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COMMISSION ON HUMAN RIGHTS

Sixtieth session

SUMMARY RECORD OF THE 53rd MEETING

Held at the Palais des Nations, Geneva,  
on Monday, 19 April 2004, at 9 a.m.

Chairperson: Mr. SMITH (Australia)

CONTENTS

PROMOTION AND PROTECTION OF HUMAN RIGHTS:

- (a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS
- (b) HUMAN RIGHTS DEFENDERS
- (c) INFORMATION AND EDUCATION
- (d) SCIENCE AND ENVIRONMENT (continued)

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The meeting was called to order at 9.05 a.m.

PROMOTION AND PROTECTION OF HUMAN RIGHTS:

- (a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS
- (b) HUMAN RIGHTS DEFENDERS
- (c) INFORMATION AND EDUCATION
- (d) SCIENCE AND ENVIRONMENT

(agenda item 17) (continued) (E/CN.4/2004/84-88, 90-93, 94 and Add.1-3, 114 and 121; E/CN.4/2004/G/49; E/CN.4/2004/NGO/5, 15, 66, 77, 98, 106, 112, 123, 126, 149, 198, 207, 210, 229, 243 and 259; A/58/380)

1. Ms. BIGI (Observer for San Marino) said that her delegation rejected the death penalty and fully supported all initiatives to phase it out or to introduce a moratorium. It welcomed the report of the Secretary-General on the question (E/CN.4/2004/86), which underlined the global trend towards abolition, and supported the draft resolution on the issue that had been submitted by the European Union (EU). San Marino had been one of the first States to abolish the death penalty and there had never been any need to discuss its possible re-establishment. The act of inflicting death on another human being, even one found guilty of a heinous crime, was not in conformity with justice in the ethical sense. The death penalty violated the most fundamental of all human rights, namely the right to life, and deprived a person of respect for dignity. It was not a valid way of protecting society or a means of deterring future criminals. In fact, the crime rate was no lower and there was no less violence or insecurity in countries that applied the death penalty than in those that did not. Furthermore, there was always a possibility of judicial error which would be irremediable once the sentence had been carried out. She hoped that it would soon no longer be necessary to include the death penalty on the agenda of the Commission or other international bodies and that capital punishment would become no more than a historical reference.

2. Mr. TANSHEET (Center for Economic and Social Rights), speaking on behalf of the Muslim Civil Rights Center, said that the human rights of Arabs and Muslims were being violated in the United States in the context of the war against terrorism. Since 11 September 2001, the Federal Bureau of Investigation (FBI) had arrested or raided the homes of over 27,000 Arabs and Muslims. Overall, more than 200,000 had been affected by government actions carried out on the basis of race, religion and national origin and many now questioned whether they enjoyed the right to live in the United States as equal citizens. According to a recent report by the United States Department of Justice, prison officials abused Arab and Muslim detainees by slamming them against walls, twisting their arms in painful positions and keeping them restrained for long periods of time. No charges had yet been brought against the five Muslim charities that had been shut down two years previously for alleged links with terrorism. Furthermore, most of the 595 prisoners in Guantánamo Bay had been held for over two years without charge or trial and some 34 had seriously attempted suicide. Released detainees had reported frequent and severe beatings, electric shocks and injections with unknown

substances. The Commission should heed the plight of the Muslims and Arabs who were being victimized in the name of security and counter-terrorism and establish a mechanism to monitor the impact of counter-terrorism measures on human rights.

3. Ms. KHONGKACHOKIRET (Asian Forum for Human Rights and Development), speaking also on behalf of the Asia Pacific Forum on Women, Law and Development, the International NGO Forum on Indonesian Development, the Netherlands Organization for International Development Cooperation, the Third World Movement against the Exploitation of Women and International Women's Rights Action Watch, said that the Special Representative of the Secretary-General on the situation of human rights defenders had noted in document E/CN.4/2004/94/Add.1 that Thailand had become a haven for human rights defenders in the region. However, she had expressed concern that Thailand's regional human rights role might be declining and had noted that it was of fundamental importance for that role to be preserved. The Thai Government should consider ways of ensuring a more stable legal and practical environment for the human rights defenders working in the region. Furthermore, only 12 of the 41 communications sent out by the Special Representative to Asian Governments in 2003 had received a reply. The Indonesian Government had failed to respond to the eight communications regarding the welfare of 33 human rights defenders in Aceh and should address the matter without delay. Furthermore, none of the Asian members of the Commission had extended a standing invitation to the special procedures to visit their countries. Those States should do so immediately and develop the national policies and legislation needed to promote and protect human rights defenders. She welcomed the reference made in the Special Representative's report to the specific violations being carried out against women human rights defenders and urged States to accord them due recognition and to develop strategies to prevent gender-specific violations against them. Asian States should integrate human rights education into their national education plans and curricula in order to improve the capability and working environment of human rights defenders.

4. In his report (E/CN.4/2004/62), the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had noted with concern the concentration of the media in the hands of a few business corporations and the fact that human rights defenders who campaigned to reverse such a trend were facing increasing resistance. In Thailand, for example, the Secretary-General of the Campaign for Popular Media Reform had been sued by the country's biggest telecommunication and media company after making a public statement regarding the company's huge profits since its founder had become prime minister. The Thai Government should ensure that the media were open and accessible to civil society actors and that human rights defenders were not persecuted for contributing to that endeavour.

5. Some Asian States clearly preferred to remain in denial rather than to engage in constructive debate and clarification. The human rights defenders from Asia who participated in the Commission in the absence of an effective regional forum were accused of naming and shaming their own Governments and faced harassment both at home and abroad. She therefore endorsed the recommendation made by the Special Representative that States, in consultation with human rights defenders, should adopt, publish and implement a policy on defenders. States should also be encouraged to strengthen dialogue between the authorities and human rights defenders at the national, regional and international levels.

6. Ms. SMITH (World Alliance of Reformed Churches) said that, at its twenty-fourth General Council to be held in Ghana in 2004, the World Alliance would renew its commitment to collaborate with other human rights organizations in supporting a moratorium on executions and in developing strategies to abolish the death penalty worldwide. Most mainstream faith-based organizations throughout the world had adopted strong positions regarding the dignity and value of human life. As a result, courageous individuals such as Governor Ryan of Illinois and the President of Kenya had commuted a number of death sentences. Humans should nurture and protect life, especially on behalf of persons who were socially, economically, politically or culturally alienated by unjust structures. At the recent commemoration of the 1994 Rwanda genocide, her organization had vowed never to forget the collective failure to protect defenceless human beings. It was committed to promoting recognition of the importance of halting human extermination. If nothing was done to stop execution and if there was no recognition that capital punishment was a step on the slippery slope towards mass murder and genocide, the world would continue to suffer from acts of terrorism and violence and perpetrators would continue to go unpunished. The international community should work to stop the slaughter of its people and to build a human community that valued creation and life in all its fullness.

7. Mr. SIMMONS (International Indian Treaty Council), speaking also on behalf of the Indigenous World Association, the Indian Council of South America and International Educational Development, said that the United States presented itself as a country based on justice where all persons were guaranteed the right to a fair and impartial trial. Yet, the internal security agencies had transformed the judicial system into a tool of political repression. A Senate Committee had revealed that the goals of the counter-intelligence programmes of the 1950s to 1970s had been to discredit or otherwise neutralize the persons or organizations that the FBI had decided were enemies of the State. Referring to Leonard Peltier's 1977 conviction for shooting two FBI agents in the Pine Ridge Reservation in South Dakota, he said that the documentation now released showed that the Government had fabricated the physical evidence used to convict Mr. Peltier and revealed that it had intended to target and undermine the American Indian Movement, which at the time had been the primary national organization for the protection of the American Indian peoples against human rights violations. As Mr. Peltier was still being detained, the Working Group on Arbitrary Detention should take up the case.

8. Furthermore, in May 2002, the United States Attorney-General had effectively abolished the restrictions on FBI surveillance of the everyday lives of the American people. In 2003, the Code of Federal Regulations had redefined the term "reasonable suspicion" as a threshold to enter intelligence information about an individual or an organization into an intelligence database through the Regional Information Sharing System Network (RISSnet). In the current climate of terror, the American Indian Movement and indigenous peoples were struggling to maintain their right to self-determination and to protect their human rights, dignity and rightful place in the world community.

9. Ms. DIAWARA (Women's International League for Peace and Freedom), speaking also on behalf of the African Society of International Comparative Law, the Movement against Racism and for Friendship Among Peoples, Interfaith International, the International Federation of Rural Adult Catholic Movements, the International League for the Rights and Liberation of Peoples, the International Alliance of Women, the Coordinating Board of Jewish Organizations, B'nai Brith International, the Indian Council of South America and the United Towns Agency

for North-South Cooperation, said that the World Organization against Torture and Pax Romana also wished to associate themselves with her statement. The Commission was the reference body in the field of human rights as far as the community of non-governmental organizations (NGOs) was concerned. Its prestige was dependent on its impartiality and integrity and access to it should be guaranteed to all human rights defenders freely nominated by NGOs with consultative status. However, the Director-General of the United Nations Office at Geneva had decided, at the request of the Iranian authorities, to prevent six individuals from participating in the sixtieth session, on the grounds that they were the subject of international arrest warrants circulated by Interpol. One of those individuals was a former ambassador of Iran who had resigned in 1982 in protest against the flagrant human rights violations being committed by the regime he was supposed to represent. He was now the subject of a "fatwa" and was being protected by the Government of Norway. Neither the authorities in Switzerland nor those in the home countries of the six individuals intended to act on the warrants issued by the Iranian authorities. NGOs were concerned that all Governments would henceforth assume the right to carry out selective prevention measures against human rights defenders wishing to participate in the work of the Commission. The United Nations should retain its neutrality and respect the presumption of innocence, the right to a fair hearing and the freedom of expression. Preventing the participation of some of the Commission's most valuable colleagues would only weaken it. It should therefore do all it could to promote the rights of human rights defenders and urge the Bureau to lift restrictions on the six individuals concerned.

10. Mr. LITTMAN (Association for World Education), speaking also on behalf of the International Humanist and Ethical Union and the World Union for Progressive Judaism, said that the late High Commissioner had raised a very pertinent point in his annual report (E/CN.4/2003/14) in asking whether the time had not come for the Commission itself to develop a code of guidelines for access to membership and a code of conduct for members while they served on the Commission. He had pointed out that the Commission had a duty to humanity and that members must set the example of adherence to the international human rights norms - in practice as well as in law. That courageous suggestion had been appreciated by many NGOs. The late High Commissioner had also noted that, in the 55 years since the adoption of the Universal Declaration of Human Rights, the international community had developed a solid body of international norms of human rights and humanitarian law aimed at the tangible protection of human rights and that a global consensus had been strengthened around the universality and irreducibility of human rights. The Association for World Education endorsed the conclusion that, without universal respect for human rights, the vision of a world of peace grounded in respect for human rights and economic and social justice would remain an illusion, and also endorsed the call for States to vindicate the vision of the Charter of the United Nations by being faithful to the universal implementation of human rights. In that respect, he drew the Commission's attention to the written statement submitted by the Association for World Education in document E/CN.4/Sub.2/2003/NGO/15. Five months after his inaugural statement in March 2003, in which he had referred with dismay to terrorists who would kill anyone at any time in any place, the High Commissioner had himself been killed by terrorists. In tribute to his memory, the Commission should make it clear to all Jihadist bombers that the civilized world would never surrender to their vile threats and that only a total victory over ignominious religious depravity and terror would bring salvation to the free world.

11. Ms. EADDY (International Possibilities Unlimited), speaking also on behalf of the Friedrich Ebert Foundation, Penal Reform International, the International Association against

Torture, the National Association of Criminal Defense Lawyers and the Foundation for Aboriginal and Islander Research Action, said that she welcomed the report of the Secretary-General on the question of the death penalty (E/CN.4/2004/86) and was satisfied that a growing number of States had either abolished or limited the use of the death penalty. She particularly welcomed the attention devoted in the report to the juvenile death penalty. There were currently 78 juvenile offenders on death row in the United States and 22 executions had been carried out, despite calls from United States citizens and the international community to halt them. In order for the Supreme Court to abolish the practice in October 2004 when it reviewed the constitutionality of the juvenile death penalty, lawyers would have to demonstrate that an evolving standard of decency had emerged. Even though 69 per cent of Americans were opposed to it and 31 States and the Federal Government had banned the practice, and although the prohibition of the juvenile death penalty had been accepted throughout the world as an international norm leaving the United States virtually isolated in its adherence to the practice, victory was not guaranteed. It was vitally important for the Commission to reinforce its objection to the juvenile death penalty and to affirm that the world had evolved to a higher standard of decency with regard to its treatment of children. It should strengthen previous language urging the immediate end to the juvenile death penalty in all resolutions that dealt with the issue, affirm that the juvenile death penalty was contrary to customary international law and recognize that the prohibition of such use was a norm of jus cogens.

12. Mr. HOWEN (International Commission of Jurists) said that, since 11 September 2001, Member States had abdicated their responsibility to protect human rights and that some of the most fundamental rights had been violated in the pursuit of counter-terrorism efforts, including the rights to freedom from torture, freedom of movement and freedom from arbitrary detention. It was the Commission's responsibility to ensure that counter-terrorism measures did not undermine the human rights law painstakingly built up over 50 years. The draft resolution proposed by Mexico on that matter would be a positive, if modest, step forward. It provided for the appointment of an independent expert to assist the Office of the United Nations High Commissioner for Human Rights (OHCHR) in finalizing a study on whether the existing human rights system could adequately assess the compatibility of national counter-terrorism measures with international human rights obligations. The conclusions should, however, already be clear: the existing system was simply not adequate. Human rights treaties had not been universally ratified and the Human Rights Committee could examine no more than 15 reports per year. Similarly, the existing special procedures could not address human rights issues in a systematic, comprehensive and coherent manner. Seventy-eight organizations had endorsed the Joint Declaration on the Need for an International Mechanism to Monitor Human Rights and Counter-Terrorism contained in document E/CN.4/2004/NGO/198, which reflected the view of most human rights advocates that core human rights standards and practices were being threatened. The Commission was the only intergovernmental body within the United Nations that was competent to address that human rights crisis. To maintain its credibility, it must tackle that compelling human rights challenge.

13. Mr. BROWN (Human Rights Watch) said that, in many countries, basic human rights principles were under attack both from terrorism and from Governments whose counter-terrorist measures severely violated human rights norms. Abuses included prolonged, incommunicado detention without judicial review, the transfer, return, extradition and expulsion of persons at risk of being subjected to torture and the adoption of security measures that curtailed the right to freedom of association and breached the principle of non-discrimination. In November 2003,

Malaysia had passed new counter-terror laws that had been widely criticized by local human rights groups for being vague and excessively broad. That same month, a Canadian-Syrian national had allegedly been tortured in a Syrian prison after having being handed over to the Syrian authorities by United States officials who had detained him while in transit through New York. In December 2003, Colombia's Congress had approved legislation that would give the military the power to arrest, tap telephones and carry out searches without judicial warrant. In Uzbekistan in the first six months of 2003, Human Rights Watch had documented 93 cases in which Muslims had been convicted or arrested for peacefully expressing their religious beliefs. The recent events in Madrid indicated that the global struggle against terrorism was far from over. As States undertook new measures to combat terrorism, they should fulfil their obligations under international law. The Commission should adopt a resolution establishing a special monitoring mechanism on human rights and counter-terrorism. The resolution should reaffirm the importance of human rights in combating terrorism and request the relevant United Nations bodies to continue to monitor counter-terrorism measures. It should also urge the Counter-Terrorism Committee of the Security Council to address human rights in a consistent manner.

14. Ms. MAHON (Amnesty International) said that the death penalty was a cruel and irrevocable form of punishment, often used to a disproportionate extent on the poor and on racial, ethnic and religious minorities. In 2003, three persons under the age of 18 at the time of their offence had been executed in China, Iran and the United States, respectively. She urged the Commission to adopt a resolution calling for a universal moratorium on executions and the observance of agreed safeguards in capital punishment cases.

15. In the context of new laws and measures to combat terrorism, many countries were failing to ensure respect for human rights and fundamental freedoms. Efforts to combat terrorism must be firmly and unconditionally grounded in the rule of law. The Commission should set up mechanisms for monitoring the impact of counter-terrorism measures on respect for human rights and assisting States and other relevant United Nations bodies to ensure the protection of human rights while combating terrorism.

16. Mr. ODZEN (Europe-Third World Centre) said that the fight against impunity for human rights abuses comprised three elements: prevention, punishment, and compensation for victims. In spite of its resolutions on impunity of perpetrators of violations of economic, social and cultural rights (1999/58) and impunity (2001/70), the Commission had failed to take decisive action in that area. An independent expert should be appointed to draw up a report on impunity for violations of economic, social and cultural rights, with a view to preparing a set of principles and guidelines for adoption by the Commission.

17. Ms. BARCIA (World Organization against Torture), also speaking on behalf of the International Federation for Human Rights, expressed concern over the deteriorating situation of human rights defenders, partly because of the impact of counter-terrorism measures. In conflict areas, such as Colombia, Chechnya and Israel, Governments perceived human rights defenders as enemies of the State, and accused them of shielding terrorists. Consequently, a number of defenders in those countries had been detained arbitrarily, killed or impeded in their work. In Zimbabwe, the authorities had used a wide range of legal provisions to silence human rights

defenders, in particular by restricting the freedoms of speech, association and assembly. The Commission should urge States to implement the Declaration on Human Rights Defenders, and to ensure that counter-terrorism measures complied with international human rights standards.

18. Mr. MANSOUR (Observer for Tunisia) said it was vital that human rights defenders should put partisan considerations to one side and conduct their activities with complete impartiality and transparency. Regrettably, some defenders failed to check the accuracy of information they received. False allegations had been made during the current session concerning the situation of human rights defenders in his country. The Government was making sustained efforts to promote the freedom of expression by fostering diverse and open media. It was no accident that the second phase of the World Summit on the Information Society would be held in Tunis in November 2005, with the full participation of civil society. A revised Constitution had been adopted in 2002, containing additional guarantees of press freedoms. Free and fair elections would be held in October 2004, constituting an important landmark for the consolidation of democracy.

19. Mr. DIOP (Observer for Senegal) said that the revised Constitution of Senegal provided firmer guarantees for the freedoms of assembly and expression. In recent years, the number of daily newspapers, private radio stations and human rights associations had increased substantially. A national coalition of human rights defenders had been formed in order to facilitate capacity-building and exchange information. The Government maintained a constant dialogue with human rights defenders at the national and international levels. In response to a series of recommendations by Mr. Kaba, the current President of the International Federation of Human Rights Leagues, Senegal had taken steps to strengthen the independence of the judiciary, enhance all stages of the judicial process, promote human rights education and support the establishment of an African Court of Human and Peoples' Rights. It had consolidated its national framework for the protection of human rights defenders, in accordance with the recommendations of the Special Representative.

20. Mr. KAZUNARI (Soka Gakkai International), also speaking on behalf of the Arab Organization for Human Rights, the International Alliance of Women, the International Federation of University Women, the International Fellowship of Reconciliation, the International Movement against All Forms of Discrimination and Racism, the International Peace Bureau, the Lutheran World Federation, Minbyun-Lawyers for a Democratic Society, New Humanity, the Organization for Defending Victims of Violence, the International Organization for the Right to Education and Freedom of Education, Pax Romana, Wellesley Centers for Women, the World Association for the School as an Instrument of Peace, the World Federation of Methodist and Uniting Church Women and the World Federation of United Nations Associations, said that a second United Nations Decade for Human Rights Education was necessary to atone for the shortcomings of the first one. Socio-political instability and violent conflict had prevented people in many areas of the world from benefiting from the first Decade. Social unrest had arisen in some multicultural societies, in the light of increasing numbers of migrants and refugees. Such tensions could lead to a climate of mutual aggression and even terrorism.

21. In the context of the second Decade, human rights education should be coordinated and monitored more effectively by OHCHR. Experts, Governments and NGOs should assess the impact of new methodologies at the regional and international levels. A convention on human



rights education should not be seen as an alternative to a global framework, but as one of its possible objectives. International funding must be stepped up in order to support OHCHR in disseminating good practices, assisting practitioners and developing educational materials. States, in cooperation with NGOs and other relevant actors, should draw up action plans to promote human rights education.

22. Mr. DALLH (Dominicans for Justice and Peace), also speaking on behalf of the Dominican Leadership Conference, the International Presentation Association: Sisters of the Presentation, the Congregations of St. Joseph, the International Federation of Christian Action against Torture, the Sisters of Notre Dame de Namur, the Maryknoll Father and Brothers and the Maryknoll Sisters of St. Dominic, expressed concern over the continued application of the death penalty in some countries. Criminal justice systems should be designed to heal societies and victims, as well as to reform and rehabilitate offenders. Instead, the death penalty perpetuated a cycle of violence and promoted the notion of vengeance.

23. The death penalty was always applied in discriminatory fashion, targeting minorities and the most vulnerable members of society. The execution of Mr. Suárez Medina, a Mexican national sentenced to death when he was only 19 years of age, was an illustration of that situation. Not only had his case raised serious questions about the right to a fair trial, but the United States authorities had consistently refused to respect their international treaty obligations. On 31 March 2004, the International Court of Justice had ruled that the United States had violated the rights of 51 Mexican citizens awaiting execution, and had ordered a review of their cases. He urged the United States Government to abide by that ruling, and encouraged all Governments to abolish the death penalty and to ratify the relevant treaties, including the second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

24. Ms. NAIK (South Asia Human Rights Documentation Centre) called for the Declaration on Human Rights Defenders to be reviewed, with the aim of enhancing protection for defenders. As it stood, it had too many shortcomings to serve as a useful tool to those who needed it most. Article 17 allowed for limitations on all the rights contained in the Declaration. Under article 3, domestic law was described as the judicial framework within which human rights and fundamental freedoms should be enjoyed, which curtailed the possibility of the Declaration facilitating any new protections outside the scope of existing human rights instruments. The only new provision contained in the Declaration, concerning the right of NGOs to receive funding, was also subordinate to national legislation.

25. Ms. TOLEDO (Latin American Federation of Associations of Relatives of Disappeared Persons) said that members of her organization had been harassed and murdered in Colombia, Guatemala, Honduras and Mexico. Those responsible had enjoyed complete impunity, which perpetuated the spiral of violence and corruption. She urged the Commission to attach high priority to the recommendations of the Special Representative on human rights defenders. In many countries, legitimate social protests were perceived as criminal activities by Governments, and particularly by the media. She called for the strengthening of networks of follow-up and communication between human rights defenders so as to ensure prompt and accurate information.

26. Ms. DE LA TORRE (Federation of Associations for the Promotion and Protection of Human Rights) said that the recent terrorist bombings in Madrid should be condemned in the strongest terms. However, the response should be based on respect for the rule of law, rather than further aggression. Besides the untold destruction it had caused, the war in Iraq had left some 10,000 civilians dead. It had been waged in violation of the Charter of the United Nations, disregarding the peaceful conflict resolution mechanisms available. In the fight against terrorism, respect for international law was more important than ever. The international community should reject the doctrine of pre-emptive self-defence, which threatened the very basis of collective security. Terrorism was also based on the subjective perception of a need for the use of force.

27. Ms. LADORE (Earthjustice) said that, since the World Summit on Sustainable Development in 2002, the Commission had finally begun to address environmental issues seriously from a human rights perspective. She urged States to continue to pursue dialogue and consensus, and not to be guided by purely strategic concerns. The poorest and most vulnerable sections of the population suffered most from environmental damage. For instance, the indiscriminate spraying of pesticides had jeopardized the health of thousands of Colombian peasants. Environmental issues were inextricably linked to the enjoyment of human rights such as the rights to life, health, adequate food and information.

28. Mr. HERNOVAN (International Service for Human Rights) said that human rights defenders were most at risk in countries where human rights were systematically violated. The failure of the Commission to address country situations had an adverse impact on conditions for defenders. Many Governments used assassination, torture, arbitrary detention, intimidation and harassment in order to silence human rights defenders. However, the resolve of NGOs to draw attention to human rights abuses was stronger than ever. He urged the Special Representative to collect examples of good practices so that other countries could learn from their example. The Commission should recognize the vital role played by human rights defenders, guarantee the rights contained in the Declaration on Human Rights Defenders, and issue an open invitation to the Special Representative to investigate cases brought to her attention.

29. Mr. FAJARDO CRAVERO (North South XXI) recalled that the Communist Party of Peru had launched an internal revolt against the Peruvian State in 1980. In response, the Government had proclaimed a state of emergency, suspending a number of non-derogable human rights, establishing ruthless commando units and introducing an unconstitutional anti-subversive judicial system. Its genocidal policy had resulted in the creation of over 4,000 mass graves and in thousands of enforced disappearances.

30. Under the emergency legislation, the definition of acts of terrorism was vague and ambiguous. Judicial proceedings were not open to the public. Certain judges and courts dealt exclusively with the so-called crime of terrorism. They handed down sentences ranging from a minimum of 20 years to life imprisonment, penalties that were not provided for in the General Part of the Criminal Code. The right to private meetings with counsel and the right to sufficient time to prepare a defence had been restricted. Civilians were being held illegally in the military prison at the Callao Naval Base.

31. He called on the Commission to arrange for an on-site investigation of the anti-subversive system in Peru.

32. Mr. PERLA (International Religious Liberty Association) expressed deep concern about the imprisonment of the human rights defender Ilgar Ibrahimoglu Allahverdiev, the Imam of a mosque in Azerbaijan who had worked diligently to promote and protect freedom of religion in that country.
33. The International Religious Liberty Association was a multi-faith organization whose main goals were to safeguard the civil right of all people to adopt a religion or belief and to manifest their convictions, and to support the right of religious organizations to operate freely. He urged the United Nations, government authorities and NGOs to work for the elimination of intolerance and discrimination based on religion or belief, since freedom of religion was essential to creating a more peaceful world.
34. Mr. CHAKMA (Asian Indigenous and Tribal Peoples Network) said that the Government of Bangladesh was considering the tabling of a bill - the Foreign Donations (Voluntary Activities) Regulation (Amendment) bill of 2004 - which would require all NGOs to obtain government permission to receive foreign donations. It would also empower the Government to dissolve NGOs, freeze their assets and appoint a liquidator. After the October 2001 general elections, the Government's NGO Affairs Bureau, which was controlled by the Prime Minister's Office, had mounted a witch-hunt against about 100 NGOs for allegedly distributing leaflets and video and audio cassettes supportive of the previous Government. Indigenous peoples and minority organizations were denied grants, even for development projects, by the NGO Affairs Bureau. Demands by indigenous activists for the return of land illegally taken by the army or settlers were perceived as "political activities".
35. Human rights defenders in Bangladesh faced arrest, torture, harassment and even extrajudicial killings. He urged the Commission to take a serious look at the situation.
36. Mr. RYAN (Transnational Radical Party) expressed support for the draft resolution calling for a worldwide moratorium on the death penalty to be submitted to the Commission. In January 2003, as Governor of the State of Illinois in the United States, he had commuted the death sentences of 167 prisoners to life imprisonment without parole because the state's capital punishment system was racist and inaccurate. A study undertaken after the moratorium had revealed that 35 African Americans had been convicted by all-white juries and that 46 men had been sent to die based on testimony by a single eyewitness or jailhouse informants.
37. Countries such as Kenya, Zambia, Ghana, Sierra Leone, Nigeria and Mali with new democratic Governments had introduced moratoriums and held parliamentary debates that might lead to abolition. In non-democratic countries, on the other hand, information on the death penalty was a State secret. In some cases, thousands of people were sentenced to death each year and immediately executed with no opportunity to appeal. The death penalty in those cases was a humanitarian emergency and the international community had an obligation to intervene.
38. The Commission's resolutions urging a moratorium on the death penalty since 1997 had won increasing support. It was time to strengthen the process through a General Assembly moratorium.
39. Ms. McCONNELL (International Association of Democratic Lawyers) said that Kumar Ponnambalam, an eminent lawyer and human rights defender, had been assassinated

in Sri Lanka by “unknown gunmen” in January 2000. A senior Tamil journalist, Mylvaganam Nimalarajan, had been shot dead by “unidentified gunmen” in a high-security zone in Jaffna controlled by the Sri Lankan army in October 2000. Many NGOs, the Commission’s Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on extrajudicial, summary or arbitrary executions, as well as a member of the Sub-Commission on the Promotion and Protection of Human Rights, had expressed concern about the circumstances surrounding their deaths. In 2003 three men suspected of involvement in the murder of Mr. Ponnambalam had been killed in mysterious circumstances. He had defended 98 per cent of political prisoners, both Sinhalese and Tamil, arrested by the Sri Lankan Government under the draconian Prevention of Terrorism Act and the Emergency Regulations. Mr. Nimalarajan, Secretary of the Northern Journalists Association, had fearlessly reported on election malpractice during the general election in the Jaffna peninsula in October 2000.

40. She urged the Commission to request the Sri Lankan Government to conduct a public inquiry into the killing of the two men.

41. Mr. VEUTHEY (International Institute of Humanitarian Law) said that since its foundation in 1970 the International Institute of Humanitarian Law had organized 130 basic, specialized and human rights courses for military personnel in more than 100 countries to train them to respect and implement fundamental humanitarian standards, especially during armed conflict.

42. International humanitarian law and human rights law should be treated as two complementary branches of law, in peacetime, during both international and national conflicts, and in other situations involving violence. He proposed that a new paragraph on the promotion and dissemination of international humanitarian law should be added to the resolution submitted under agenda item 17 at a forthcoming session of the Commission.

43. Ms. RICHARDS (Australian Council for Overseas Aid) said that the tendency of development programmes for the promotion of good governance to focus on reform of government and fiscal policies, building of democratic institutions and training of the judiciary and public sector had resulted in the adoption of a donor-driven approach. The needs and concerns of poor and marginalized communities, including their capacity to demand accountability from their own Governments, had been neglected.

44. Donor States should adopt a more holistic approach to good governance by balancing “supply-side” with “demand-led” development programmes. Supply-side programmes focused on building or reforming institutions, while demand-led programmes sought to build the capacity of citizens to participate in decision-making processes affecting their communities. The current emphasis on supply-side programmes raised concern about ownership of development objectives and lack of participation of civil society. There was strong evidence that when communities were placed in the driving seat, durable solutions for the protection of human rights could be achieved.

45. She urged the Commission to ensure that a commitment was made at the good governance seminar later in 2004 to focus on empowerment, involvement and representation of communities, especially those living in poverty and despair.

46. Ms. FRIED (Center for Women's Global Leadership) expressed concern about the growth in physical and verbal attacks on women who asserted their human rights around the world. Governments had also backtracked over the past decade on their previous support for women's rights. Women human rights defenders faced gender-specific risks on all issues. They could become targets of sexual violence and sexually based insinuations that sought to discredit their work on the basis of their sexuality and/or supposed deviation from gender norms. When women addressed sexual and reproductive rights issues, the attacks were even more frequent and threatening. Physical attacks were also common and sometimes fatal.

47. Governments and community leaders, including human rights NGOs, must challenge such tactics. She commended the Special Rapporteur on extrajudicial, summary and arbitrary executions for calling attention to the often neglected area of violence against lesbians and gay men and violations of human rights based on sexual and gender identity. The silence surrounding those issues contributed to the impunity of those who attacked women's human rights defenders through the use of sexuality. The Commission should incorporate a fuller understanding of violations based on gender and sexuality into its deliberations.

48. Mr. FISHER (Canadian HIV/AIDS Legal Network) said he was encouraged by the firm positions of principle taken by a number of States in support of non-discrimination against lesbians, gays, bisexuals, transgendered people and human rights defenders. He welcomed in particular the statements by New Zealand, Canada, the EU with the notable exception of Italy, and many Latin American countries. South Africa had shown leadership in including sexual orientation as a ground for non-discrimination in its Constitution. Moreover, a growing number of Asian countries were supporting equality in respect of sexual orientation.

49. In Nepal, however, a culture of impunity allowed law enforcement agencies to target people expressing their sexuality or gender identity. Recently two men of effeminate manner had been raped and beaten by more than 10 policemen and left for dead. Two lesbian women had been mercilessly harassed because of their refusal to marry men. The family, in collusion with the police, had instituted false proceedings for trafficking against an NGO that had given them shelter.

50. It was disheartening in the context of the draft resolution on extrajudicial executions to witness States responsible for the torture and death of their gay and lesbian citizens arguing against the inclusion of sexual orientation. A report by Human Rights Watch on torture and killings of homosexuals in Egypt contained a heartrending testimony by a young man whose lover had died in police custody. He called on all States to support the inclusion of sexual orientation in the Commission's future resolutions on extrajudicial executions.

51. He was pleased that the draft resolution sponsored by Brazil on sexual orientation and human rights, though deferred for a year, remained on the Commission's agenda.

52. Ms. MORALES PALMERO (World Federation of Democratic Youth) said that her organization was fighting for non-privatization of education and health, and against militarism, terrorism and war. The United States military intervention in Iraq and the massacre of Palestinians by the Israeli army showed clearly that Western States failed to practise what they

preached in the Commission regarding respect for human rights. She warned countries which ignored the real state of affairs because of threats to suspend financial assistance that the thousands of murdered Iraqi and Palestinian civilians would become an eternal nightmare for those who failed to stand up against war and genocide.

53. The Government of the United States had used the servile Government of Honduras to further its plans against Cuba in the Commission at the current session. She wondered whether the puppeteer had forgotten that in 2003 it had accused the Honduran puppet and other Central American countries of multiple violations of the rights of children and adolescents. Cuba led the world in terms of the proportion of teachers and doctors in its population. Moreover, both educational and health services were provided free of charge. Over 15,000 Cuban doctors were working in 65 Third World countries and, paradoxically, 900 of them had saved over 100,000 lives in Honduras during the past four years, thereby helping to lower its infant mortality rate.

54. Mr. ALY (International Union of Socialist Youth) said that ever since Morocco had illegally occupied the territory of Western Sahara in 1975, the Sahrawi population had been subjected to forced unemployment, denial of salaries, deportation to Morocco, arbitrary arrest and disappearance, and extrajudicial imprisonment. Unfair trials of Sahrawis had resulted in excessively harsh sentences.

55. Twelve of 33 prisoners of conscience pardoned by King Mohamed IV of Morocco in January 2004 were Sahrawis. Among those released was a trade unionist who had been sentenced in an unfair trial to two and a half years' imprisonment for threatening public order and instigating violence. In prison, he had gone on hunger strike 10 times to protest about the severe conditions. He had then been pardoned for crimes he had never committed, since all he had ever done was to express his political convictions openly and peacefully and support the right of his people to self-determination. Since his release he had continued to be subjected to intimidation and harassment.

56. The Special Rapporteur on torture had referred to two cases of Sahrawi human rights activists in his report to the current session of the Commission (E/CN.4/2004/56). In a list published on 8 March 2004, a Moroccan officer, Ahmed Boukhari, had identified 123 persons responsible for gross human rights abuses in Western Sahara, including high-ranking Moroccan officers in the army and civil service.

57. He called on Morocco to withdraw its troops from illegally occupied Western Sahara and urged the international community to devise observation mechanisms for the territory and enable the Sahrawi people to exercise its right to self-determination.

58. Mr. CHEIKH (International Youth and Student Movement for the United Nations) expressed concern about repeated attacks on Sahrawi human rights defenders in Western Sahara. Morocco, which had illegally occupied the territory for almost three decades, was seeking their physical eradication through violations of international humanitarian law and crimes against humanity. Hundreds had been subjected to torture, draconian restrictions on their freedom of expression, association and assembly, arbitrary arrest and enforced disappearance. Repression had increased during the past five years. Human rights defenders were regularly intimidated, arraigned on trumped-up charges and prevented from leaving the territory. The large-scale

involvement of the Moroccan intelligence services in disappearances and the failure of the authorities to respond to complaints indicated that the orders came from on high. Revelations about how the repressive machinery functioned had been made earlier in the year by an influential member of the Moroccan intelligence services, Ahmed Boukhari, who had compiled a list of 125 torturers who had operated in Western Sahara.

59. Morocco had also transferred thousands of Moroccan settlers to Western Sahara and deported several hundred Sahrawis, including human rights defenders, to Morocco.

60. He called on the international community to take action against Morocco's human rights violations in Western Sahara and to shed light on the enforced disappearance of hundreds of Sahrawis.

61. Mr. KAREL (Group for International Solidarity) said that internal armed conflict in Nepal had claimed the lives of more than 10,000 Nepalese over the past eight years. The conflict had escalated recently when the Nepalese monarch had dismissed the elected Prime Minister. The authorities broke up peaceful demonstrations and detained hundreds of human rights activists who were monitoring the demonstrations. Extrajudicial executions, enforced disappearances and torture were widespread.

62. Although Nepal had ratified the six core United Nations human rights treaties and the Treaty Act stipulated that ratified treaties superseded domestic legislation where it was inconsistent with treaty provisions, non-implementation of treaties was a major problem. Impunity for perpetrators and lack of justice for victims had generated negative attitudes to the army, law enforcement agencies and the State as a whole. The authorities sought to discredit the independent National Human Rights Commission by claiming it was influenced by the Maoists and they failed to comply with its recommendations. The Home Ministry had recently instructed the National Human Rights Commission to incorporate a member of the security forces in every investigation of human rights violations. Such a clear attempt to violate the Paris Principles should be condemned by the international community.

63. Ms. GEISSBUEHLER (France Libertés) drew attention to the case of Professor Bandajevsky, an anatomo-pathologist who had been imprisoned in Belarus since June 2001 for his research on the Chernobyl nuclear disaster. He had published his findings on the effects of radioactivity on children in 1999, at a time when the authorities were anxious to rehabilitate a territory that was still contaminated, and had criticized their use of international funds to deal with the aftermath of the disaster. Shortly afterwards he had been arrested under a "counter-terrorist" decree. After 22 days of solitary confinement without access to a lawyer, he found that he had been charged with taking bribes for the admission of students to his Institute. Following a trial before a military court with no possibility of appeal, he had been sentenced to eight years' imprisonment. Trial observers, including representatives of the Organization for Security and Cooperation in Europe, had reported numerous irregularities. Professor Bandajevsky's legal counsel had filed a complaint with the United Nations Human Rights Committee, which had declared it admissible.

64. The nuclear lobby was guilty of complicity with the Belarusian authorities, who wished to convey the impression that the Chernobyl environment was safe. The World Health Organization was also a collaborator by virtue of its five-year absence from Chernobyl due to a 1959 agreement with the International Atomic Energy Agency that prevented one of them from adopting a public stance that might damage the other.

65. Ms. HOLSTEIN (Working Together for Human Rights) expressed serious concern at the human rights situation in Cuba. In March and April 2003 a wave of arrests among Cuban “dissident” movements had led to the trial under unfair conditions and the sentencing of 75 political opponents, journalists and human rights defenders to prison terms of between 6 and 28 years. Many of them were in a very poor state of health.

66. The Commission had an obligation to speak out against the arbitrary detention of those persons for the peaceful exercise of their right to freedom of expression and against the overall situation of prisoners of conscience in Cuba, who were estimated by the Cuban Commission on Human Rights and National Reconciliation to number 315.

67. The Commission should also call on the Cuban Government to respect the United Nations 1998 Declaration on Human Rights Defenders and to invite the Special Representative of the Secretary-General on human rights defenders to visit Cuba as soon as possible, guaranteeing her free access to all individuals and sites. The Commission should furthermore enjoin the Cuban Government to comply with the provisions of its resolution 2002/18.

68. Mr. HALL (National Association of Criminal Defense Lawyers) said that the death penalty continued to be applied to juvenile offenders in the United States, even though the practice appeared to have been abolished elsewhere and was opposed by many jurisdictions even within the United States. The Supreme Court was currently reconsidering the issue, and there was hope that execution of juvenile offenders might be banned in the near future.

69. In the United States, a person was reportedly more likely to be sentenced to death if the appointed lawyer lacked the necessary financial resources for an adequate defence. Making the question of life or death dependent on the defendant’s economic situation was a violation of human rights.

70. The existence of the death penalty brought with it the serious risk that a person might be convicted and executed for a crime that he or she had not committed. The possibility that an innocent person might be executed offended all notions of human decency and was justification enough for a global moratorium on the death penalty.

71. His organization thanked the Mexican Government for bringing an action against the United States Government in the International Court of Justice for denying prompt consular access to 51 Mexican citizens in death penalty cases. Such unlawful treatment had also been applied to other foreign nationals who had been sentenced to death.

72. There was strong support for a moratorium and abolition of death penalty worldwide, and he called on all delegations to actively support the draft resolution on the question of the death penalty at the current session of the Commission.



73. Ms. ARTBURU (Human Rights Advocates) said that, as migration was on the rise, the plight of migrant workers worldwide warranted particular attention.

74. Receiving countries needed to recognize their responsibility for ensuring the safety of migrants. In 2003, over 600 migrants had died seeking to enter the United States by land or water, and in Europe an estimated 1,100 migrants died each year trying to reach the shores of Spain or Italy. Once they had reached their destination, migrant workers were often exposed to exploitative and unsafe working conditions.

75. In order to ensure the safety and well-being of migrants, ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was crucial. In addition, the economic causes of migration needed to be addressed through measures such as job creation in sending countries.

76. Governments should also include protection of human rights in their trade agreements with a view to averting the possible negative repercussions of such agreements.

77. Migrant workers played an important role in the labour market, and receiving countries needed to develop programmes to enable them to work legally. Bearing in mind the important financial contribution of migrant workers to sending countries in the form of substantial remittances, the latter should also do more to assist and protect their migrant workers abroad.

78. She called on all Governments to ratify the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children and to revise border policies with a view to reducing trafficking in persons and protecting the lives of migrants. It was not the migrants who should be punished, but the companies that encouraged illegal migration.

79. Ms. VUKOVIC (Permanent Assembly for Human Rights) said that the massive and systematic violation of economic, social and cultural rights in Argentina during the past three decades had taken a dramatic turn with the financial crisis in December 2001. The situation illustrated the urgent need for justiciability and for legal guarantees of economic, social and cultural rights. The adoption of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights would be an important step forward in that direction.

80. Neo-liberal economic policies adopted by successive Governments since 1975 had led to widespread poverty, unemployment and social exclusion. While wealth was concentrated in few hands, over 50 per cent of the population lived below the poverty threshold; 26 per cent lived in destitution; and unemployment and underemployment levels had reached 20 and 40 per cent respectively. Such figures were incompatible with democratic values, and Governments and other implicated actors should be held accountable. To that end, economic, social and cultural rights needed to be granted the same legal status as civil and political rights.

81. National institutions, international financial institutions, multilateral bodies, local business associations and the media had allowed politics to be dictated by the needs of the economy without respect for the fundamental principles of humanity. In order to ensure justiciability, an Optional Protocol that would provide for the establishment of a mechanism to consider individual complaints and that would enshrine States' obligation to guarantee economic, social and cultural rights was crucial.

82. Mr. CIGLIUTTI (Permanent Assembly for Human Rights), continuing his organization's statement, said that gay, lesbian, transvestite, transsexual and bisexual persons in Argentina also had their rights violated. Human rights were universal and applicable to everyone, and international human rights instruments needed to specifically prohibit discrimination based on sexual orientation and gender identity. Inequality based on sexual orientation and gender identity was unacceptable in any political or religious context and it was incumbent on the Commission to use its authority to promote justice.

83. Mr. BALUCH (International Committee for the Respect and Application of the African Charter on Human and Peoples' Rights) said that half a century of human rights violations and oppression had severely reduced the Baluch population. Recent government development projects in Baluchistan represented new threats to the subsistence and political aspirations of its population, possibly causing further displacement and renewed inward migration of Punjabis. The Pakistani nuclear and defence programmes had also worked to the Baluch people's detriment.

84. The creation of Pakistan had resulted in the oppression of its national minorities by the ruling Punjabi elite, and the denial of their traditional distinct geographic, racial and cultural identity. The media and State institutions were collaborating in attempts to assimilate the Baluch population into the misconceived notion of Pakistan. Respect for the rights of minority nationalities was crucial to alleviate a sense of alienation of populations that had never been granted political participation.

85. The federal Government's decision to ignore the opposition of the regional legislative assembly and construct military cantonments in Baluchistan was another repressive measure. The sites had been chosen for their wealth in natural resources and strategic importance. To be a truly federal State, Pakistan needed to respect the rights of the various nationalities and communities.

86. Mr. LOKUMARAMBAGE (International Buddhist Foundation) said that the concept of human rights and human dignity was among the core values of all world religions. In that context, Sri Lanka could draw upon the traditions of tolerance and pluralism represented by the four religions that were present on the island.

87. The human rights situation in Sri Lanka had improved significantly following the ceasefire agreement between the Government and the Liberation Tigers of Tamil Eelam in 2002. After 20 years of war, people travelled freely throughout the country and had begun to embrace one another in a spirit of brotherhood. Over 300,000 internally displaced persons had returned to their homes, and significant rehabilitation and reconstruction projects were under way in the north of the country. Free and fair elections had been held earlier that month.

88. In the light of those positive developments, it was regrettable that one NGO had repeatedly brought up outdated allegations about Sri Lanka. The organization seemed to suggest some form of separate development at a time when all parties concerned were working towards resolving their differences within a democratic, united Sri Lanka based on a culture of human rights. He called on the Commission to support Sri Lanka in that effort.

89. Ms. BEN-HAIM ROSEN (International Association of Jewish Lawyers and Jurists), speaking on the issue of the protection of human rights in the context of combating terrorism, criticized the Arab League and States members of the Organization of the Islamic Conference for blocking an international definition of terrorism by insisting that resistance by “all means” to “occupation, colonial domination, etc.” should not be regarded as an act of terrorism.
90. As to the creation of a new special procedure to ensure compatibility of national counter-terrorism legislation with international human rights obligations, her organization supported the large number of countries that considered the existing mechanisms sufficient.
91. Regarding the role of courts in promoting and protecting human rights, she suggested the elaboration of fundamental principles applicable to reviewing a State’s counter-terrorism measures and decisions based on them. In that connection, she drew attention to a set of principles recommended by the President of the Supreme Court of Israel that could be used for guidance. Those included justiciability, standing before the court, timeliness of decision-making and scope of judicial intervention.
92. Her organization endorsed the view that counter-terrorism work per se was not a violation of human rights, provided that it was carried out in a framework of supervisory jurisdiction based on the principles mentioned.
93. Mr. MALEZER (Foundation for Aboriginal and Islander Research Action) said it was regrettable that many human rights defenders were targeted for their work on indigenous or land rights. In Australia, the Chairman of the Aboriginal and Torres Strait Islander Commission, Mr. Clark, had been persecuted for opposing police racism against Aboriginal people. Following his statement to the police that Aboriginal people should not be removed, he had been sentenced for obstructing the police. The Government had used the conviction to suspend Mr. Clark from office and was threatening him with dismissal.
94. He had thus joined a long list of Aboriginal leaders who had been victimized by the Australian Government. In addition, the Government was threatening to terminate the operations of the Aboriginal and Torres Strait Islander Commission. All four indigenous NGOs in consultative status with the Economic and Social Council had had operations terminated or suspended over the past 12 months.
95. He called on the Australian Government to desist from targeting indigenous human rights defenders and to commit to constitutional and legal reforms with a view to incorporating the rights of indigenous people. He also appealed to the Special Representative on human rights defenders and the Special Rapporteur on indigenous peoples to investigate the case of Mr. Clark and to include their findings in their next report to the Commission.
96. Mr. DESUMMA (International Rehabilitation Council for Torture Victims), speaking also on behalf of Physicians for Human Rights, and the World Medical Association, underlined the importance of a pluralistic, multidisciplinary composition of the teams that visited places of detention. Health professionals and human rights defenders continued to be under threat for documenting acts of torture or providing treatment and support to the victims.

97. In Zimbabwe, the Amani trust centre for victims of torture had been subject to persistent and unfounded allegations. The continuous harassment and threats from the Government had forced the trust to suspend all operations.

98. Nine members of the Human Rights Foundation of Turkey had been accused of collecting contributions without permission and, on an earlier occasion, of collaborating with international organizations without permission. The cases had been suspended, but a review could still be requested within three months.

99. The previous month, two members of the rehabilitation centre for torture victims in Izmir had been sentenced to prison terms, and another case against one of them was pending. The Human Rights Foundation of Turkey ran five rehabilitation centres in the country, whose work was endangered as long as those cases were pending. He therefore called on the Turkish Government to suspend all cases against human rights defenders and instead bring the torturers to trial.

100. In Nigeria, the Consulting Centre for Constitutional Rights and Justice, an accredited rehabilitation centre for torture victims, had had to close down following an attack by 20 armed men in October 2003. The case had been reported to the police, but no arrests had been made.

101. He also spoke out on behalf of the six doctors and dentists who had been imprisoned in Cuba for the past two years for human rights activities. Appeals had been made to Governments and the European Commission to pressure Cuba to disclose information about their trials and the exact nature of their sentences, and to request fair and humane treatment in prison.

102. Attacks on health professionals as a result of their providing assistance to victims of torture were a cause for great concern and Governments should recognize and respect health professionals' special obligations to lend assistance to persons in need.

103. Mr. SANCHEZ (Colombian Commission of Jurists) said that attacks against human rights defenders were taking increasingly serious forms in certain countries. Intimidation and harassment had been replaced by arrests, persecution, prison sentences and threats.

104. In Colombia, 16 human rights defenders had been killed or had disappeared in 2003. They were often victims of arbitrary arrests and refused a fair trial, and the Government's actions were in clear contradiction to the recommendations made by OHCHR.

105. In Colombia, the work of human rights defenders was viewed at best as a hostile act against the Government and, at worst, as collusion and support of the guerrillas. In addition, they were perceived as obstacles to the Government's democratic security policy. Human rights organizations were eyed with suspicion, lack of confidence and hostility. In spite of appeals by United Nations agencies, the Colombian Government continued its hostile discourse against human rights defenders in an attempt to bring them into discredit.

106. The incorporation of the Declaration on Human Rights Defenders into national legislation was crucial to protecting human rights defenders and to strengthening the important role they played in a democracy.

107. Ms. BIONDI BIRD (International Confederation of Free Trade Unions) said that over 100 trade unionists were killed each year and several thousands more were imprisoned, beaten during demonstrations and tortured by security forces or others. Each year, hundreds of thousands of workers lost their jobs for their attempts to organize labour.
108. Cambodian trade union leader Chea Vichea had been assassinated in January 2004. Following his murder, other Cambodian trade unionists had received threats. Her organization had called on the Cambodian Government to open an impartial and independent investigation into the murder.
109. In Zimbabwe, following a protest in 2003, 165 trade unionists had been arrested, and the President of the Zimbabwe Congress of Trade Unions had later been dismissed from his post for having attended a meeting of the Organisation of African Trade Union Unity. Many other union leaders had been threatened or imprisoned for refusing to pay a government fine.
110. Those cases illustrated the fact that the rights to freedom of association and collective bargaining were still among the most violated, and the Commission thus needed to focus on the particular threat posed to trade unionists in their capacity as human rights defenders.
111. Mr. CALZON (Liberal International) thanked United Nations security personnel and NGOs and delegations for their help and concern a few days previously.
112. Ms. HERRERA (Cuba), speaking on a point of order, said that the topic addressed was unrelated to the agenda item currently under discussion. In addition, the speaker had physically attacked a Cuban diplomat, which was entirely unacceptable behaviour.
113. The CHAIRPERSON said that, although the Cuban representative might be offended by the statement, the Commission was tolerant of a wide spectrum of views. Should the statement indeed cause offence, the Cuban delegation was invited to exercise its right of reply.
114. Mr. CALZON (Liberal International) said that the abuse of human rights was a pressing matter in many countries, including the Democratic People's Republic of Korea, Myanmar, Tibet, China, the Sudan and Cuba. As an example, the Cuban prisoner of conscience Leonardo Bruzon Avila was gravely ill and had been denied access to adequate medical care.
115. Democratic Governments were increasingly expressing their solidarity with the victims of repression in Cuba. The Chilean Parliament had recently passed a resolution calling on the Commission to condemn the Cuban Government for its acts, and the EU had also raised the issue of human rights violations in Cuba. International human rights NGOs had called upon Cuba to release its prisoners of conscience.
116. In response, the Cuban Government was orchestrating a campaign declaring all dissidents traitors, lackeys of foreign powers, Central Intelligence Agency operatives and terrorists. That was, however, the language of the Cuban totalitarian past. Cuba's imprisoned human rights activists who advocated tolerance and reconciliation were the voice of Cuba's future, and thus needed and deserved the Commission's support.
117. Ms. FORERO UCROS (Colombia) said that the work of human rights defenders whose work was consistent with national and international law and standards was valuable and deserved

due respect. Her Government was committed to national directives and international decisions in that regard, and protection mechanisms and complaints procedures were in place for human rights defenders under threat. Constructive dialogue was a priority, and a national action plan on human rights would be drafted in collaboration with civil society.

118. Her Government disagreed, however, with biased reports aimed at distorting the aims of its democratic security policy. The incidence of homicide had decreased by 20 per cent between 2002 and 2003. That was no reason to be complacent, however, and sustained efforts were being made to end death, violence and suffering.

119. Mr. OBIDOV (Observer for Uzbekistan), exercising his right of reply, said that in Uzbekistan men over the age of 60, women, and juvenile offenders were exempt from the death penalty. In addition, recent changes to the Criminal Code stipulated that it could only be imposed for two types of crimes, and a growing number of death sentences were commuted to prison sentences on appeal.

120. Uzbekistan was implementing the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In that connection, a number of measures had been taken to reform the criminal system. Provision had been made to inform families of prisoners who had been sentenced to death. A draft law to amend the Criminal Code was to be presented to the Government. In addition, execution of the death penalty had been suspended for prisoners whose cases were still under consideration before the Human Rights Committee. Future action would include a public opinion survey on a possible moratorium on the death penalty or its abolition.

The meeting rose at 12.10 p.m.