



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/SR.23
1 April 2008

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Sixty-first session

SUMMARY RECORD OF THE 23rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 29 March 2005, at 10 a.m.

Chairperson: Mr. WIBISONO (Indonesia)

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD, INCLUDING:

- (a) QUESTION OF HUMAN RIGHTS IN CYPRUS;
- (b) PROCEDURE ESTABLISHED IN ACCORDANCE WITH ECONOMIC AND
SOCIAL COUNCIL RESOLUTIONS 1503 (XLVIII) AND 2000/3

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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 Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session 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 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, INCLUDING:

- (a) QUESTION OF HUMAN RIGHTS IN CYPRUS;
- (b) PROCEDURE ESTABLISHED IN ACCORDANCE WITH ECONOMIC AND SOCIAL COUNCIL RESOLUTIONS 1503 (XLVIII) AND 2000/3

(agenda item 9) (continued) (E/CN.4/2005/30, 31 and Add.1, 32, 33 and Corr.1, 34-36 and 130; E/CN.4/2005/CRP.5; E/CN.4/2005/G/2, 4, 6, 8, 10, 11, 13 and 18; E/CN.4/2005/NGO/9, 30, 68, 79, 93, 106, 117, 131, 132, 139, 154-164, 168 and 169)

1. Mr. MUNTARBHORN (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea), introducing his report E/CN.4/2005/34, said that since the Democratic People's Republic of Korea had not invited him to visit the country, he had travelled to Japan and Mongolia in order to witness some of the consequences of the human rights situation in the Democratic People's Republic of Korea.
2. Beginning on a positive note, he said that the Democratic People's Republic of Korea had several constructive elements to its credit. First, it was a party to four key human rights instruments, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Second, it had occasionally allowed human rights agencies from abroad to assess its human rights situation. Third, a variety of United Nations agencies were active in the country, and their presence was appreciated. Fourth, relations between the Democratic People's Republic of Korea and several other countries in the region and elsewhere had improved on some fronts. Fifth, like many other countries, it already had some legal and operational infrastructures, notably the Constitution, which could, at least in principle, help to promote and protect human rights.
3. Nonetheless, the country had to deal with a number of problems in order to ensure respect for certain rights and liberties. Floods and drought in the mid-1990s had resulted in catastrophic food shortages, which had been compounded by the domestic political imbalance and the authorities' inadequate response to them. Several members of the humanitarian agencies he had met had said that halting humanitarian assistance was not yet a viable option, and that food aid was still needed. Rather than reducing the level of monitoring of such aid, the current requirement was for more effective monitoring aimed at ensuring maximum transparency. Food aid was still not reaching everyone who needed help, and it was unclear how much of the aid was diverted, since the authorities continued to prevent foreign humanitarian organizations from carrying out random checks.
4. Reports from several sources had described numerous violations of the right to security, the right to humane treatment, the right to non-discrimination and the right of access to justice. In particular, conditions in prisons and detention centres were below international standards. The situation was exacerbated by poor law enforcement and abuses of power, to the extent that some people held in pretrial or administrative detention had no access to credible courts. One disconcerting but well-documented practice was that of collective punishment based on "guilt by

association”, which meant that if a person was punished for a political or ideological offence, members of his or her family were also punished. Nationals of other countries had also been affected by action taken by the Democratic People’s Republic of Korea; the authorities had, for example, admitted to abducting a number of Japanese nationals. While some of those cases had been resolved through bilateral negotiations, others had yet to be clarified and resolved.

5. On the right to freedom of movement and the protection of persons who had left their place of residence, he noted that nationals of the Democratic People’s Republic of Korea had crossed the border into other countries either because political persecution had driven them to seek asylum there or because the food crisis of the mid-1990s had forced them to seek a livelihood elsewhere. Given that those people had left without an exit visa, they could expect to be punished if they returned to the Democratic People’s Republic of Korea; they could therefore be classified as refugees. He recalled that non-refoulement was a key international principle for refugee protection. Asylum-seekers should also be guaranteed access to the Office of the United Nations High Commissioner for Refugees (UNHCR) and to the procedures established for the equitable determination of their status. The plight of countries that received asylum-seekers should not be overlooked, particularly when there were mass influxes.

6. On the question of the right of everyone to enjoyment of the highest attainable standard of health and the right to education, he said that the country’s economic and social situation prior to the mid-1990s had been constructive in the main, particularly regarding access to social services such as health care and education. The crisis of the mid-1990s had, however, had an enormous impact on the provision of basic social services, their budgets and the public’s access to those services. The economic and social situation, while currently improving on some fronts, remained precarious.

7. With regard to the right to self-determination, the right to participate in political life, access to information, freedom of opinion and expression, freedom of religion and belief, and freedom of association, the authorities claimed that those rights and freedoms were respected. In practice, the opposite was often the case. The very nature of the State hindered the exercise of various freedoms, particularly freedom of expression, opinion and religion; political dissidents, far from being tolerated, were severely punished.

8. Concerning the rights of specific persons or groups, including women and children, he noted that since the mid-1990s women and children had become increasingly vulnerable for a variety of reasons. The crisis had forced many women and children to leave their homes in search of employment and means of subsistence. The number of abandoned children and street children had risen. Many more children had crossed the border in search of basic necessities in other countries and had consequently become illegal immigrants at risk of being deported or becoming victims of trafficking. While a recent survey had, however, indicated a decrease in malnutrition among children, it remained high.

9. In conclusion, he wished to make a number of recommendations to the Democratic People’s Republic of Korea. It should: abide by international human rights standards, particularly the four human rights treaties to which it was a party; respect the rule of law and its related safeguards; reform the administration of justice, particularly the prison system, and abolish capital and corporal punishment; address the root causes of displacement; ensure prompt and effective redress in the case of violations, especially in relation to the abduction of foreign

nationals; ensure that humanitarian assistance, including food aid, reached target groups, with unimpeded access and transparent monitoring; invite the Special Rapporteur and representatives of other mechanisms, as appropriate, to visit the country in order to evaluate the human rights situation and recommend reforms; seek technical assistance from UNHCR and other agencies, as appropriate, to support activities aimed at promoting and protecting human rights.

10. Other members of the international community should provide constructive encouragement to the Democratic People's Republic of Korea to implement those recommendations.

11. He referred the Commission to the reports on his missions to Japan, where he had examined the question of the abduction of Japanese nationals by agents of the Democratic People's Republic of Korea, and to Mongolia, where he had examined the question of asylum seekers from the Democratic People's Republic of Korea.

12. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) reaffirmed his Government's position of principle. It categorically rejected the whole of the resolution establishing the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, adopted by the Commission at its sixtieth session. The Special Rapporteur's statement and report were merely a manifestation of the propaganda campaign which forces hostile to the Democratic People's Republic of Korea had pursued as part of the political, economic and military war they had been waging against it for the previous half-century.

13. It was a tragedy that the Commission, whose mandate was to promote and protect human rights throughout the world, had turned into a forum for political propaganda, and he denounced its politicization, its selectiveness, and the double standards it practised. The Commission stood to lose sight of the very reason for its existence, to say nothing of its already depleted credibility, by not mentioning the illegal invasion of Iraq by the United States or the inhuman crimes Japan had committed against thousands of Korean women.

14. While the Democratic People's Republic of Korea attached very great importance to dialogue and cooperation, it would not tolerate any attempt to overthrow its system or threaten its sovereignty in the name of "human rights". The Special Rapporteur should respect the politics, culture and traditions of a social system which had been founded by the people, and which they resolutely defended.

15. Mr. BERNES (Observer for Luxembourg), speaking on behalf of the European Union, expressed disappointment that the authorities of the Democratic People's Republic of Korea had not acceded to the Special Rapporteur's request to visit the country. Noting that the North Korean authorities gave priority to economic, social and cultural rights over civil and political rights, he would like to know whether there was any way of encouraging a more global approach to human rights as a whole. Noting also that the country still needed urgent humanitarian assistance, he asked the Special Rapporteur how the North Korean Government could be persuaded that the presence of United Nations agencies, humanitarian organizations and NGOs was proof that the international community was truly concerned about the North Korean population. In that respect, he asked whether there was any possibility of boosting the activities of organizations such as the World Food Programme.

16. Ms. WALKER (Canada) considered it regrettable that the Special Rapporteur had not been allowed to visit the Democratic People's Republic of Korea, and urged the authorities there to give all special rapporteurs free and untrammelled access to the country. Her delegation was deeply concerned at reports that citizens of the Democratic People's Republic of Korea had been detained, tortured and executed after having been repatriated from abroad, and asked what measures the international community should take to ensure the safety of refugees who returned to their country. It was equally concerned at the situation of women, particularly with regard to trafficking for purposes of prostitution, enforced marriage and enforced abortion, and wished to know whether the Special Rapporteur had received detailed information and whether he had noticed any particular trends in that area. She noted that the Special Rapporteur on violence against women had been invited to visit the Democratic People's Republic of Korea, and asked what could be done to encourage such visits so that they became systematic.

17. Mr. FUJISAKI (Japan) expressed his satisfaction that the Special Rapporteur had met relatives of persons who had been abducted in the Democratic People's Republic of Korea. It was regrettable that, against the wishes of the international community, the North Korean authorities had not allowed the Special Rapporteur to visit their country. He therefore urged those authorities to accede to the request that had been made. Given that the Special Rapporteur had not yet completed his mission for the reasons stated, his mandate should be extended.

18. Mr. MUNTARBHORN (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea) said that his mandate from the Commission represented an opportunity for the Democratic People's Republic of Korea to open up to the United Nations and to the world with a view to promoting and protecting human rights. Recalling that he had nothing to do with the resolutions adopted by the Commission and that he was totally independent, he said he was willing to speak with the authorities of the Democratic People's Republic of Korea in order to help them promote and protect human rights, and to work to that end with the Korean people.

19. As to humanitarian aid, he emphasized that while food aid was being sent to the country, a further 1 million tons of food was required. The aid reached 80 per cent of the population, particularly those who needed it most, such as women, children and older persons, but 20 per cent still had no access to that food. Although the authorities of the Democratic People's Republic of Korea had questioned the need for emergency humanitarian aid and wished to replace it with long-term development aid, emergency aid was still needed and the United Nations agencies, particularly the Office for the Coordination of Humanitarian Affairs, should remain in place to ensure transparency. He recalled that the provision of development aid necessitated an improvement in the human rights situation in the country and therefore invited the authorities to consider that question.

20. He noted that the four human rights treaties to which the Democratic People's Republic of Korea was a party provided a means of establishing contact with the country. In that regard, he was pleased that the country had welcomed two members of the Committee on the Rights of the Child in 2004. There was, therefore, a willingness to open up which should be encouraged. In future, therefore, the country should implement the provisions of the treaties to which it was a party and, in particular, the recommendations of the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the

Child, to which it had submitted a report, and the Committee for the Elimination of Discrimination against Women. Perhaps it would be possible, through the Office of the United Nations High Commissioner for Human Rights, to encourage respect of the rule of law in the country and, in particular, to urge the Government to reform the prison system.

21. On the question of displaced persons, he urged the Democratic People's Republic of Korea to abolish the exit visa and travel permit systems, and to stop punishing people who travelled without authorization. As to refugees and the related issues of trafficking in children and other human beings, he was convinced that the situation gave cause for great concern. He therefore urged Governments not to punish people who were victims of those practices. Reiterating his support for host countries, he reminded them that they should not send refugees back to their country of origin but should, if unable to accommodate them, send them to another country that would be able to receive them.

22. Mr. SEVERIN (Special Rapporteur on the situation of human rights in Belarus), introducing his report (E/CN.4/2005/35), began by describing the context of his mission. Given that the Belarusian authorities had categorically refused to cooperate with him, he had been unable to travel to the country. He had, however, had extensive discussions with human rights activists and leading democrats from Belarus and other countries.

23. Turning to the human rights situation in Belarus, he denounced the authoritarian nature of the current political regime, and the fact that the social system, which was completely closed and controlled, was typified by the absence of a true, strong civil society, developed middle class or dynamic private capital. That was incompatible with the development, observance and enhancement of human rights. Moreover, given that national identity remained a confused question, it was impossible for the Belarusian nation to be completely emancipated or for society to defend democracy at the domestic level. The political system would have to be completely reformed and society dramatically restructured in order to promote human rights in Belarus.

24. In his opinion, the international disputes over Belarus did not help the cause of promoting human rights in the country. Some international actors thought that preserving the human rights status quo in Belarus was a way of maintaining the geopolitical status quo as well. As long as Belarus was the subject of geopolitical disputes, the international community would remain divided over the situation of human rights there. The continuing deterioration of those rights was of concern for security reasons as well as for humanitarian reasons. The unavoidably incomplete list of human rights violations in Belarus proved beyond doubt that the situation had greatly deteriorated over recent years.

25. Two conditions were necessary to bring about the changes needed in order to facilitate respect for human rights in Belarus: the democratic forces inside the country must be united, and the international community must show solidarity and take concerted action. He emphasized the key role that the Russian Federation, as a neighbouring country having a special relationship with Belarus, could and should play.

26. His recommendations to the international community were both general and specific in character. In general, the right balance should be maintained between sanctions and dialogue,

between isolating leaders who had resolutely opted for a dictatorial style and maintaining a dialogue with those in favour of democratic openness, between a confrontational approach to defending human rights and a positive educational approach.

27. More specifically, the international community should: (a) establish a programme to educate the public and raise awareness of human rights; (b) provide technical and other assistance to Belarusian NGOs; (c) support the organization of a national round table on human rights in Belarus; (d) set up an international fund for human rights education in Belarus; (e) convene an international conference on the human rights situation in Belarus; (f) establish a contact group on the human rights situation in Belarus; (g) create a donor group to raise the necessary funds to support programmes for the development of human rights in Belarus.

28. Even if the Government of Belarus refused to discuss those issues, it was well aware of the expectations of the international community. It knew that the top priorities were to ensure the independence of the judiciary and freedom of the media. While the Belarusian authorities' refusal to cooperate with him was regrettable, he was convinced that his mission had provided moral support for all democratic forces within and outside Belarus that were struggling to promote and defend human rights, even if that work was being carried out in a hostile climate. It was similarly clear that his mission had helped the government authorities to realize that their relations with the international democratic community depended on their capacity to respect human rights. Such endeavours should therefore continue.

29. Mr. ALEINIK (Observer for Belarus) recalled that Belarus had rejected Commission resolution 2004/14, and that his country's position on the mandate of the Special Rapporteur was well known and had been clearly explained in document E/CN.4/2005/G/11. Belarus, which was a party to all the core human rights instruments, fulfilled its international obligations in good faith, submitted reports to the treaty bodies and, in August 2004, had welcomed the Working Group on Arbitrary Detention. The Special Rapporteur's report had not only been submitted late and directly to the missions, thus bypassing the OHCHR secretariat, but was also a manifestly preconceived document. The Special Rapporteur (who, as if by coincidence, came from a country that had sponsored the draft resolution on Belarus) had clearly exceeded his mandate and appropriated powers that were those of the Security Council alone. The second part of his report was based solely on the recently published United States Department of State report on the human rights situation in 196 countries. It was therefore not surprising that economic, social and cultural rights had been totally ignored.

30. Given that Belarus had refused ownership of nuclear weapons it had inherited from the Soviet Union, the assertion that it posed a threat to regional security and stability was cynical, politically hypocritical and irresponsible. The call for new leadership and a dramatic restructuring of Belarusian society, as well as providing support for the "militant" NGOs (despite the fact those organizations openly discredited Belarus, with the financial support of the United States), constituted an impertinent attempt to interfere in the domestic affairs of a sovereign State. To say that Belarus as a nation had an identity problem was an insult to the country and its people. His delegation strongly protested against the Special Rapporteur's working methods and the content of his report, which discredited the Commission, and demanded that he should publicly apologize to Belarus and its people.

31. Mr. PARSHIKOV (Russian Federation) said that the discussion of the situation of human rights in Belarus appeared to be motivated by solely political considerations. The Special Rapporteur had not only disregarded the rules governing document distribution, but had gone beyond his mandate and infringed all the rules of ethical diplomacy. By advocating a change of government in a sovereign State, which was moreover a founder Member of the United Nations, and by saying that Belarus posed a threat to regional security and stability, the Special Rapporteur had taken a political stance in the interest of forces that sought to exert pressure on the Belarusian people and its legitimate Government.

32. His report was particularly inopportune since the Belarusian authorities had been working specifically to strengthen their dialogue with the Commission's mandate-holders and the treaty bodies. His delegation found the Special Rapporteur's methods unacceptable and his conclusions unconvincing. It invited all delegations to objectively assess the damage the Special Rapporteur was doing to the Commission and its prestige on the international stage.

33. Mr. XIA Jingge (China) asked the Special Rapporteur, who referred in his report to precise cases and locations, where he had obtained his information, whether he had checked it and if so, how. Noting also that several countries, including Western countries that proclaimed themselves to be champions of human rights, were committing violations, he said that the Special Rapporteur's completely negative judgement was arbitrary, based on double standards, and contrary to the principle of objectivity that should inform the Commission's work.

34. Mr. FERNÁNDEZ PALACIOS (Cuba) said that although the report had not been available in Spanish, he had not found it difficult to read since its similarity to the United States Department of State report was flagrant. His delegation had serious doubts about the Special Rapporteur's impartiality and independence. It was surprised that he had found nothing positive to say about the situation in Belarus, given that several members of the Cuban delegation who had recently visited Minsk had witnessed a population living in peace, with access to education and sufficient food. The Special Rapporteur's value judgements on the political system, the Head of State and the Belarusian nation were totally unacceptable. The Special Rapporteur had acted in a politically militant fashion and had therefore exceeded his mandate. Consequently, the Belarusian delegation's request for an apology was fully justified.

35. Ms. McKEE (United States of America) thanked the Special Rapporteur for his rigorous, in-depth report. Her delegation shared his concern at the deteriorating situation of human rights in Belarus, on which it had submitted several resolutions to the Commission and the General Assembly, together with the European Union. It noted with particular interest the idea of forming an international group of friends of human rights in Belarus, which would be able to contribute to the development of a strategy to promote those rights, and to coordinate an independent inquiry into the disappearances. It would like the Special Rapporteur to suggest ways of establishing criteria for the observance of human rights, in order to encourage the Government to cooperate.

36. Mr. BERNIS (Observer for Luxembourg), speaking on behalf of the States members of the European Union, thanked the Special Rapporteur for his report and said it was regrettable that he had not been able to visit Belarus. He wished to know how the Special Rapporteur planned to continue his task, what his future objectives would be, and to which of his recommendations to the international community he attached priority.

37. Ms. WALKER (Canada) asked the Special Rapporteur, who had stated in his report that disregard for human rights started with denial of the right to a cultural identity, to specify what links existed between national identity and human rights. In particular, she requested details on how to protect from discrimination minorities that fell outside the context of the new national identity. Her delegation would also like to know what, in the Special Rapporteur's opinion, were the main criteria that the Belarusian Government should adhere to in order to bring about a progressive lifting of sanctions.

38. Mr. OWADE (Kenya) expressed his disappointment at the report, which was more political than technical, and read more like a Security Council report. Support should have been expressed for the willingness of Belarus to cooperate and, instead of condemning the Government, it should have been encouraged to strengthen the protection of human rights.

39. Mr. SEVERIN (Special Rapporteur), replying to the observations made by several delegations, said he could not accept the assertion that he had not been sufficiently impartial. His report had been based solely on the information he had gathered in the course of his discussions with different actors in Belarusian society and with various NGOs and international organizations. While the report did contain some positive elements, they were barely visible amidst all the negative aspects, since they were unfortunately few and far between. There might well have been more positive elements had he been able to visit the country himself.

40. The Special Rapporteur's role was not to undertake technical inquiries on the ground, but to gather information and verify allegations. Disappeared persons, ailing prisoners, NGOs that had been banned for absurd reasons, all constituted profound violations of human rights and facts that were difficult to ignore. The identity problems that had been reported stemmed from a policy by the public authorities that did nothing to encourage the development of Belarusian cultural identity.

41. He did not believe that his report was politically oriented. He noted that political conditions had an impact on the human rights situation and that the means of changing that situation were inescapably political. As for priorities, first and foremost came freedom of the press and the independence of the judiciary. The defence of human rights required dynamic action and was as important as the preservation of national dignity. It was not the mirror's fault if the image it reflected was unsatisfactory.

42. Mr. PINHEIRO (Special Rapporteur on the situation of human rights in Myanmar), introducing his report (E/CN.4/2005/36), said it was regrettable that he had been unable to visit Myanmar since November 2003 owing to a lack of cooperation on the part of the Government. Similarly, the Secretary-General's Special Envoy had been unable to undertake any missions since March 2004. The change in leadership in October 2004 seemed unlikely to bring about more rapid movement towards a constitutional government or democracy. The National Convention had been reconvened on 17 February 2005 with the same composition and under the same operating procedures as the previous one. He was convinced that the National Convention could promote further political moves towards democratization, as envisaged in the Government's road map, if adjustments were made in order to enable it to become a genuine forum for achieving national reconciliation and political transition, with the participation of key

representatives of all legitimate organizations. In his opinion, to ensure that the current political process resulted in a truly sustainable solution, all those involved should make credible endeavours to ensure that the National League for Democracy (NLD) and other parties took part.

43. While he welcomed the recent release of a number of prisoners, he again stressed that only the full and unconditional release of all political prisoners would pave the way for national reconciliation and the rule of law. He also stressed the need to discontinue the practice of imprisoning people for merely speaking their minds or subjecting them to unfair trials. He reiterated that the restoration of freedom for political parties and ceasefire partners to operate and pursue peaceful political activity also constituted a prerequisite for a credible process of national reconciliation and political transition.

44. He was deeply concerned at the allegations of human rights violations against civilians living in ethnic minority areas affected by the armed conflict, particularly the situation in Rakhine State. The Government should examine that question seriously if it genuinely intended to promote the cause of peace, development and justice. While he had always demanded that State agents and armed groups should be answerable for their acts, he unfortunately had to acknowledge that the Government had rejected most of his initiatives in that regard. He remained convinced of the urgent need to re-establish a common focus for the various United Nations and international community actors and agencies, and to coordinate all initiatives. In that regard, he noted with satisfaction that the Government had allowed the UNHCR access to the eastern border regions, and that the UNDP planned to expand its humanitarian programmes.

45. There was a pressing need to embark on a process of structured consultations on substantial policy issues. The normalization of political life would be facilitated if bolder measures were taken, with international assistance. It would be absurd for the international community to await the end of the political transition in order to cooperate on initiatives aimed at improving the lives of vulnerable persons in Myanmar, thus abandoning the population to its fate until democracy had been achieved.

46. Mr. THAN (Observer for Myanmar) thanked Mr. Pinheiro for his report and recalled that his Government had always cooperated fully with the Special Rapporteur, including during his six previous missions to Myanmar; there had, however, been no visit since November 2003 because his Government felt that the timing was not yet appropriate.

47. He was pleased to note the positive comments in the report, in particular the fact that the National Convention had signalled a significant step towards national reconciliation and political transition thanks to the participation of a wide spectrum of ethnic nationalities, including opposition groups. Other positive developments mentioned by the Special Rapporteur included the introduction of a human rights curriculum in primary and secondary schools, continued government cooperation with UNHCR and the release of some 110 detainees in the context of the recent amnesty.

48. He wished, however, to make several comments. He pointed out that the National League for Democracy (NLD) had been invited to participate in the National Convention from 17 May to 9 July 2004. Every effort had been made to facilitate participation by the NLD, including waiver of certain requirements. In spite of his Government's generosity, the League had decided to boycott the National Convention.

49. Turning to the situation in the north-western part of Rakhine State, he said his Government was cooperating fully with the UNHCR in reintegrating returnees into their mainstream community. Programmes such as training in the national language had been undertaken in order to facilitate reintegration.

50. He stressed there was no discrimination based on religion in Myanmar. All religious groups enjoyed the right to freedom of worship or assembly, as his delegation had reiterated in various forums, including the previous session of the Commission. Allegations that mosques had been demolished were unfounded.

51. As to the incidents in which Shan politicians were alleged to have been involved, he recalled that at a press conference held in Yangon on 15 March 2005, the Minister of Information had stated that action had been taken against the individuals responsible for those incidents, which had posed a threat to the peace and stability of the State. With regard to allegations mentioned by the Special Rapporteur that women from ethnic minorities had been the victims of sexual violence, it had never been the policy of his Government to allow or condone sexual violence against women, no matter who the perpetrators were.

52. His country had made significant progress in its transition to a democratic system, which was reflected in the peace and stability which it had enjoyed since independence. As a result, his Government could focus its attention on other areas of national development such as education, economic development, social services and health care. Those successes had been achieved in spite of limited resources and without external assistance. He sincerely hoped that the resolution on Myanmar which would be submitted to the Commission would reflect those positive developments.

53. Mr. BERNES (Luxembourg), speaking on behalf of the European Union, expressed regret that the Special Rapporteur on the situation of human rights in Myanmar had not been able to visit the country. He asked whether the Special Rapporteur had maintained his contacts with the Government of Myanmar and what his priorities were for the remainder of his mandate. He also wondered if it would be desirable for international observers to be present during the next elections in Myanmar.

54. Mr. PINHEIRO (Special Rapporteur on the situation of human rights in Myanmar), in response to the representative of Luxembourg, said that he maintained regular contacts with the representatives of the Government of Myanmar, directly in Geneva or New York or through correspondence, and he continued to discuss with them the possibility of a visit. He recalled that States which refused a special rapporteur the right to visit deprived themselves of an opportunity to explain their point of view and that, if he was not allowed to visit the country, he would be obliged to utilize sources other than those to which he would have access during such a visit. With regard to Myanmar, he especially regretted the situation because he had planned, during his next visit, to raise a new issue and discuss in greater depth issues raised during his previous visits. He would maintain his contacts in the future, in particular with NGOs and the authorities in neighbouring countries. The question of civil and political rights was particularly important in Myanmar because the country was going through a period of transition. As to the sending of international observers for elections, he said he was in favour because generally speaking such missions were in the best interest of the country concerned, but it was perhaps somewhat

premature to envisage such a process with regard to Myanmar. For the time being, he looked forward to considering the outcomes of the National Convention, including the drafting of a new constitution which would guarantee enjoyment of fundamental rights.

55. He expressed satisfaction that the representative of Myanmar had noted the positive aspects of his report and asked the representative to once again convey to his Government his urgent request to visit the country. He recalled the important role played by special rapporteurs in defending the rights of victims and stressed that by refusing to receive a visit from a special rapporteur appointed by resolution of the Commission, a State in fact weakened the Commission.

56. The CHAIRPERSON said the Commission had thus completed its consideration of agenda item 9.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (E/CN.4/2005/37, 38, 39, 40, 41, 42 and Add.1, 43, 44, 45 and Add.1, 47 and Add.1 and 2, 48, 48/Add.1 and Corr.1, Add.2 and 3, 49, 50, 51 and Add.1, 2, 3 and 4, 52, 63, 131; E/CN.4/2005/G/7; E/CN.4/2005/NGO/10, 20, 22, 57, 58, 59, 60, 80, 94, 97, 110, 115, 128, 129, 142, 147, 148, 153, 180, 185, 192, 218, 219, 230, 243, 248, 256, 257, 264, 281, 282, 283, 286, 298, 304, 311, 324 and 328; E/CN.4/Sub.2/2004/20)

57. Mr. IBEANU (Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights), introducing his report (E/CN.4/2005/45), expressed gratitude to his predecessor, Ms. Ouhachi-Vesely, whose last report, on her mission to Turkey in March 2004 (E/CN.4/2005/44), had not been available in time to be submitted to the Commission at its sixtieth session. Since he was not the author of that report, he would be unable to discuss its contents but said that Ms. Ouhachi-Vesely had been very grateful for the cooperation she had received from the Government of Turkey.

58. His first report had focused on presenting the substantive and strategic approach he intended to adopt with regard to his mandate, whose unique characteristic was that it placed human beings and their rights at the centre of analysis of matters and activities usually subject to legislation on the environment. Although several of the existing multilateral environmental instruments aimed at protecting human health, they focused largely on the technical and procedural aspects of the movement of dangerous products and wastes, and not the adverse effects of illicit movements on human rights as a whole. Furthermore, with the exception of the Compliance Committee of the Aarhus Convention, those agreements did not allow consideration of individual communications concerning alleged non-compliance with their provisions which violated human rights.

59. Keeping human rights at the centre of his work, and conscious of the need to avoid duplicating the excellent work done by the secretariats of the key international environmental instruments, he intended to provide the Commission with an in-depth analysis of selected thematic issues. In deciding which issues to focus on, he would consider factors such as the extent and seriousness of real or potential human rights violations, whether a particular issue fell entirely outside the scope of other international instruments or whether an analysis from the perspective of human rights violations could contribute to efforts to develop relevant multilateral regulations.

60. He attached great importance to information received directly from communities or individuals allegedly affected by the illicit movement of hazardous products and wastes, or from credible organizations acting on their behalf. In following up such allegations, he hoped he would be able to count on the cooperation of stakeholders, including Governments, which he urged to continue to respond to his requests for comments on allegations brought to his attention. Being fully aware of the importance of country visits, he regretted the lack of positive responses from various Governments to his requests to undertake country visits, and strongly urged Governments to issue standing invitations for visits in the context of the Commission's special procedures.

61. The effects of illicit movements of pesticides was high on the list of possible issues for his next report, as was the illicit transfer of end-of-life or near-obsolete products, such as mobile phones, computers and pharmaceutical products, to developing countries. In both cases he would focus his analysis on the actors involved, including non-State actors, and on the issue of effective redress for any human rights violation caused. He would also continue to study information received about the effect on human rights of the activities of transnational corporations in developing countries, in particular in the mining sector.

62. Mr. KURTTEKIN (Observer for Turkey) recalled that, in keeping with his Government's open-ended invitation to the special procedures of the Commission, Ms. Ouhachi-Vesely, the former Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, had visited Turkey in March 2004. He congratulated her on correctly understanding her mandate. She had grasped the significance of the legislative reform in areas relating to her mandate undertaken by his Government and had rightly pointed out the importance of the implementation of those reforms. His Government was determined to fully implement the new legislation, but that would take time.

63. He also welcomed the Special Rapporteur's recognition of the importance of international cooperation in the area of the illicit movement and dumping of toxic and dangerous products and wastes. Measures at the national level could not be fully effective unless all countries recognized the problems and behaved responsibly.

64. With regard to the three cases involving the illicit transport of hazardous wastes described in the report, he said that thanks to the cooperation of the Government of Spain and LaFarge Corporation, considerable progress had been made in the case of the MV Ulla. The hazardous wastes in the sunken ship would be transported back to Spain by LaFarge with the cooperation of the Turkish and Spanish authorities. In the case involving the ship Sea Beirut, the asbestos had been removed and transferred to Germany for disposal. In that context, he stressed the responsibility of the ships' countries of origin. As to the case involving 367 barrels of toxic waste, no solution had as yet been found since the Italian authorities still refused return of the barrels to Italy. Once again he stressed the responsibility of the country of origin to ensure the repatriation of the waste in accordance with the recommendation of the Special Rapporteur.

65. Ms. PÉREZ ÁLVAREZ (Cuba) thanked the Special Rapporteur for explaining how he intended to carry out his mandate. While she endorsed his idea of preparing thematic reports, she hoped he would continue to follow up on individual complaints concerning violations of environmental rights, given that the multilateral agreements did not give individuals the right to

file such complaints. He should also review international legal and environmental instruments with a view to identifying gaps in the area of human rights protection. Her delegation expressed interest in the first issues that the Special Rapporteur had put forward for study, namely the illicit transfer of pesticides and of obsolete products. The Special Rapporteur should also devote more attention to the responsibility of transnational corporations in the area of environmental protection.

66. Mr. IBEANU (Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights) took note of the comments made by the representative of Cuba. He recalled that, above all, he wanted to avoid duplicating the work of the secretariats of the principal international environmental protection instruments. His task was to consider the issues regulated by those instruments from a human rights perspective. He once again called on States to submit their comments on allegations made and to approve his requests for country visits. He reiterated his intention to continue to work closely with communities and groups that submitted credible information to him, in cooperation with the mechanisms established by the multilateral environment agreements.

67. The CHAIRPERSON declared open the general debate on agenda item 10.

68. Ms. AL-HAJJAJI (Libyan Arab Jamahiriya), speaking on behalf of the countries members of the Arab League, said that the United Nations had set the objective of halving of poverty by 2015. The developing countries were very much afraid that, without collective, urgent and radical measures, that objective would not be achieved. The statistics on poverty in the world were very disturbing. In his report (E/CN.4/2005/47) and in one of his books entitled Les Nouveaux Maîtres du monde (The new masters of the world), the Special Rapporteur on the right to food, Mr. Jean Ziegler, deplored the current situation, which gravely compromised the economic, social and cultural rights of the populations of developing countries. Famine and epidemics killed 100,000 people every day, yet world agricultural production would suffice to feed 12 billion human beings, or twice the planet's population. Poverty, famine and malnutrition even seemed to be spreading, especially taking into account population growth and the rivalry for the exploitation of natural resources. If the Millennium Development Goals were to be achieved, the developed countries must increase their assistance to developing countries while at the same time reducing those countries' debt burden.

69. It was impossible to discuss the right to life, health or education without taking into account globalization, because that phenomenon currently seemed inevitable and, although it had positive effects in certain areas, it was the cause of the growth in poverty. The time had come for the developed countries to commit themselves to finding ways to alleviate the difficulties of the developing countries.

70. A hungry person does not worry about his democratic rights. It was therefore important for the Commission to adopt resolutions aimed at combating poverty and promoting the enjoyment of economic, social and cultural rights as well as the right to a healthy environment for all human beings.

71. Mr. KHAN (Pakistan) said that the adoption of the Millennium Development Goals in September 2000 had been a historic step towards the promotion of economic, social and cultural rights. In his report entitled "Investing in Development: A Practical Plan to Achieve the Millennium Development Goals", Mr. Jeffrey Sachs rightly pointed out that the Millennium Development Goals were time-bound and quantified targets. The time was ripe to accelerate efforts to achieve those objectives; what was needed was political will and strong interventions. Invoking no doubt President Franklin D. Roosevelt's 1941 speech in which he referred to "freedom from want", the Secretary-General had observed that, for the first time, resources and technology could make the right to development a reality for everyone and free the entire human race from want. His delegation agreed with the Secretary-General that the Millennium Development Goals could be met through well-planned national strategies, financing for development, trade and debt relief. The developed countries should respond to the call of the Secretary-General to establish a timetable to achieve the goal of allocating 0.7 per cent of their gross domestic product (GDP) for official development assistance. They should not do so as an act of altruism or charity, but rather out of an obligation to stem the consequences of poverty and social underdevelopment, which included terrorism, transnational crime and strife in many countries and regions.

72. In order to promote economic, social and cultural rights, his Government was implementing a multipronged strategy. In 2004, Pakistan had signed the International Covenant on Economic, Social and Cultural Rights; it was making efforts to improve the economic situation and raise the living standards of its people through programmes aimed at achieving the Millennium Development Goals in poverty reduction, basic education, health, nutrition, water supply, the environment and the emancipation of women. According to a recent Government report, satisfactory progress was being made towards achieving those goals, even though the Government's ability to implement its commitments was greatly contingent on the availability of resources. His Government was also strengthening cooperation with regional and subregional organizations.

73. The developing countries could not hope to halve poverty by 2015 without increased financial assistance and debt relief. Those two measures would be instrumental in bridging the development gap and preventing it from growing wider.

74. He thanked the High Commissioner for Human Rights for her analytical study on the fundamental principle of participation and its application in the context of globalization (E/CN.4/2005/41). She should continue to work with the international organizations consulted during the study with a view to developing methodologies for assessing the impact of trade and development policies and projects on human rights.

75. Mr. ROUSHDY (Egypt) said that the Egyptian Constitution guaranteed citizens full enjoyment of all economic, social and cultural rights. His Government had always protected those rights through a consultation process based on justice, independence and equality of opportunity. In Egypt, access to health services and primary and secondary education were free. Social security was guaranteed for all; the Government was endeavouring to guarantee individuals with no income a decent standing of living.

76. The time had come to recognize the importance of economic, social and cultural rights, which had too long been neglected at the international level in favour of civil and political rights. Economic, social and cultural rights must be gradually implemented in the context of international cooperation. Unfortunately, a number of questions had to be raised in that regard. If international cooperation was an obligation, he asked why some countries did not respect their commitments, in particular with regard to official development assistance. Whether in the areas of housing, health or education, the data showed that some developing countries were still far from meeting the Millennium Development Goals. That raised the question of when the international community would honour its commitments.

77. Fully aware of the crucial importance of economic, social and cultural rights, his delegation was an active participant in the efforts of the Working Group to consider options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. He wondered what use such a protocol would be if it did not impose any new commitment. Furthermore, many parameters must be taken into account when drafting the protocol, such as debt burden, the right to health versus intellectual property rights, etc. Many factors therefore had to be taken into account.

78. Mr. CAMPUZANO (Mexico), speaking on behalf of the Group of Latin American and Caribbean States, said that the Group had been very active in the Working Group to consider options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. The Group of Latin American and Caribbean States attached priority to correcting the historical imbalance between the two categories of human rights and had advocated the steady achievement of economic, social and cultural rights, stressing international cooperation for capacity-building and the strengthening of independence.

79. All manifestations of failure to observe economic, social and cultural rights, such as unemployment, low salaries, illiteracy, malnutrition, lack of medical care, reduced life expectancy and lack of adequate housing, had a common denominator, which had been described as the “vicious circle of poverty”, a vicious circle that also led to the violation of civil and political rights. That was why the problem of human rights must be approached in a comprehensive manner. Accordingly, the Group of Latin American and Caribbean States wished to ensure that an optional protocol to the International Covenant on Economic, Social and Cultural Rights would not establish any distinction or hierarchy between the two categories of human rights. The adoption of a protocol could lead to the implementation of a mechanism that could advise national authorities on the allocation of public resources with a view to realizing economic, social and cultural rights. Lastly, the adoption of clear rules and criteria in the area of admissibility would allay fears concerning the possibility of overlap between an optional protocol and existing instruments relating to economic, social and cultural rights. In any case, the elaboration of a protocol would require continued dialogue with experts, international organizations, NGOs and States.

80. Mr. BERNIS (Luxembourg), speaking on behalf of the European Union, reaffirmed the European Union’s commitment to the promotion and protection of economic, social and cultural rights. He welcomed the fact that 150 States had ratified the International Covenant on those rights, most of which should be implemented in a gradual manner. As the Committee on

Economic, Social and Cultural Rights had indicated, certain provisions of the Covenant must be implemented in their entirety and without delay, particularly those relating to equality, non-discrimination, trade union rights, working conditions, primary education and the freedom of scientific research. The Committee had also specified the obligations of States in the context of the Covenant to prohibit certain practices; protect economic rights against all third party interference; and undertake concrete measures to ensure realization of those rights. Accordingly, States must ensure that all individuals, particularly human rights defenders, were duly protected by law, and that their judicial procedures guaranteed the rule of law. The European Union believed that good governance was essential to ensuring sustained economic growth, the elimination of poverty and the realization of economic, social and cultural rights. Experience had shown that economic growth and sustainable development could be promoted more easily in societies where the rule of law and the right of individuals freely to dispose of their property were respected.

81. The Committee on Economic, Social and Cultural Rights played a major role in promoting the rights contained in the Covenant, and the European Union called on all States parties to cooperate with the Committee. It welcomed the High Commissioner's efforts to support the Committee and encouraged her to develop her Office's research and analysis capacity in that area. The European Union welcomed progress made at the second session of the Working Group to consider options regarding the elaboration of an optional protocol to the Covenant; discussions during that session had been constructive and fruitful. Any discussion of an individual complaints mechanism should be based on clear juridical guidelines that took into account the obligations of States parties. The Chairperson-Rapporteur of the Working Group should prepare a document aimed at facilitating more targeted discussions at the next session.

82. He reiterated the European Union's commitment to the implementation of the Millennium Development Goals, including halving the proportion of the world population that had an income of less than \$1 a day. In order to achieve that goal, the links between poverty and discrimination of any kind must be better understood. Discrimination against women, in particular, was a major obstacle to the elimination of poverty. As the work of the Sub-Commission on the Promotion and Protection of Human Rights had shown, when an individual's basic needs were not met, the obstacles faced by that individual with regard to human rights were no longer only a question of income.

83. Hunger was an affront to human dignity, and States must take all necessary measures to protect and promote the right to sufficient nutrition and ensure access to drinking water. In that regard, the European Union welcomed the adoption by the Committee on World Food Security of a set of voluntary directives aimed at ensuring the gradual realization of the right to food security. It also welcomed progress made in the implementation of the right to adequate housing. The work carried out by the Special Rapporteur on the right to adequate housing concerning States' obligations in that area was a useful contribution to the clarification of the complex legal and practical issues associated with that right. The Special Rapporteur should continue to address all those issues, particularly those linked to water and water treatment in the context of the right to adequate housing.

84. The European Union called on States to take all necessary measures to eliminate obstacles to the implementation of the right to education, and welcomed the efforts taken by the United Nations system to promote the right of all to enjoy the best possible physical and mental health.

85. The European Union reaffirmed its commitment to cooperating with other countries to ensure that the Commission played an effective role in implementing economic, social and cultural rights.

86. Ms. PÉREZ ÁLVAREZ (Cuba) welcomed the reports submitted by the special rapporteurs and independent experts under agenda item 10. Those reports once again confirmed the negative impact of the current, unjust international order and neoliberal globalization on economic, social and cultural rights. That unjust economic order fostered a chronic economic, social and ecological genocide that jeopardized the survival of millions of people. In Latin America alone, 20 million children endured cruel exploitation, working in the streets instead of going to school. In some African countries, HIV/AIDS had lowered life expectancy to less than 40 years, while the foreign debt of those countries had increased from \$300 billion in 1985 to \$750 billion in 2005. The lives and the right to development of millions of human beings were threatened by the hegemonic domination of the only super-Power, which continued to strengthen its military superiority and attack those who posed an obstacle to its imperial plans.

87. Seven Cubans in 10 had grown up under history's longest genocidal economic, commercial and financial blockade, which had caused more than \$79 billion in damages. As recently as 6 May 2004, President Bush had approved a broad plan to recolonize Cuba, overthrow the Cuban Revolution and install a United States-controlled puppet regime. Those new measures further tightened the blockade against the Cuban people, increasing restrictions on them and further constraining their rights and freedoms. The United States currently spent more money on implementing the blockade against Cuba than on tracing Al-Qaida's finances. That absurd situation had even been condemned by some members of Congress. The United States Government was seeking to destroy by any means the political, economic and social system established by Cubans in order to place the Cuban economy under the control of transnational companies and privatize services such as education, health care and social security. No one in Cuba wanted such a future. The Cuban people knew very well that their existence as a sovereign and independent nation depended on their determination to resist any threat or aggression. Cubans sincerely appreciated the international community's support for and solidarity with their fight. That support demonstrated that the resistance of the Cuban people had universal significance and served the common objective of achieving a better world, which was not only possible but also indispensable for the survival of humanity.

88. Mr. MENGA (Congo) said that his delegation had taken note with interest of the various reports submitted by the special rapporteurs dealing with economic, social and cultural rights. The right to a life with dignity was not possible unless all human beings had all the basic means of survival: work, food, housing, health care, education and culture. Accordingly, the growing interdependence of the world in the context of globalization made it necessary to coordinate policies adopted at the international and national levels. The activities of international

stakeholders had consequences for all countries, and the international community must therefore have the means to correct imbalances, which affected the enjoyment of economic, social and cultural rights. That should be seen as a gesture of international solidarity in order to give hope to those who were disadvantaged for historical and/or geographical reasons.

89. Mr. SINGH PURI (India) said that experience had shown that economic, social and cultural rights could best be pursued in open, free and democratic societies. The purpose of democratic government was to eliminate poverty and give every citizen the opportunity to be educated, learn a skill and be gainfully employed.

90. The Government of India believed that it was its sacred duty to empower the poor and eliminate the scourge of poverty. In keeping with that philosophy, in February 2005 the President of India had outlined his new deal for rural development. The plan, called Bharat Nirman, would be implemented over a period of four years. It provided for the construction of infrastructure, namely irrigation, roads, water supply, housing, rural electrification and rural telecommunication networks. The plan should be achieved by 2009. His Government believed that rural India should become a growth engine for the country.

91. The importance of economic, social and cultural rights was recognized in the Indian Constitution, which contained a separate section on the directive principles of State policy, which were aimed at promoting the welfare of the people by ensuring social, economic and political justice. The Supreme Court had confirmed the validity of those principles, and had ruled that the right to life included the right to live with human dignity, which implied the right to adequate nutrition, clothing, shelter and basic education. The eighty-sixth amendment to the Constitution had made education free and compulsory for children between the ages of 6 and 14; that was a historic step towards the realization of the universal right to education in India.

92. The practical realization of the rights contained in the Covenant depended on a country's level of development. As India's economy grew, resources increased and became available for the realization of economic, social and cultural rights for all. At the international level, multilateral institutions could also play a major role in maximizing the benefits of trade and globalization while minimizing their risks. In other words, the international trade regime must create opportunities for human development.

93. The Working Group to consider options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights had held two sessions. His delegation believed that it was premature to consider a legally binding complaints mechanism, particularly since there was no clear standard against which to measure a State's obligation to ensure "progressive realization" of economic, social and cultural rights. The absence of a precise standard made monitoring of compliance at the international level virtually impossible. That was why that aspect was best handled within the framework of domestic legal systems. Only when the world reached a shared level of development could an international protocol on a complaints mechanism be seriously considered.

94. Ms. ARBOUR (United Nations High Commissioner for Human Rights), referring to the discussion of the remarks of the Special Rapporteur on the situation of human rights in Belarus, pointed out that, in spite of limited resources, her Office was doing its best to provide special rapporteurs with all possible assistance. Any failings in that regard could not be attributed to a lack of professionalism or commitment to the special rapporteur's mandate. Staff assigned to assist special rapporteurs provided them with advice in a professional manner and with a view to helping them carry out their mandate effectively. She therefore expressed surprise and regret at certain comments that could be construed as questioning the integrity of the Special Rapporteur on the situation of human rights in Belarus.

The meeting rose at 1 p.m.