



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/SR.2
5 July 2005

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Sixty-first session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 14 March 2005, at 10 a.m.

Chairperson: Mr. WIBISONO (Indonesia)

CONTENTS

STATEMENT BY THE CHAIRPERSON

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR
HUMAN RIGHTS

STATEMENT BY THE CHAIRPERSON OF THE SIXTIETH SESSION OF THE
COMMISSION ON HUMAN RIGHTS

ADOPTION OF THE AGENDA

ORGANIZATION OF WORK

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Commission will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.05 a.m.

STATEMENT BY THE CHAIRPERSON

1. The CHAIRPERSON noted that the Commission's sixty-first session was opening with the scenes of devastation caused by the tsunami in Asia still fresh in everyone's minds. His election as Chairperson of the Commission was not only a personal honour but also as acknowledgement of Indonesia's democratic system. He paid tribute to his predecessor, Mr. Michael Smith, who had presided over the sixtieth session with consummate professionalism, and to Ms. Louise Arbour, the United Nations High Commissioner for Human Rights, who brought a wealth of diverse experience to the office.
2. Over the past few years, the world had witnessed conflicts and disasters on an unprecedented scale, which had severely affected human rights. It was therefore more necessary than ever to strengthen the spirit of dialogue and cooperation among nations. One could not but be heartened by the positive developments in the Middle East and hope that a successful revival of the peace process would bring a peaceful resolution of the protracted conflict in that region.
3. While terrorism, which violated the core tenets of human rights, must be vigorously combated, the fight against terrorism must respect human rights principles, particularly those relating to due process of law, non-discrimination, and religious tolerance. Efforts must be made to continue the dialogue among civilizations, an idea discussed in other forums which the Commission should help to apply in practice. The Commission should enhance understanding among Governments through constructive debates on various human rights issues. It was only through such efforts that the Commission would be able to produce encouraging and credible outcomes.
4. The Commission could justly be proud of its achievements over the years in standard-setting, the enhancement of protection systems and capacity-building, but it needed to go further. In fulfilling its mandate, the Commission should consider different views and perspectives on human rights and the process for implementing them as a resource that could enrich discussions rather than an obstacle to the search for appropriate solutions. It should favour fruitful cooperation among Governments over condemnation.
5. If the Commission's debates and resolutions were to have an impact outside Geneva, all Governments must do their utmost to implement human rights as part of their national agendas, eradicating poverty, strengthening democratic institutions, fighting discrimination and promoting human rights education as the gateway to the freedom embodied in the democratic process which, as such, should form an integral part of good governance programmes.
6. The Commission was an intergovernmental body, but no one contested the importance of civil society's role at the national or international level. In the past, the Commission's deliberations had not always been free from politicization which did not serve the spirit and purpose of the Commission. He appealed to all delegations to refrain from making defamatory statements, particularly on sensitive subjects such as religion, asking them to respect one another and to make allowances for differences in order jointly to serve the cause of human rights.

7. Orderly conduct of the sessions depended on compliance with the rules of procedure. While all delegations would be afforded full freedom to express their views, they should refrain from using aggressive or offence of language or questioning the integrity of other speakers and must respect the time limits for the delivery of statements. The Expanded Bureau would do its utmost to create a constructive spirit and to enable the Commission to contribute effectively to the promotion and implementation of human rights.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

8. Ms. ARBOUR (United Nations High Commissioner for Human Rights) said that the establishment of a wide-ranging normative framework for human rights was one of the monumental achievements which the international community had scored since the end of the Second World War, a process in which the Commission had been pivotal. In tandem with the development of that framework, the vocabulary of human rights had entered the common lexicon, marking a critical shift in the way that people viewed the world. Concern for State security and concern for human security had become inextricably intertwined.

9. Likewise, there was greater understanding of the critical centrality of human rights in societies at large. Two recent publications had made that point with crystal clarity: the report of the Secretary-General prepared by the High-Level Panel on Threats, Challenges and Change, and the report entitled “Investing in Development: a Practical plan to achieve the Millennium Development Goals”. Both documents asserted that social and economic development and security could not be attained or sustained without full respect for human rights and that States must bear their responsibilities, collectively and individually, in that regard. Extreme deprivation, marginalization and inequality could create or exacerbate situations of insecurity. Put simply, the realization of human rights was critical to a safe and prosperous world.

10. The United Nations had launched a major reform initiative, one aspect of which concerned better means for advancing the cause of human rights. She had four observations to make which would guide her work as High Commissioner and were based on the premise that human rights were universal and indivisible, that they must be discussed in context, and that they must be realized in order to have any meaning.

11. The first observation was that the primary obligation to respect and enforce human rights rested with States. States signed and ratified human rights treaties, thereby assuming responsibility for their implementation. The responsibility to protect was the corollary of State sovereignty. It was important to strengthen national systems for protecting human rights, one of the objectives of the Secretary-General’s reform programme (Action 2). Together with its United Nations partners, her Office was determined to respond swiftly and effectively to the needs of Member States. For 50 years, States had been provided with technical cooperation to assist them in meeting their human rights commitments; sometimes, however, such assistance was insufficient. In crises, or where Governments were unable to protect persons under their jurisdiction, the responsibility to protect became a collective responsibility. It could take numerous forms, including action by the United Nations, initiatives by regional organizations, scrutiny by the media and civil society, and, ultimately, and perhaps increasingly, the establishment of appropriate mechanisms of accountability.

12. The Commission was one embodiment of collective responsibility for the promotion and protection of human rights. On the occasion of the sixtieth anniversary of the liberation of the Nazi death camps, the forthcoming thirtieth anniversary of the fall of Cambodia to the Khmer Rouge and the tenth anniversary of the massacre at Srebrenica, Governments must assess the progress made in eliminating gross human rights abuses. Clearly, much remained to be done to prevent the most horrific manifestations of man's inhumanity to man. In 2004, on the tenth anniversary of the genocide in Rwanda, the Secretary-General had demanded an end to the mass violations of human rights in Darfur (Sudan). The international community appeared to be falling very short of its collective responsibilities towards the victims of those violations. Whether human rights violations occurred during crises or were chronic problems, the action taken by the international community to deal with them was clearly unsatisfactory, because it was sporadic and selective. The Commission must devise more effective approaches that allowed for dispassionate analysis and focused and contextualized measures to resolve issues for which Governments had collective responsibility.

13. The second observation was the corollary of a growing understanding of the link between collective security and social and economic welfare. She stressed the need to ensure that the economic, social and cultural rights enshrined in the Universal Declaration and the International Covenant on Economic, Social and Cultural Rights were realized by all. For many years, there had been a schism between civil and political rights on the one hand and economic, social and cultural rights on the other, yet the indivisibility and interdependence of all rights had been affirmed time and time again. Courts the world over had issued judgements taking economic and social rights out of the realm of charity and into the realm of justice. The fulfilment of human rights obligations required nothing more than reasonable efforts, made within existing resource constraints and according to democratically determined priorities, with an overriding concern for the empowerment of the most disadvantaged. She very much hoped that agreement would soon be reached on the entry into force of an optional protocol to the International Covenant on Economic, Social and Cultural Rights that would allow individuals to bring claims before an international forum whenever national remedies were lacking.

14. The third observation was that the time had come to dispel the notion that justice was inimical to peace. It was a mistake to define peace simply as the absence of conflict and justice as the unfolding of a criminal prosecution. Justice was a subtler concept embodying both punitive and redemptive notions, vindicating truth over lies and deception and affirming society's solidarity with the victim. Justice was the guarantor of peace, insofar as victims renounced their desire for revenge in exchange for the State intervening on their behalf. Abandoning justice was therefore a call to use force to obtain revenge, and inimical to peace. During her recent visit to Afghanistan, she had supported the efforts of the Independent Human Rights Commission to promote transitional justice. That body had just published the results of a survey looking at the best means, according to the Afghans, to establish security, peace and justice. The results had been very clear: Afghans wanted the State to establish peace through justice.

15. Her fourth and final observation was that human rights could only play a role in ensuring security or enhancing welfare if those rights were realized. The monumental body of law created by the international community was null and void if human rights were not enforced. One could

certainly point to lacunae in the international normative framework - she was particularly concerned that some long-established rights, such as the right not to be tortured, had been given unprecedented interpretations - nevertheless, the normative framework of rights, consisting of human rights treaties, the historical declarations from Teheran, Vienna and Durban and decades of jurisprudence from treaty bodies and international tribunals, was still largely in place. On the other hand, rights did not exist without remedies. Rights were eroded if they were not implemented. If international human rights norms were not implemented effectively, then rights simply did not exist. Too often, declarations of intent seemed to be viewed as an end in themselves and clashes over questions such as whether human rights were universal or culturally specific, whether they were held collectively or individually, whether they should be promoted or protected and whether it was better to offer technical cooperation to, or to name and shame, States which violated rights, were little more than attempts to justify inertia born of indifference, calculation or despair.

16. When one talked of the United Nations, one talked both of a reality and an aspiration towards an ideal world. It was that aspirational dimension which provided the impetus for change, particularly in human rights. In discussions about change, the voices of those who until recently had not seen themselves as persons with rights were increasingly being heard, expressing their legitimate expectations and asking what more would be done to translate their rights into realities. She trusted that the Commission would honour their requests.

STATEMENT BY THE CHAIRPERSON OF THE SIXTIETH SESSION OF THE COMMISSION ON HUMAN RIGHTS

17. Mr. SMITH (Chairperson of the sixtieth session of the Commission) recalling that Australia and Indonesia were close neighbours and friends, said that he was delighted to see a neighbouring country chairing the sixty-first session. He assured the Chairperson of his support throughout the session and congratulated Ms. Louise Arbour, the High Commissioner for Human Rights, for the remarkable work which she had done in only nine months.

18. The Commission's sixtieth session had had its particular tensions, but fewer than previous sessions largely because the agenda had been covered without reducing speaking times or clustering items. The Bureau had obtained that result thanks to support from all delegations.

19. At its sixtieth session, the Commission had adopted 120 resolutions, Chairperson's statements and decisions and had heard 2,000 interventions. A total of 600 side events had been held, underscoring the Commission's importance as a forum for discussions of interest to the whole human rights community. Perhaps that was the Commission's most important role, one more important than passing resolutions that too often repeated resolutions previously adopted in Geneva or by the General Assembly.

20. Since the end of the session, the Expanded Bureau had met seven times. A major item of business had been the appointment of special rapporteurs and experts for special procedures (17 in 2004), which had helped to create more balanced regional representation.

21. The Expanded Bureau had held a videoconference with the Bureau of the Economic and Social Council to exchange views on the Commission's work. As Chairperson of the Commission, he had also participated in a dialogue at the Council, together with the other functional commission chairpersons, and had addressed the Third Committee on the outcome of the sixtieth session.

22. Since the Commission perennially operated under time constraints, reform of its working methods was almost always on the agenda. Time constraints could be attributed to the growing number of statements by those responsible for special procedures, the steady increase in the number of observers wishing to express their views, and the emergence of new and important human rights issues to be addressed. At the sixtieth session, he had suggested reducing the number of agenda items from 21 to 14 or 15, by merging similar items. Such a step would give delegations a little longer to make their statements. If the Commission decided to turn its attention to the question of reform, he hoped that the idea of streamlining the agenda would be considered.

23. The year 2005 was the year of United Nations reform. The Secretary-General's High-Level Panel had produced a report with a host of recommendations which would be considered by a summit of world leaders in September. Several recommendations related to the treatment of human rights in the United Nations system, including the operation of the Commission on Human Rights. Gratifyingly, the Panel had emphasized the importance of integrating human rights into all United Nations work and of drawing the High Commissioner more frequently into Security Council debates and discussions, particularly when peacekeeping mandates were being contemplated. Such moves were part of operationalizing human rights and improving the implementation of the standards and declarations adopted by the Commission. The Panel had also recommended extending membership of the Commission to all Member States in accordance with the principle of universality. Although the proposal was controversial, it should be supported, because it would underline the Commission's importance as the premier multilateral forum for debating human rights issues. Since virtually the entire United Nations family came to the Commission anyway, why draw an artificial distinction between the 53 Commission members and the other 140 Member States? The change would also underline the duplication of the Commission's work by the Third Committee of the General Assembly, opening the way for the abolition of the latter in the interests of streamlining the Organization. He hoped that delegations in Geneva with experience of the Commission's work would contribute to the New York process.

24. The Commission must find ways to maximize its impact on efforts to improve the enjoyment of human rights. Adopting resolutions and drafting new standards did not automatically do that. While appointing special rapporteurs and independent experts helped, without resources and support on the ground, the impact of the special mechanisms was limited. In his view, countries must be given tools, know-how and moral support to ensure that universal human rights standards were promoted in ways that were appropriate to their particular culture and social circumstances. The work of national human rights institutions, independent judiciaries and reformers in government bureaucracies should be supported not only at the Commission's annual sessions but in all relevant United Nations forums, and the treaty bodies should be encouraged to do likewise.

25. The only way to advance human rights goals in the long term was to make human rights considerations part of the work of every United Nations body. He therefore strongly endorsed the message of the Action 2 initiative launched by the High Commissioner and the heads of the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF), which would see human rights integrated into the daily work of United Nations country teams. He trusted that all delegations would bear that in mind in the coming six weeks and try to produce outcomes which had a real, practical impact outside Geneva.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/2005/1 and Add. 1 and 2)

26. The CHAIRPERSON drew attention to document E/CN.4/2005/1 containing the provisional agenda, prepared by the Secretary-General pursuant to rule 5 of the Rules of Procedure of the Functional Commissions of the Economic and Social Council, which the Commission was called upon to adopt in accordance with rule 7 of the rules of procedure. The annotations to the provisional agenda were contained in documents E/CN.4/2005/1/Add. 1 and Add. 2.

27. The agenda was adopted.

ORGANIZATION OF WORK (agenda item 3)

28. The CHAIRPERSON said that, at its second pre-sessional meeting on 17 February 2005, the Expanded Bureau had agreed on a draft timetable for consideration of agenda items at the session, which the Commission was invited to approve. He stressed that the timetable was supposed to guide the Commission's work and that the Bureau could propose revisions if required. If he heard no objections, he would take it that the Commission wished to approve the draft timetable.

29. It was so decided.

30. The CHAIRPERSON said that, as at past sessions, the Commission at its sixty-first session would operate in the framework of international realities, the result of the complex nature of human rights and their interconnections with the international environment. In order to meet the challenges before it, it must conduct its proceedings in a spirit of dignity and respect for all. He would not, therefore, tolerate the use of aggressive or insulting language by participants. He invited participants to behave in a manner that reflected the importance of the issues before them, namely human rights and fundamental freedoms, and asked them to refrain from engaging in discussions and consultations in the meeting room and from using portable phones during meetings. He would ensure compliance with those basic rules.

31. He then drew attention to the arrangements for the High-level Segment, due to begin at the next meeting, as set out in a note sent to permanent missions. If he heard no objection, he would take it that the Commission wished to accept those arrangements.

32. It was so decided.

33. With regard to the time limits for statements and the list of speakers, the Expanded Bureau had decided at its second pre-session meeting to recommend to the Commission the adoption of the following concrete arrangements (based on the lessons learned from previous sessions and the relevant paragraphs of documents E/CN.4/2003/118 and E/CN.4/2002/16): (a) Member States would be entitled to deliver one six-minute statement on each agenda item; (b) all observers would be entitled to three minutes; (c) joint statements by groups of States and non-governmental organizations would be encouraged and allotted more time. However, if a joint statement by a group of States exceeded the maximum time limit, individual States in the group which wished to make another statement under the same item could only do so if they spoke for half the time normally allotted.

34. The list of speakers would be closed at the beginning of the general debate on each agenda item; he would announce the exact schedule for statements in advance. If he heard no objections, he would take it that the Commission wished to adopt those proposals.

35. It was so decided.

36. The CHAIRPERSON concluded by proposing that the Commission approve the list of persons who would be invited to attend the sixty-first session and present their reports, if any.

37. It was so decided.

38. Mr. CHOI Hyuck (Republic of Korea), speaking on behalf of the Asian Group, said that it was a great privilege to see a fellow Asian chair the sixty-first session. He assured him of his support in advancing the work of the session. He also expressed appreciation to Mr. Smith, the Chairperson of the sixtieth session, for the leadership shown in guiding the work of the previous year.

39. The Asian Group was of the view that enhancing the effectiveness of the Commission's work should be treated within the broader context of United Nations reform. It hoped that further progress could be made at the current session, and was grateful for the responses of various regional groups to its discussion paper on enhancing the effectiveness of the Commission's special mechanisms. The Group looked forward to further constructive discussions on that matter.

40. The Asian Group emphasized the importance of dialogue, consultation and consensus-building in enhancing the Commission's effectiveness and avoiding counter-productive politicization of its work, especially on agenda item 9, thus advancing the cause of human rights. It called once again for wider, more transparent and better organized consultations on all draft resolutions before their introduction. Timely distribution of documents in accordance with relevant Economic and Social Council resolutions was essential.

41. For the Commission to complete its deliberations on all agenda items, all participants needed to cooperate in ensuring effective management of the time allocated for each agenda item, including items 5 and 8.

42. While the Asian Group welcomed the participation of NGOs in the Commission's work, it reiterated that they should respect the relevant rules and guidelines set out in Council resolution 1996/31 and document E/CN.4/2002/153.

43. The Asian Group stood ready to cooperate closely with all delegations in conducting a successful session.

44. Mr. KHAN (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said that the OIC States fully supported collective endeavours to promote and protect human rights which were a means of achieving Islam's objectives of progress, development and the well-being of the human race. Perturbed by the increasing tendency to make defamatory statements against Islam and Muslims and by efforts to create new rights that could be contrary to religious and cultural values, the OIC countries called for respect for religious and cultural diversity. They objected to the increasing politicization of the Commission, in particular the abuse of agenda item 9 to adopt often politically-inspired resolutions targeting developing countries, including Islamic countries. It was regrettable that the draft resolutions and decisions introduced by developing and Islamic countries were forced to a vote even when they concerned issues such as religious defamation, racism and globalization, which ought not to be controversial. OIC would like greater flexibility and openness from its interlocutors. The real problem was the politicization of the system and the application of double standards, not the Commission's membership or a lack of reports by the High Commissioner.

45. Effective organization of the Commission's work required strict self-discipline from all participants. Sponsors of resolutions should avoid simultaneous consultations on several resolutions, in order to facilitate participation by smaller delegations. The timely availability of documents was also vital. In addition, a comprehensive review was needed of the working methods of experts and special rapporteurs and the procedures for their appointment.

46. While NGOs played an important role in the Commission, they should abide by the rules that applied to them. The same individual should not represent more than one NGO, and NGOs should ensure that only their genuine representatives participated in the Commission. OIC members reiterated their concern that a large proportion of the budget of the Office of the United Nations High Commissioner for Human Rights came from earmarked voluntary contributions, reducing the Office's financial autonomy. They hoped that the persistent underrepresentation of developing countries in OHCHR would be remedied. They urged OHCHR to end its practice of sharing classified information with the Commission on the Status of Women under the 1503 procedure and its recycling of communications. They hoped that dialogue, consultation and consensus-building would provide the basis for the decisions adopted by the Commission.

47. Ms. ABDELATIF (Egypt) said that she broadly supported the statement made on behalf of OIC. The Commission must work in a calm and constructive atmosphere, without politicization or condemnation of any particular religion or culture which could only undermine its very *raison d'être*. It was important to enforce the rule that one person could not represent several NGOs and the rules on time limits for interventions, the right of reply, and the

distribution in three languages of written NGO texts at least one week before consideration of the relevant agenda item. All NGOs must also comply with the Commission's resolutions on the defamation of religions. With regard to draft resolutions, efforts should be made to avoid parallel consultations, to ensure that consultations were as wide and transparent as possible - the secretariat could maintain an updated schedule - and to promote consensus.

48. Mr. SHA Zukang (China), speaking on behalf of the Like Minded Group (Algeria, Bangladesh, Belarus, Bhutan, China, Cuba, Egypt, India, Indonesia, Iran, Malaysia, Myanmar, Nepal, Pakistan, the Philippines, Sri Lanka, Sudan, Viet Nam and Zimbabwe), said that the tremendous changes that had taken place since the establishment of the United Nations called for corresponding adjustments in human rights protection. The Commission was confronting a credibility crisis because it applied double standards and practised a policy of naming and shaming developing countries, especially during debates under agenda item 9, in politicized resolutions that had been negotiated without any transparency. It was regrettable that the High-Level Panel's report had not addressed those abuses or put more emphasis on economic, social and cultural rights, the right to development and the importance of international cooperation in the promotion of human rights.

49. Emphasizing the pressing need for a comprehensive, objective review of the special mechanisms, the Like Minded Group endorsed the Asian Group's recommendations for enhancing their effectiveness. It reiterated the need to clarify the role of NGOs, some of which had abused their consultative status with the Economic and Social Council, and strictly to apply the guidelines, especially those laid down in Council resolution 1996/3 and document E/CN.4/2002/153, in order to create an atmosphere conducive to constructive dialogue between Governments and NGOs. The Group would do its utmost to contribute to a climate of cooperation and hoped that the other delegations would reciprocate.

50. Mr. FERNANDEZ PALACIOS (Cuba) compared the Commission on Human Rights to a sinking boat, dragged down by political manipulation, double standards, its own inconsistencies and the impunity enjoyed by a privileged few who benefited from an irrational world order. At the Commission, developing countries had always been in the docks, yet they were also the voice of resistance, denouncing attempts to conceal the truth about a world overwhelmed by the limitless power of an arrogant superpower which trampled on human rights and curtailed freedoms. To stay afloat, not only did the vessel need rebuilding, it also needed safer oceans to sail through and a new code of values for the crew. All the remedies proposed were insufficient. It was necessary to address the roots of the problem, namely political manipulation, selectivity and bias, beginning by abolishing the pernicious practice of adopting unjust resolutions against certain countries and the unlimited hypocrisy and impunity of the most powerful and going on to reorient the Commission towards dialogue, devoting more time and resources to the effective realization of economic, social and cultural rights, particularly the right to development.

51. Cuba was ready to cooperate in that collective effort, to fight for a better, fairer, more just world which assured the well-being of all, and to expose lies and hypocrisy.

The meeting rose at 11.40 a.m.