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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 August 2003, at 10 a.m.

Chairperson: Ms. WARZAZI

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

CONTENTS

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The meeting was called to order at 10.10 a.m.

SPECIFIC HUMAN RIGHTS ISSUES:

(a) WOMEN AND HUMAN RIGHTS

(b) CONTEMPORARY FORMS OF SLAVERY

(c) NEW PRIORITIES, IN PARTICULAR, TERRORISM

(agenda item 6) (continued) (E/CN.4/Sub.2/2003/25-27, 29-31, 33-37 and 41; E/CN.4/Sub.2/2003/NGO/1, 6, 9, 10, 15-17, 25, 34, 41, 46 and 47)

1. Mr. KARTASHKIN recalled that, at its fifty-fourth session, the Sub-Commission had requested him, in its decision 2002/111, to prepare a working paper on the regulation of citizenship by successor States with respect to nationals of the predecessor States. However, in the light of the International Law Commission's adoption of the final draft articles on the nationality of natural persons in relation to the succession of States (A/54/10, chapter IV, section E) and of General Assembly resolution 55/153, in which the Assembly took note of the draft articles (included in the annex thereto) and decided to include in the provisional agenda for its fifty-ninth session an item entitled "Nationality of natural persons in relation to the succession of States", he believed that it would be inappropriate for him to duplicate the work of the Commission and the Assembly by preparing the working paper requested.

2. At its fifty-fourth session, the Sub-Commission had also requested him to prepare a working paper on the rights of women married to foreigners (decision 2002/112). In view of the restrictions on the length of documents he had been asked to focus on the issue of nationality, which was directly related to the elimination of all forms of discrimination against women, a topic which the Chairperson had been studying for years. That working paper (E/CN.4/Sub.2/2003/34) was currently before the Sub-Commission.

3. In many countries, a woman who married a foreigner lost her citizenship, which entailed an infringement of her civil, political and economic rights. The acquisition or loss of nationality was governed by domestic law; conflicts between the legislation of different States could be obviated by the application of the accepted principles and rules of international law and by the conclusion of bilateral and multilateral agreements regulating specific questions of nationality.

4. His working paper (E/CN.4/Sub.2/2003/34) analysed various instruments which formulated general and specific norms on the citizenship of women who married foreigners. It was particularly disturbing that, 45 years after the entry into force of the 1958 Convention on the Nationality of Married Women, fewer than half of the United Nations Member States had become parties thereto.

5. The working paper also included a set of preliminary recommendations (paras. 23-25). Ensuring gender equality had become a primary task of the United Nations and was discussed at world conferences but the rights of women married to foreigners did not always receive the

attention they deserved. It was therefore essential to adopt comprehensive, non-discriminatory regulations which would guarantee women's equality with men in that regard and the Committee on the Elimination of Discrimination against Women should consider drafting a general recommendation on the topic.

6. Ms. HAMPSON said she agreed with Mr. Kartashkin that it would be inappropriate for him to prepare a working paper on the regulation of citizenship by successor States with respect to nationals of the predecessor States. However, the Working Group on Indigenous Populations would shortly submit to the Sub-Commission a resolution on States which ceased to exist because they had been entirely covered by water, a situation which was not covered in the draft articles under consideration by the General Assembly and in which there was no successor State under international law. The Sub-Commission should alert the relevant bodies of the United Nations system to the need to address that issue.

7. Legislation which discriminated against women who married foreigners was not, as many would like to believe, a relic of a former age; such laws continued to be promulgated. For example, if a Dane married a woman who was not a citizen of the European Union, there was no guarantee that they would be able to live in Denmark. In practice, such couples usually moved to southern Sweden and commuted to their jobs in Denmark; after a few years, the woman became eligible for Swedish citizenship and the couple was then able to return to Denmark as both of them were citizens of the European Union.

8. The Government of Israel had recently enacted legislation which prohibited marriage between Israelis and Palestinians living in the Occupied Territory. That law appeared to be racist since its overwhelming impact was on Israeli Arabs who were thus barred from marrying their Palestinian neighbours. While she realized that there had been cases in which such marriages had resulted in the entry into Israel of spouses who later committed terrorist attacks, the response was, to say the least, excessive.

9. There were also States in which diplomats and members of the armed forces were prohibited from marrying foreigners, an especially odd provision since their frequent postings abroad made them among those most likely to do so. It would be interesting to learn how many of the diplomats currently posted to Geneva had foreign spouses.

10. Turning to the question of the reform of the treaty bodies, she noted that discussion of that topic in various bodies was likely to result in action in the near future. At no point, however, had the Sub-Commission or its members been involved in that process. It was genuinely difficult for many States to discharge their reporting obligations; some because they lacked the necessary resources, infrastructure or training and others, because they had too much information to be assembled and coordinated.

11. Any proposal should enhance the effectiveness of the treaty bodies. She therefore proposed that, following the submission of a core document, a State's second report should address only action taken in response to the final comments and recommendations of the treaty body in question and the third report should contain only an update on the information contained in the previous reports; in other words, there would be an alternation between full reports and

follow-up reports. Such a change would not require any modification of the treaties themselves; it would, however, reduce the burden on the treaty bodies and encourage States to take action on the latter's recommendations, since they would otherwise have nothing to report.

12. Lastly, she raised the issue of non-citizens, including refugees, asylum-seekers, migrants and visitors. She strongly supported Mr. Eide's idea that the Sub-Commission should address holistically the issue of people on the move and hoped that he would make more specific suggestions on how that could be done. Mr. Weissbrodt would also be proposing follow-up measures to his own study on the rights of non-citizens.

13. One pressing problem, particularly in Afghanistan and Iraq, was the premature return of refugees from States which wanted to be rid of them as quickly as possible; it was in no one's interests for them to return only to have to flee again, further traumatized. The security of the area to which they were to be returned must have been restored; the return process must be orderly; and, at a minimum, there must be food, water, tents and blankets awaiting them since a disorderly return would simply divert human and material resources to meeting the immediate needs of the returnees.

14. Another problem was that, under article 1, section F, of the Convention relating to the Status of Refugees, the Convention did not apply to anyone who had committed a crime against peace, a war crime, a crime against humanity, a serious non-political crime outside the country of refuge or acts contrary to the purposes and principles of the United Nations. Many States had recently labelled entire groups in their own or other States as terrorist; that was not a valid basis for the exclusion of members of those groups from refugee status. Such a determination must be made on an individual basis; it was not enough merely to establish membership of such a group.

15. The CHAIRPERSON suggested that Ms. Hampson should bring up the issue of non-citizens once again during the discussion under agenda item 5 of Mr. Weissbrodt's final report on the rights of non-citizens (E/CN.4/Sub.2/2003/23 and Add.1-4). Although the issue was largely political in nature, it might be useful for the Sub-Commission to meet a representative of the Office of the United Nations High Commissioner for Refugees (UNHCR) in order to determine what specific problems existed in that area.

16. Mr. GUISSÉ said that the succession of States was an issue of great importance for countries which had won their independence from colonial domination since 1960. Many of the economic problems associated with that transition had yet to be resolved but were not addressed in the draft articles adopted by the International Law Commission. Thus, while he would not oppose a consensus, he did not think that the Sub-Commission should abandon its consideration of the topic. However, on the subject of the regulation of citizenship by successor States, more time would be needed as the relevant work of other bodies would have to be taken into account.

17. It was difficult to address issues relating to the rights of women married to foreigners without interfering with national customs that, until recently, had never posed a problem for the international community.

18. Mr. DECAUX said that, besides the legal issues, there were many practical obstacles that prevented women from marrying foreigners. In Europe, for instance, the suspicion of fraudulent marriage was so widespread that complicated procedures had to be overcome before marrying a foreigner. In Turkmenistan, marriage to foreigners was subject to exorbitant taxation, based on overtly racist criteria.

19. Mr. EIDE said that, while it was impossible for the Sub-Commission to continue work on the regulation of citizenship by successor States, it might be useful to consider in its future work the implementation of citizenship laws. In some countries, such as the Baltic States, the actual situation was equivalent to that in successor States. The preliminary recommendations contained in the working paper on the rights of women married to foreigners (E/CN.4/Sub.2/2000/34) were too weak. It was important to identify clearer objectives for the follow-up report. It would be useful to arrange a seminar on the subject of people on the move, in order to establish how the Sub-Commission could address that issue.

20. Mr. WEISSBRODT, having commented that, in the context of efforts to avoid statelessness for the people of successor States, the principle of jus soli should be applied, said he agreed that the relevant study should be deferred. The working paper on the rights of women married to foreigners concluded quite correctly with referral to the Committee on the Elimination of Discrimination against Women. However, a reminder to States of their obligation to guarantee equality between women and men would be unlikely to resolve the problem in practice. The next study should consider more closely how the treaty monitoring bodies could achieve practical implementation of that principle.

21. Mr. KARTASHKIN said that, as he understood the situation, the Sub-Commission had agreed to defer the question of successor States until a relevant decision had been taken by the General Assembly. Many States had yet to bring their domestic legislation into line with the international law regarding the rights of women married to foreigners, either because they had failed to sign the relevant conventions or because they had failed to adopt the necessary legislative measures. Governments often pointed out that, once treaties had been signed, there were no deadlines for the harmonization of domestic legislation with international legal obligations.

22. Mr. EL-SEDDIG (Observer for Sudan), speaking in exercise of the right of reply, said that the allegations that had been made concerning slavery in his country were entirely unfounded.

ADMINISTRATION OF JUSTICE, RULE OF LAW AND DEMOCRACY (agenda item 3) (E/CN.4/Sub.2/2003/3, 4, 7, 39 and 42; E/CN.4/Sub.2/2003/NGO/12, 18, 23, 26, 30, 31, 40 and 45)

23. Mr. DECAUX, introducing his report on the issue of the administration of justice through military tribunals (E/CN.4/Sub.2/2003/4), said that earlier reports by Mr. Joinet had supplied the methodological basis for his work. The legal framework had been provided by Commission on Human Rights resolution 2003/39, on the integrity of the judicial system, in which the Commission called upon States that had military courts for trying criminal offenders to ensure that such courts were an integral part of the general judicial system and used the duly established

legal proceedings. Military tribunals were not above the law and were bound to respect all of the general principles concerning the administration of justice. He did not, however, propose that military tribunals should be abolished altogether.

24. It was important to make a number of distinctions concerning the jurisdiction of military tribunals. The principle that civilians accused of ordinary offences should not face trial by military courts was well established. The trial of civilians for "political" offences before military tribunals posed a threat to the rights to freedom of expression and peaceful assembly. The use of military courts to try military personnel accused of offences against civilians could constitute an attempt to evade the criminal justice system, especially in cases of human rights abuses. Military justice should be confined to cases affecting military personnel only. The existence of military tribunals during wartime could provide essential guarantees for the protection of human rights of prisoners of war, provided that the tribunals remained fair and independent. In many States, military tribunals retained jurisdiction over all "military" offences, often including conscientious objection. Conscientious objectors were civilians and should always appear before ordinary courts.

25. He drew attention to the recommendations in the report (paras. 74 to 86), concerning judicial guarantees within the military justice system, and welcomed the recent measures adopted by Turkey in that regard. He also welcomed the proposal by the International Commission of Jurists to arrange an expert seminar, under the auspices of the Office of the High Commissioner for Human Rights (OHCHR), to consider improvements made to the administration of justice through military tribunals. He hoped that there would be a broad debate, involving judges and military personnel, to assist him in preparing a final version of the report for submission to the Sub-Commission at its next session.

26. The CHAIRPERSON said that arrangements should be made for Mr. Decaux to attend the expert seminar organized by the International Commission of Jurists.

27. Mr. LE BLANC (Dominicans for Justice and Peace), speaking also on behalf of Pax Christi International and the Dominican Leadership Conference, in conjunction with Franciscans International, said that he wished to raise once again the issue of discrimination in the use of the death penalty. A number of Dominican congregations and institutions in the United States were jointly advocating the abolition of the death penalty in that country. He drew attention to the commutation of 167 death sentences by the Governor of Illinois on the grounds that the State's death penalty system was "arbitrary and capricious, and therefore immoral".

28. In countries where it was still in use, the death penalty was likely to be applied in a racist manner and to minorities and underclasses in general, a point made by Ms. Zerrougui in her working paper on discrimination in the criminal justice system (E/CN.4/Sub.2/2002/5). The case of Javier Suárez Medina, a Mexican national sentenced to death in Texas, was one in point, for there were troubling questions about the fairness of his trial, the refusal of the Texas authorities to respect their international treaty obligations, and the failure of the United States authorities to comply with their obligations under article 36 of the 1963 Vienna Convention on Consular Relations. Furthermore, the death sentence had been based on unadjudicated offences not proven against Medina, in violation of the obligation of the United States Government to respect fundamental human rights standards which it had pledged to uphold.

29. The Sub-Commission itself had issued a statement calling for Medina to be reprieved and for his case to be reviewed in accordance with due process. The then High Commissioner for Human Rights and the President of Mexico had intervened personally. Medina had nevertheless been executed on 14 August 2002, the United States Supreme Court having denied a final appeal. On 5 February 2003 the International Court of Justice had unanimously adopted provisional measures in a case involving a number of Mexican nationals, calling upon the United States to take measures to prevent their execution pending the Court's final judgment. That order had been of no benefit to Javier Suárez Medina.

30. The organizations on whose behalf he was speaking commended the Sub-Commission for raising the Medina case and recognized the persistent work of the Mexican Government on behalf of Mexican citizens on death row in the United States. They urged all Governments to abolish the death penalty, to ratify the Second Optional Protocol to the International Convention on Civil and Political Rights and to seek alternatives to the death penalty. They urged the Government of the United States to comply with the provisional measures ordered by the International Court of Justice. They endorsed the conceptual framework for the study on discrimination in the criminal justice system outlined by Ms. Zerrougui and they supported the call by Pope John II for a moratorium on the death penalty, the call by the United States bishops for the abolition of the death penalty, and the international "Moratorium Now!" campaign.

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

32. Mr. LITTMAN (Association for World Education) said that his organization proposed that the Special Rapporteur should investigate, for the purposes of her forthcoming study of discrimination in the criminal justice system, a landmark case of religious discrimination that it had described in a written statement (E/CN.4/2001/NGO/50); namely, the Shiraz "show trial", in which testimony from a Jew with regard to a Muslim was considered invalid by the court. The same situation would apply in any Muslim country using Shariah law in trials in which non-Muslims were implicated with Muslims. Discrimination in the criminal justice system was thus based purely on religion.

33. His organization had also raised with the Commission on Human Rights the cases of children of United States mothers who had been taken illegally to Saudi Arabia by divorced husbands. It sought confirmation from the observer for Saudi Arabia that those cases were being resolved and requested the Special Rapporteur to examine all such cases occurring anywhere in the world and coming within her mandate.

34. In its Opinion No. 10/1999 (Egypt), the Working Group on Arbitrary Detention had concluded that the deprivation of liberty of the Director of the Cairo El-Khanka mental hospital had been arbitrary. Four years later, the Government of Egypt had still failed to heed the Working Group's appeal to remedy that grave injustice to a member of the Coptic community. The failure to resolve such a simple case after a clear Opinion said little for United Nations mechanisms. His organization reiterated its appeal to President Mubarak to free the Director by presidential pardon.

35. Ms. BRETT (Friends World Committee for Consultation) (Quakers) said that paragraphs 35 and 36 and recommendation No. 11 in the report on the administration of justice through military tribunals (E/CN.4/Sub.2/2003/4) recognized that the adjudication of any claim

to conscientious objection should be determined by an independent and impartial civilian body, for the military could not be both judge and party in a case. That point had also been recognized in resolutions of the Commission on Human Rights, particularly resolution 1998/77.

36. Persons claiming the right not to perform military service on the basis of conscientious objection should be treated as civilians: they should not be held by the military, nor should their claims be adjudicated by the military. Serving personnel who became conscientious objectors were of course military personnel, and the military might see their claims as a military issue; that situation was problematic because a refusal to serve often involved acts contravening military discipline. The lack of independence and impartiality of any military tribunal to adjudicate such cases was obvious. The same considerations applied to reservists and others in similar positions, who were perhaps less clearly either civilians or military personnel.

37. The lack of independence and impartiality of military tribunals hearing such cases was often compounded by inadequate information on the standards being applied, the lack of reasoned decisions or even records of proceedings available to the claimant, and the lack of independent legal representation. Furthermore, the possibility of appeal to a civilian court was hampered by the lack of such reasoned decisions. The Sub-Commission should thus make it clear in its report on the issue of the administration of justice through military tribunals that no claims of conscientious objection to military service should be adjudicated by military tribunals.

38. Mr. DE PURY (World Organization Against Torture) said that military tribunals were often used to ensure the impunity of perpetrators of serious human rights violations or to prosecute persons, in many cases civilians, deemed to pose a threat. Recent events had rendered the clarification of the international standards applicable to the administration of justice by military tribunals even more urgent. While his organization considered that military tribunals should simply be abolished, in the meantime, the implementation of the recommendations contained in Mr. Decaux's report would do much to ensure that such tribunals complied with international standards. It urged the Sub-Commission to take the necessary steps to draft a code of principles or minimum requirements for military tribunals.

39. Mr. SORABJEE said that military tribunals were ill-equipped to adjudicate the claims of conscientious objectors, when the issue was not the correctness of a religious belief but whether the opposition to military conscription was an integral part of that belief and genuinely entertained by the objector. Military tribunals might be required in certain circumstances and situations, but some remedy by way of appeal or judicial review must be available against their decisions.

40. Ms. RUSSOMANDO (Transnational Radical Party) said that military intervention was not the most suitable tool for the promotion of democracy and freedom. What was needed was an organization along the lines of the World Trade Organization (WTO), perhaps a "World Democracy Organization", to enforce international human rights legislation. A group of some 110 countries had been meeting under the name of the "Community of Democracy" to foster a multilateral human rights debate. Democracy, development and respect for human rights and fundamental freedoms were interdependent and free and fair elections were an essential feature of democracy. That question should receive serious attention from the Sub-Commission.

41. The crisis of the human rights treaty system was self-evident, for the reporting systems had very few concrete consequences. The result was continuing "structural" violation of human rights instruments by many States parties and by the Human Rights Committee itself. It was generally true that human rights standards could not be enforced if the State party was not willing to do so.

42. Reform efforts should concentrate on gaining enough support among Member States having a genuine interest in the issues. The General Assembly might set up a committee to draft a democracy-compliance mechanism or the task could be entrusted to the International Law Commission. In May 2003, a steering group of non-governmental organizations (NGOs) had adopted a set of recommendations for the convening of a "Democracy Group" at the next General Assembly. Her organization hoped that the Sub-Commission would find ways to participate in what would be a first opportunity to promote a reform process.

43. Mr. IMTIAZ (World Muslim Congress) said that the fair administration of justice was the essence of democracy and the maintenance of law and order in accordance with international treaties was one of the basic duties of the State. There was a general consensus that protection against terrorism must be ensured but not at the cost of fundamental freedoms. Minorities and other people fighting for their basic rights had borne the brunt of repressive measures introduced in the name of such protection. Accountability was another vital requirement: the immunity from prosecution of law-enforcement personnel constituted a negation of justice.

44. Monitoring mechanisms and the media could play an important role in protecting the legal rights of civilians in conflict situations, but occupying Powers, such as India in Kashmir, had refused to accept it since it would expose the breakdown of law and resulting human rights violations. Democratic Parliaments also had a pivotal role in safeguarding basic rights but, if a parliamentary majority preached hatred against minorities, the result was Draconian laws undermining the basic rights of the minorities.

45. Mr. DHANJAL (Minnesota Advocates for Human Rights) said that a Truth and Reconciliation Commission had been created in Peru by a presidential decree in 2001 to investigate and assign responsibility for the widespread human rights violations committed between 1980 and 2000 by the Peruvian Government and by the Shining Path (Sendero Luminoso) and Tupac Amaru Revolutionary Movement insurgent groups.

46. A delegation from his organization had participated as an international observer in the Truth and Reconciliation Commission process in 2002, and in 2003 had submitted a preliminary report and recommendations to that Commission. One of the recommendations was that the Commission should make specific proposals to the Peruvian Government as to how its final report and recommendations should be implemented, notably that an organization should be established to coordinate, execute and promote whatever actions were necessary to carry out those recommendations.

47. With regard to the more than 400 mass graves identified in Peru, a special independent investigatory commission should be established to conduct exhumation in cases where the Government was implicated in the death under investigation and could not conduct an objective

and impartial investigation. Local prosecutors and police involved in the investigation and prosecution of extrajudicial, arbitrary or summary executions should be provided with specialized training.

48. The Government of Peru must prosecute effectively the crimes specifically identified by the Truth and Reconciliation Commission by ensuring that: judges, prosecutors, witnesses and victims were adequately protected; the judicial selection process was rigorous; and the judiciary received direct funding.

49. The 5,000-6,000 outstanding arrest warrants for people described as "wanted for questioning" (requisitoriados), which had often been issued indiscriminately by judges for persons suspected of collaborating with armed dissident groups, should be changed to "notices to appear". The requisitoriados should be released on their own recognizances or on bond pending investigation of the charges. All outstanding arrest warrants should be reviewed by an independent and impartial body and any warrant not acted upon within six months should expire.

50. His organization urged the Peruvian Government to follow the international standards governing the treatment of persons who had been unfairly convicted and imprisoned. In particular, persons who were pardoned should have their convictions expunged from the official records, and those whose convictions were the result of a miscarriage of justice must be compensated.

51. His organization called upon the Peruvian Government and the international community to support the efforts of the Truth and Reconciliation Commission and to ensure that its work continued after the end of its mandate.

52. Ms. FAZILI (International Islamic Federation of Student Organizations) said that the extremely low turnout in the most recent elections held in Jammu and Kashmir highlighted the illegitimacy of the electoral process there. Maintaining democracies in divided, multi-ethnic, multi-religious societies such as India required a firm commitment to democratic ideals. Minority rights claims could be made under the non-discrimination principles of the International Covenants on Human Rights, but many countries that were parties to those instruments failed to abide by their provisions.

53. Kashmiri demands for democracy were not demands for a State based on religion, but rather for representation and a claim for equality and justice before the law. Lack of effective democratic machinery in Kashmir, coupled with a repression of the nationalist freedom movement, had resulted in a region where people had no faith in the central Government. In such a situation, self-determination was often the only way for a people to be assured of their human dignity, human rights, and true democratic representation.

54. Her organization urged the Sub-Commission to examine the administration of justice in disputed and occupied territories in South Asia and to encourage the United Nations to act as election monitors to ensure that elections there were fair, free and democratic. In addition, the Sub-Commission should encourage greater transparency in South Asian courts; promote a relationship of trust between the Kashmiris and the Indian Government; and encourage all countries to open all their occupied lands to the foreign press and to international human rights organizations.

55. Mr. OZDEN (Europe-Third World Centre) said that his organization was closely monitoring the human rights situation in Turkey, particularly among the Kurdish population. The Turkish Government had made some legislative changes which were intended to contribute to the country's democratic reform, a requirement for Turkey's membership of the European Union. However, most of those changes had not been applied, as a result of the rigidity of the ministerial departments which defined the framework for their implementation.

56. Torture of detainees in police custody in Turkey was still widespread and, although the state of emergency had been lifted in Turkish Kurdistan in November 2002, summary and extrajudicial executions, torture, and repression of human rights advocates and Kurdish militants, were still perpetrated by law-enforcement agents. Freedom of opinion and expression, as well as political activity, was also severely curtailed. He urged the Turkish Government to proclaim a general, unconditional amnesty for all political prisoners.

57. Ms. HAN (Human Rights Advocates) said that her organization had first addressed the issue of the detention of prisoners at Guantánamo Bay at the fifty-eighth session of the Commission on Human Rights, requesting that the detention of the prisoners and the proposed military tribunals should conform to the Geneva Conventions and the International Covenant on Civil and Political Rights. The United States Government had not responded to repeated charges by NGOs that its actions were in violation of those treaties.

58. Conditions of captivity at Guantánamo Bay were particularly harsh and the prisoners' mental health was therefore of great concern. The United States administration had chosen to designate those prisoners as "unlawful combatants", claiming that such designation stripped them of their rights to judicial review under *habeas corpus*. Those conclusions were being challenged in the United States courts and had already been found to violate international law by the Working Group on Arbitrary Detention and the Inter-American Commission on Human Rights.

59. Her organization requested that the Sub-Commission direct its sessional working group on the administration of justice to continue to investigate the treatment of the individuals detained at Guantánamo Bay. In addition, a monitoring mechanism should be established by either the Commission on Human Rights or the Sub-Commission to ensure that States complied with international human rights law when implementing counter-terrorism measures.

60. Ms. JEONG (International Association of Democratic Lawyers) said that 2003 marked the fiftieth anniversary of the Korean armistice, but the suffering and pain of the victims of the Korean war remained unanswered and unrecognized. Increased political freedom in the Republic of Korea in recent years had allowed the victims of those war crimes to tell their stories. That outpouring of public pressure had forced the United States and the Republic of Korea to launch an investigation into the 1950 No Gun Ri massacre, where some 400 civilians had been killed. However, the joint investigation had produced disappointing reports, with the assertion that it had been an isolated incident carried out by inexperienced individual soldiers. Although the former President of the United States had acknowledged that the massacre had taken place, he had not offered an apology. The United States Government had decided to ignore the issue of reparations for the victims of the No Gun Ri massacre.

61. To represent those victims of United States war crimes, the Korea Truth Commission had been established in 2000 to investigate, document and disclose the details of the mass killings of civilian villagers and refugees. To date, 10 international fact-finding delegations had been sent to both parts of Korea, where they had visited massacre sites and collected testimonies from the survivors and families of victims who had been strafed and bombed by United States planes.

62. The indictment, based on factual and material evidence and testimonies from the survivors from those fact-finding investigations and also from the United States war crimes reports written at the onset of the Korean war in 1952 and 1953, had been presented at the New York International Tribunal on United States War Crimes in Korea in June 2001. That Tribunal, which had been organized by the International Association of Democratic Lawyers, the Korea Truth Commission and Veterans for Peace, had found the United States guilty of war crimes and crimes against humanity and peace. The indictment and the verdict had been delivered to the White House, but no response had yet been received. The recent Pyongyang International Tribunal on United States Crimes in Korea, held in the Democratic People's Republic of Korea, had reached the same verdict.

63. Her organization would be pleased to make available to the Sub-Commission all the documentation on those findings, indictments and verdicts. It requested that the documentation should be made part of the official record of the Sub-Commission's proceedings and that the Sub-Commission should investigate the situation and call for a United States apology and compensation for the victims of the massacres.

The meeting rose at 1.05 p.m.