvia, illustrating the good will of States to cooperate. In his view, it was preferable to run the risk of being criticized while cooperating rather than to be criticized for refusing to cooperate.

77. Mr. AMOR (Special Rapporteur on freedom of religion or belief), introducing his report (E/CN.4/2003/66 and Add.1), said that it focused on two basic areas of concern: operational activities to deal with intolerance and discrimination based on religion or belief, and the prevention of such intolerance and discrimination. The addendum to the report covered his visit to Algeria in September 2002. Its basic conclusion was that the establishment of any kind of democracy was a commitment to a modicum of order, and implied that extremism and excessive attitudes towards religion or belief must be rejected.

78. Mr. BENCHERIF (Algeria), having asked why the report concerning the visit of the Special Rapporteur to Algeria in September 2002 (E/CN.4/2003/66/Add.1) had been distributed so long after its publication date, said that the visit had been the first of its kind to Algeria and was considered to be highly important. His Government intended to extend the invitation to other human rights bodies in the near future. During his visit, the Special Rapporteur had been able to meet Government figures, representatives of different religions, civil society and the media. The professional approach taken by the Special Rapporteur in his examination of Algerian society had been appreciated, as had his appropriate evaluations and wise observations.

79. For a decade, terrorists had been committing criminal acts in Algeria, raising questions about religion among those who did not know any better. The Special Rapporteur rightly highlighted the fact that Algeria's problems were not so much to do with religion itself than with the use made of it, in other words the partisan political use of religion as propaganda. His Government welcomed the spirit of cooperation shown by OHCHR and reiterated its commitment to promoting human rights and a culture of tolerance.

The meeting rose at 6 p.m.