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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-sixth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 27 July 2004, at 3 p.m.

Chairperson: Mr. SORABJEE

later: Ms. RAKOTOARISOA

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

ORGANIZATION OF WORK (agenda item 1) (continued)

1. The CHAIRPERSON outlined for the benefit of observers the decisions on the organization of work and the conduct of business adopted by the Sub-Commission in informal session that morning.
2. He also informed the Sub-Commission that, pursuant to the decisions it had adopted at its 1st meeting, on 26 July 2004, concerning the establishment of two sessional working groups, Ms. Hampson, Ms. Motoc, Ms. Rakotoarisoa, Mr. Tuñón Veilles and Mr. Yokota had been nominated to serve as members of the sessional working group on the administration of justice under agenda item 3, and Mr. Alfonso Martínez, Mr. Alfredsson, Mr. Bíró, Ms. Chung and Mr. Guissé had been nominated to serve as members of the sessional working group on the working methods and activities of transnational corporations under agenda item 4. If he heard no objection, he would take it that the Sub-Commission approved the composition of the two working groups.
3. It was so decided.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (E/CN.4/Sub.2/2004/NGO/3-5, 8, 9, 11, 24 and 26)

4. Mr. POQUILLON (Dominicans for Justice and Peace), speaking also on behalf of Dominican Leadership Conference, Pax Christi, Maryknoll Sisters of Saint Dominique and Maryknoll Fathers and Brothers, in conjunction with Franciscans International, said that the violations of human rights and fundamental freedoms of the people of Iraq were a source of serious concern. The organizations on whose behalf he was speaking endorsed the report of the High Commissioner for Human Rights entitled “The present situation of human rights in Iraq” (E/CN.4/2005/4), which might serve as a framework, where human rights were concerned, for the reconstruction of Iraq. After mentioning a number of the recommendations contained in the report, he said that the reconstruction of Iraq was a long-term priority; that meant in the short term that the aid arrangements must produce real effects on people’s lives. For example, the lack of security and respect for the rule of law had a powerful impact on daily life, and the situation of impunity helped to maintain a high level of tension and fear. Furthermore, there was little respect for the right to health, and the pollution caused by the war constituted a real threat to the health of future generations; and the right to education remained in peril. The restoration of a sovereign Iraq also required respect for the rights of ethnic and religious minorities.
5. Dominicans had been living and working in Iraq for more than 250 years in the education, health and other humanitarian fields. They now recommended that the Commission on Human Rights, the Sub-Commission and other United Nations bodies should implement the main recommendations contained in the High Commissioner’s report; the United Nations and the

international community should take the necessary action to establish a representative and sovereign Iraqi Government; the international community should furnish the United Nations with the means to play a central role in the transitional period in Iraq; and the Commission on Human Rights should keep the situation in Iraq on its agenda.

6. Mr. ELYES BEN MARZOUK (Jeunes Médecins Sans Frontières-Tunisia) said that poverty was the most flagrant violation of human rights, for it affected all human rights; political freedom in particular had no meaning for poverty-stricken people. The international community must adopt new mechanisms to promote peaceful coexistence in a context of respect for democratic values and international law. The problems of governance were no longer a matter only for the “underdeveloped” countries. On questions of democracy there were no teachers: all countries had much to learn and to do. Education, dialogue and respect for diversity were the essential focuses of a strategy to prevent human rights violations resulting from extremism.

7. Organizations of civil society had a leading role to play in the construction of a culture of peace and tolerance and in the struggle against the extremism and discrimination which threatened social cohesion and peace in the world. They also had a role in making the general public more aware of human rights and fundamental freedoms but they must not engage merely in unproductive denunciations. In the present difficult context of change, the approach must be based on the principles of equity in the distribution of the fruits of growth, responsible social dialogue, and strengthening of national concord. Law-enforcement agencies must protect victims of racist and discriminatory practices and prosecute their perpetrators. And education must prepare the coming generations for a life free of all discrimination and segregation.

8. Human rights lay at the heart of the concept of the information and communication society, and the problem of unequal access to information must be addressed in the context of the North/South gap: there must be equality of opportunities for all. The second phase of the World Summit on the Information Society in Tunis in 2005 would adopt concrete measures to create a truly equitable information society which respected human dignity. But it must be remembered that individuals had duties towards the community. In Tunisia, civil society would have been unable to play its important role in promoting human rights if Tunisia had not been a State governed by the rule of law and guided by a political will to strengthen fundamental freedoms with a view to the comprehensive development of the Tunisia of tomorrow.

9. Mr. OZDEN (Europe - Third World Centre) said that in recent years the United States of America had increased its unilateral military interventions under cover of the United Nations, violating the right of peoples to self-determination and threatening international peace and security. Such interventions had taken place in the former Yugoslavia and Afghanistan, and in March 2003 the coalition of the United States and the United Kingdom had invaded Iraq, thus inaugurating the era of preventive war and opening the door to every kind of abuse. The violations of human rights committed in Iraq by the forces of occupation were manifest. By backing such military aggression the Security Council was contributing to the weakening of the United Nations; and by confining itself to a purely humanitarian and subordinate role the United Nations risked losing all credit in the eyes of the world. It was time for the United Nations to resume its place in working for a world where all human rights were respected; its Member States must reject *faits accomplis* and the short-circuiting of the Organization and seek to resolve disputes between States by peaceful means in accordance with the Charter.

10. Mr. JAMPA (International Union of Socialist Youth (IUSY)) said that IUSY remained gravely concerned about the human rights situation in Tibet, more so since the adoption by the Sub-Commission of resolution 1991/10. The Sub-Commission's attention was drawn in particular to the report "When the Sky Fell to Earth" by the International Campaign for Tibet. The report described the harsh restrictions and in some cases brutal torture imposed upon the people of Tibet by China since the mid-1990s, stressing that restrictions on religion were particularly painful in Tibet because of the close link between religion and Tibetan identity. In fact, the Chinese leadership viewed the Dalai Lama as the main obstacle to political stability in Tibet.

11. Almost 90 per cent of the persons currently in prison for political reasons were monks and nuns who had expressed allegiance to the Dalai Lama. China also refused to declare the whereabouts of Gedhun Choekyi Nyima, the eleventh Panchen Lama of Tibet, following his detention in May 1995 at the age of 6. Tibetans were trapped in a contradiction between the "freedom of religious belief" declared in the Chinese Constitution and the enforcement of the atheist doctrine of "communist spiritual civilization". In the report on her mission to China (E/CN.4/2004/45/Add.1) the Special Rapporteur on the right to education had made the point that, in violation of China's international human rights obligations, religious education remained prohibited in both public and private educational institutions. In April 2004 concern had been expressed over the detention of Tenzin Deleg Rinpoche, a Tibetan spiritual teacher and social worker, and over the failure to respect his human rights during trial. The Special Rapporteur on freedom of religion or belief and the Special Rapporteur on extrajudicial, summary or arbitrary executions had both intervened in the case.

12. IUSY appealed to the Sub-Commission to reaffirm resolution 1991/10, and to call upon the Chinese authorities to enter into a substantive dialogue on the political status of Tibet.

13. Mr. HOWEN (International Commission of Jurists (ICJ)) said that ICJ urged the Sub-Commission to implement its resolution 2003/15 on the effects of measures to combat terrorism on the enjoyment of human rights. Some of the legislation, policies and practices adopted by many States and intergovernmental bodies in the "war against terrorism" represented threats to the rule of law and human rights, resulting in a worrying erosion of international human rights law, humanitarian law and refugee law. One common practice had been to introduce imprecise definitions of terrorism in criminal legislation, leading to the criminalization of the legitimate exercise of political or social opposition and the qualification of violent forms of political opposition as terrorist acts; political offences and terrorist offences were in fact two different categories governed by different legal regimes. Governments were increasingly prosecuting suspected perpetrators of terrorist acts before special tribunals, in which due process was not necessarily observed. "Counter-terrorist" measures had led to arbitrary detention and unlawful restriction of the right of habeas corpus, as well as to detention without charge. Several countries had restricted the right of asylum and were expelling persons without access to a remedy, and some countries had extradited persons without regard to the principle of non-refoulement.

14. The United Nations and regional bodies had already found many such counter-terrorism measures incompatible with international legal obligations. There was in fact an urgent need for clear United Nations guidelines to help States to balance the imperative to protect human rights

against the duty to combat terrorism. Such guidelines could constitute a response to the appeals made by the General Assembly in resolutions 57/219 and 58/187, by the Security Council in resolution 1456 (2003), and by the Commission on Human Rights in resolution 2003/68. Regional organizations such as the Council of Europe and the Organization of American States had already taken action along those lines, and the African Commission on Human and Peoples' Rights had decided to examine the question later in 2004. ICJ believed that the Sub-Commission should take on the task of producing universal guidelines.

15. Mr. WADOW (Association for World Education) urged the Sub-Commission to monitor developments in Darfur, Sudan, where the situation required urgent action. He commended the report by Mr. John Prendergast, of the International Crisis Group, as the most comprehensive study on the conflict. The violence in Darfur was not a new phenomenon. For some time, armed groups had been raiding villages, raping and pillaging as they went. They had developed gradually into structured militias, enjoying close relations with forces of the Sudanese Government. Members of the Sub-Commission should consult previous reports by Special Rapporteurs on the Sudan for a more complete historical perspective. The refugee flow from Darfur could lead to serious instability in neighbouring Chad. Furthermore, the violence in Darfur jeopardized the fragile peace agreements designed to bring an end to over 20 years of civil war in the Sudan. The Sub-Commission should take urgent steps leading to prosecution of crimes of genocide committed in Darfur.

16. Mr. LITTMAN (World Union for Progressive Judaism) recalled that terrorists fighting under the banner of jihad had murdered the former United Nations High Commissioner for Human Rights, Mr. Vieira de Mello, and 22 of his United Nations colleagues. The civilized world must never surrender to the threats of Islamist bombers, and would need to show unshakeable determination to guard the free world from religious depravity and terror. All religions, including Judaism, were liable to exploitation by murderous fanatics. In 1988, Sheikh Ahmad Yassin and Dr. Abd Al-Aziz Al-Rantisi had published the Hamas Charter, a blueprint for genocide, local and global Islamist terrorism. Muslim leaders should reject unequivocally the concept of "holy jihad", which constituted a denial of human rights and fostered a culture of hatred and death. The new High Commissioner for Human Rights should condemn jihadist bombings, wherever they occurred, and denounce the genocidal aims of the Hamas Charter and fatwa declarations issued by Osama bin Laden and others. States should request the International Court of Justice to adopt a ruling against jihadist operations. He proposed the following additions to the annual Commission resolution on combating defamation of religions: "Strongly deplores all reference to God in order to justify any form of violence, hatred, and the use of religious motive to kill civilians: men, women and children; Condemns all who blaspheme and defame religion by claiming to kill in the name of God".

17. Ms. AULA (Franciscans International) said that the recent entry into force of the Convention against Transnational Organized Crime and its Protocols, the Rome Statute of the International Criminal Court and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families had strengthened the human rights movement. However, there was a continuing reluctance to adopt international undertakings on the part of some States, such as the United States, the only country not to sign the Convention on the Rights of the Child, and Cuba, Indonesia, Pakistan, Saudi Arabia and Singapore, the remaining countries not to have signed either of the International Covenants on Human Rights.

Other States failed to live up to their obligation to promote and protect human rights. The Government of the Sudan armed militias that violated human rights in Darfur, while the Government of Israel had defied international law in building its security wall. The Sub-Commission should consider how to ensure universal implementation of human rights treaties. It should carry out a detailed study into the impact of economic, social and political indicators on human rights, and strengthen cooperation with special procedures, for instance by suggesting areas for further study.

18. Ms. SAHUREKA (International Association of Democratic Lawyers) said that, more than 50 years after their declaration of independence, the people of Maluku continued to suffer military aggression and occupation. Under the banner of a holy war, Indonesian troops had committed countless war crimes and crimes against humanity in Maluku over the past four years. Millions of people had been forced to flee their ancestral lands, following atrocities perpetrated against villagers, women and children. In the past few months, Indonesia had sent at least 7,000 soldiers as reinforcements in an attempt to crush Moluccan opposition. Her organization called for an international fact-finding mission to be sent to Maluku; the prosecution of those responsible for human rights abuses; the enforcement of international law against jihad terrorists; an end to the planned migration of Javanese settlers into Maluku; and the release of Moluccan political prisoners.

19. Ms. Rakotoarisoa, Vice-Chairperson, took the Chair.

20. Ms. SHAWL (International Islamic Federation of Student Organizations) said that systematic and continuous human rights abuses were occurring in Indian-occupied Jammu and Kashmir. Stepping up its military presence, and continuing to implement draconian laws, such as the Prevention of Terrorism Act, India had used the improvement of relations with Pakistan as cover for consolidating its brutal hold over the occupied State. Besides reports from respected human rights institutions, even Indian newspapers had testified to the worsening situation of the Kashmiri people. The press had drawn attention to the sufferings of 3,000 widows in Kupwara district alone, deprived of adequate social protection. India invested far more in military operations than in improving health, education and employment conditions for people in the region. The international community should call upon the Government of India to accept fact-finding missions by special procedures mandate-holders, with a view to confirming the extent of human rights abuses in Jammu and Kashmir.

21. Mr. GRAVES (Interfaith International) urged the Sub-Commission to consider the issue of inter-community conflict and violence in Sri Lanka. The Government of Sri Lanka needed international support to develop realistic strategies for resolving long-standing conflicts between Tamil, Sinhala and other communities. The President's recent decision to dissolve parliament and hold fresh elections threatened to derail the fragile peace process, plunging the island back into violence. Political leaders must be encouraged to address racism, xenophobia and intolerance among ethnic and religious groups in Sri Lanka. An end to inter-ethnic conflict, as well as the pursuit of economic and social development, should be the main priorities for all of the country's political groupings. Political leaders should be encouraged to accept international assistance in the areas of conflict resolution and implementation of human rights standards. The Sub-Commission should try to convince the relevant actors to focus on peace and development, rather than engaging in internal political battles and religious rivalries.

22. Ms. ALÁ'Í (Baha'i International Community) said that, in Iran, the Baha'i community was the victim of systematic persecution on purely religious grounds. Iranian officials subjected Baha'is to arbitrary detention and arrest, denied them access to pensions and employment, and banned them from setting up their own educational institutions. The Government seemed intent on carrying out a methodical plan to destroy Baha'i historic and holy places, including the desecration of graves and the destruction of sacred buildings. The authorities had completely ignored appeals from the Baha'i community to stop the desecration of the gravesite of Mulla Muhammad Ali Barfurushi, a prominent religious figure and foremost apostle of the Prophet. The international community should call upon the Government of Iran to end its policy of destruction before the entire Baha'i cultural and religious heritage was eliminated.

23. Mr. Sorabjee resumed the Chair.

24. Ms. SHARFELDDIN (International Organization for the Elimination of All Forms of Racial Discrimination) said that society had been bombarded with scenes of violence and attacks on unprotected civilians to such an extent that they had become almost routine. That had encouraged the aggressors to become totally indifferent to moral and human values and to international law. The most recent example of such indifference was the refusal by the Israeli and United States Governments to accept the ruling of the International Court of Justice demanding that Israel dismantle the wall that it was building in Palestine.

25. Israeli efforts at expansion would only cause more bloodshed and suffering in the region. As Arnold Toynbee had commented, the Israeli entity was arbitrarily implanted in a region inhabited by a civilization that stretched back for millennia and should adapt itself and cooperate with the centuries-old region around it or else it would be rejected. Her organization appealed to the Sub-Commission and to all non-governmental organizations (NGOs) to remain alert to the dangers posed, not only to the Arab region, but to the world as a whole, by the fact that Israel possessed nuclear weapons, while refusing any international control of its nuclear arsenal. Lastly, the world had a duty towards Palestinians, be they Christians, Jews or Muslims, to use all possible ways and means to establish a secular state in Palestine.

26. Mr. MACKENZIE (Innu Council of Nitassinan) said that although Canada had a reputation for respecting human rights, it had recently intensified a policy of extinguishment towards aboriginal peoples such as the Innu. Under current Canadian policy, the Innu had to prove their claim to their own lands and were engaged in negotiations for a measure of self-determination through the Comprehensive Land Claims process. However, the process remained rooted in the extinguishment principle and was therefore contrary to many articles of the draft United Nations declaration on the rights of indigenous peoples. Under the process, native people had to exchange their "aboriginal title" to the land for compensation and specific rights. In other words, for aboriginal peoples to obtain rights guaranteed by the State and international law, they were compelled to embark on a process that required them to sign over their land to the State.

27. In response to criticism of the policy, the extinguishment provision had been amended recently. But, aboriginal parties had had to agree that the treaty itself defined all their rights and that they could never assert rights granted under previous treaties. The new arrangement indemnified the Canadian Government against all violations of aboriginal or treaty rights in perpetuity.

28. The Canadian practices of cultural and legal extinguishment violated a number of international human rights provisions and almost every article of the draft declaration denounced it. The refusal to recognize the collective rights of indigenous peoples reinforced the extinguishment policies promoted by Canada and other States. Moreover, the denial of collective rights meant that many of Canada's aboriginal peoples were on the verge of cultural extinction. The misery witnessed in the Innu villages was directly related to a sense of disconnection from their lands and a growing feeling of powerlessness. A strong international mandate, such as would result from the draft declaration on the rights of indigenous peoples, would not only pressure Canada to halt its destructive policy, but would offer hope to peoples like the Innu.

29. Mr. MALEZER (Foundation for Aboriginal and Islander Research Action) said that, in Australia, legislation enacted in favour of aboriginal rights had fuelled xenophobia among that country's population and led to threats of violence against aboriginals. Consequently, the Government had introduced amending laws to extinguish significant aboriginal rights. Subsequently, the Committee on the Elimination of Racial Discrimination had found Australia to be in breach of the International Convention on the Elimination of All Forms of Racial Discrimination and, following a country visit in 2001, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had denounced human rights violations against the aboriginal and Torres Strait Islander peoples. In 2003, the New Zealand courts had ruled that the Maori could hold traditional rights over the country's seabed and foreshore. As a result, racial tensions had escalated and the Government was faced with electoral pressure to extinguish Maori traditional rights.

30. The experience of Australia and New Zealand could be repeated in other countries where the courts might rule that indigenous law and title had status, resulting in Governments facing overwhelming political pressure to extinguish or suppress traditional rights. Fortunately, the General Assembly had recently addressed that type of situation in resolution 58/159 on the incompatibility between democracy and racism, and the Sub-Commission should consider how that resolution might have application in the prevention of neo-colonial abuses of the human rights of indigenous peoples.

31. Ms. K. PARKER (International Educational Development) welcomed initiatives by Pakistan and India to resolve their differences, particularly over the question of Kashmir. However, the solution to that dispute should be in compliance with the Security Council resolutions calling for a plebiscite of the Kashmiri people enabling them to determine their political status, and the Sub-Commission should play an affirmative role in re-establishing the plebiscite process.

32. The situation in Iraq was cause for great concern. Humanitarian and human rights law had been seriously undermined and Iraqi resources severely depleted. Even though all High Contracting Parties to the Geneva Conventions were obliged to seek out alleged violators and ensure they were sanctioned, the United States had not been taken to task by any country for its violation of the Conventions in the case of the abuse of Iraqi prisoners of war. The Sub-Commission should remind the international community of the relevant obligations of humanitarian law.

33. Her organization had often raised the issue of grave breaches of the Geneva Conventions in Turkey's war against the Kurdish people, in which many Kurdish villages had been destroyed and millions of people displaced. The Sub-Commission should identify Turkey as yet another country where such breaches had been largely ignored.

34. Mr. NASEEM MANHAS (Afro-Asian Peoples' Solidarity Organization) said that the situation in Jammu and Kashmir, where violence had led to severe erosion of the political, economic, social and cultural rights of some 15 million Kashmiris, clearly illustrated the nexus between human rights and security. Any solution to the crisis in Kashmir should start with immediate efforts to improve the lives of the Kashmiris and that could only be realized if Pakistan ceased all support for militant groups and cross-border incursions.

35. The State Government had recognized that the people of Kashmir required a more open and accountable government that would restore faith in democratic institutions, and practical and effective measures to tackle the severe social problems, including the resumption of communications and contacts between the Indian- and Pakistan-administered parts of Kashmir. The dialogue between India and Pakistan held out the promise of ushering in lasting peace and reconciliation in the Indian subcontinent.

36. Mr. KHAN (European Union for Public Relations) said that, although the Sub-Commission could only make recommendations concerning human rights violations to member countries, the general debate on that item provided an invaluable opportunity for placing the concerns of victims of such violations before the international community. A recent mission to Azad Kashmir by the Human Rights Commission of Pakistan, an independent NGO, had found that the people were enduring miserable conditions, contrary to government claims that the situation in the area was improving. His organization urged the Government of Pakistan to take effective remedial measures in order to convince the international community of its genuine interest in the welfare of the people of Jammu and Kashmir.

37. Ms. P. PARKER (Minnesota Advocates for Human Rights) made a number of comments on the state of discussions under item 2 of the Sub-Commission's agenda. Statistical comparisons between the 2002 and 2003 sessions appeared to indicate that, while the Sub-Commission continued to take up important topics, overall interest in the proceedings had declined considerably since 2000, when the Sub-Commission had lost its right to vote on country resolutions.

38. When there had still been a right to vote on countries, the Sub-Commission had adopted annually a resolution on violations affecting human rights defenders, mentioning specific countries in some paragraphs. That resolution remained important under item 2, even if specific countries were not named, because the Sub-Commission should continue to express its concern over such violations.

39. She suggested that the Sub-Commission should explore ways to improve the summary records under item 2. The Sub-Commission had requested to highlight any situation which it had reasonable cause to believe revealed a consistent pattern of violations. Consequently, it could decide to ask its current Rapporteur to explore different ways of focusing on the item 2 portion of the debate so that the summary record could better highlight such situations.

40. Her organization strongly encouraged the Sub-Commission to appoint an expert or group of experts to prepare a working paper on ways of improving the discussions under item 2. It would organize a meeting of NGOs to consider the matter and an analytical summary of the meeting's deliberation could be submitted to the expert or experts chosen by the Sub-Commission.

41. Lastly, she suggested that if the Sub-Commission was unable to synthesize consistent patterns of violations into country-specific resolutions, they could be included in statements reflected in the record of the proceedings.

42. Ms. GRAF (International League for the Rights and Liberation of Peoples) said it was regrettable that the Sub-Commission had decided not to examine the collapse of the rule of law in Sri Lanka, where a situation of increasingly institutionalized lawlessness prevailed. During most of the post-independence period, the country had been governed under the Emergency Regulations and the Prevention of Terrorism Act, giving the security forces a free hand to use torture and to imprison people without trial and allowing for widespread disappearances and extrajudicial killings. Because the judiciary had been weakened, the perpetrators of human rights violations had largely enjoyed impunity. Furthermore, political parties had been using violence in the fight for power. Over the last two decades, the army had increased in size dramatically and the distinction between the police and the army had become blurred. Some 55,000 soldiers had reportedly deserted the army during the civil war, taking their weapons with them. Repeated amnesty proclamations had not been heeded and consequently weapons were widely available. Armed groups were always ready to offer their services to politicians or businessmen. The democratic process had not been strengthened by the introduction of a system of executive presidency: the Constitution not only concentrated power in the hands of a single person, but also reduced the role of parliament to that of a rubber stamp.

43. Mr. SALEEM (Asian Legal Resource Centre) said that many victims of human rights violations were subjected to further abuse for attempting to seek redress. Accordingly, the Asian Legal Resource Centre had proposed, under rule 5 (4) of the rules of procedure, the inclusion in the provisional agenda of an item under which the Sub-Commission would conduct a study into the exceptional collapse of the rule of law in Sri Lanka and make recommendations to the Commission on Human Rights in that regard (E/CN.4/Sub.2/2004/3). It was regrettable that the Sub-Commission had decided not to discuss that proposal. In Sri Lanka, it was extremely difficult for victims to exercise their right to redress under international law. Many victims were afraid to initiate or complete a complaints process because of real or perceived threats. The credibility of the information contained in the report submitted by the Asian Legal Resource Centre in conjunction with the proposal was unquestionable. Unless immediate action was taken, it was likely that the human rights violations that were taking place in Sri Lanka would become even more horrific. The Sub-Commission should devote priority attention to the matter.

44. Mr. HUSSAIN (International Human Rights Association of American Minorities) said that the peaceful struggle for self-determination that had been waged by the people of Jammu and Kashmir for over five decades was being suppressed by the Indian Government, which not only resorted to the use of torture, rape and killings but had also overseen the introduction of a number of draconian laws to perpetuate its illegal occupation of the territory. Over 700,000 Indian troops had been deployed in Kashmir, making it the most heavily militarized area in the

world. According to recent figures, over 80,000 Kashmiris had been killed since 1989, mostly as a result of indiscriminate firing by Indian troops. Furthermore, in the past 15 years, some 9,000 Kashmiri women had allegedly been raped or molested by Indian security personnel. The Indian Government had paid no heed to the demands by the Kashmiri people for self-determination or to the calls by the international community for an end to the gross violations of human rights in Kashmir. International human rights observers continued to be prohibited from gaining access to the area. Since February 2004, when the composite dialogue between India and Pakistan for a peaceful resolution to the dispute had been initiated, the atrocities committed by the Indian army had escalated. A number of prominent Kashmiri leaders had been assassinated. The remaining leaders were prevented from travelling abroad. The Sub-Commission should seriously examine the situation in Kashmir. It should urge the Government of India to end its brutal occupation of the area and grant Kashmiris their right to self-determination, in accordance with the wishes of the Kashmiri people and the relevant Security Council resolutions.

45. Mr. BARNES (Indigenous World Association) said that he wished to make yet another diplomatic protest against the subjugation, domination and exploitation of the indigenous peoples of Alaska. Conflicts between States and peoples continued to exist because the politically oppressed carried the indelible knowledge that they were unable to exercise the right to self-determination that was guaranteed under the Charter of the United Nations and international law. A flagrant violation of that right existed in Alaska. In 1867, when Alaska had been ceded by Russia to the United States of America, the United States had recognized that independent tribes were the holders of title and dominion in Alaska. However, the recognized sovereign authorities in Alaska had never consented to General Assembly resolution 1469 (XIV) of 12 December 1959. Nevertheless, several General Assembly resolutions had been adopted to ensure that indigenous peoples were able to give their proper consent. For example, according to General Assembly resolution 1541 (XV) of 12 December 1960, certain facts, including those of an administrative, political, juridical, economic or historical nature, should be examined in order to determine whether indigenous peoples were placed in a position of subordination and whether there was an obligation to transmit information under Article 73 (e) of the Charter of the United Nations. According to one source, the situation in Non-Self-Governing Territories had not been examined in sufficient detail and their people had not been granted the right to petition to the United Nations. Furthermore, it appeared that the agencies responsible for the examination had not studied the changes in political conditions and status in the Territories. Referring also to the situation in Indonesia, he called on the Sub-Commission to adopt a resolution allowing for a thematic study of flagrant violations of the right to self-determination.

46. Mr. SHAH (World Federation of Trade Unions) said that, in addition to the well-known threats to human rights, such as economic deprivation, marginalization, political repression, environmental degradation and the spread of pandemics, many hidden crises had not received the international attention they deserved. One such crisis was taking place in Balawaristan, otherwise known as Gilgit-Baltistan, or the Northern Areas of Pakistan. The Government of Pakistan should take steps to improve the human rights situation in that area: it should act on the 1999 decision of the Supreme Court of Pakistan to grant the region a well-defined constitutional status and representation in Pakistan's national legislature; it should include Gilgit-Baltistan in any dialogue on the status of Jammu and Kashmir and allow political parties formed by the people of Balawaristan to operate freely in the region; it should reduce the presence of the

Pakistani army in Gilgit-Baltistan and make civilian agencies responsible for maintaining law and order in the region; it should curtail the powers of Pakistan's Federal Minister for Kashmir Affairs and strengthen the powers of the Northern Areas Legislative Council; and it should clamp down on sectarian violence, and particularly on Sunni extremists. The Government of Pakistan should also change the biased educational curriculum used in Gilgit-Baltistan; end the expropriation of indigenous lands; set up independent judicial institutions; repeal the Frontier Crime Regulations; remove travel restrictions on Kashmiris; and promote investment in physical infrastructure and human capacity-building in the region.

47. Mr. OUHELLI (Moroccan Human Rights Advisory Council) said that the Moroccan Human Rights Advisory Council (CCDH) was a pluralist and independent national institution that had been established by King Hassan II in 1990 to advise him on all human rights matters. In his first speech from the throne, King Mohammed VI had confirmed his commitment to the democratization of Morocco and to the protection and promotion of human rights. Following the terrorist attacks in Casablanca, he had stressed that the fight against terror should take place transparently and in compliance with human rights and the rule of law. Following a recommendation by the CCDH, the King had established the Equity and Reconciliation Commission to shed light on human rights violations of the past and to provide redress for the victims. In accordance with new legislation, the CCDH was required to submit an annual report on the human rights situation in Morocco. In addition to its first report, which focused on the situation of prisoners in Morocco, the CCDH had submitted a report on the violations committed in the name of action against terrorism. Two months after the publication of that report, the Government had ordered an inquiry into the complaints of torture contained in the report. It had also clarified the status of the information services, submitted a draft anti-torture bill and withdrawn Morocco's reservations to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Government had also appointed a high-level committee to coordinate with the CCDH, whose contribution to the promotion and protection of human rights was made easier thanks to Morocco's active civil society, free press and committed Government. The King was personally involved in promoting the legal and political rights of women.

The meeting rose at 6 p.m.