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SUMMARY RECORD OF THE 33rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 April 2005, at 10 a.m.

Chairperson: Mr. WIBISONO (Indonesia)

later: Mr. VASSYLENKO (Ukraine)

CONTENTS

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

- (a) TORTURE AND DETENTION (continued)
- (b) DISAPPEARANCES AND SUMMARY EXECUTIONS (continued)
- (c) FREEDOM OF EXPRESSION (continued)

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CONTENTS (continued)

- (d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY (continued)
- (e) RELIGIOUS INTOLERANCE (continued)
- (f) STATES OF EMERGENCY (continued)
- (g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (continued)

The meeting was called to order at 10 a.m.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

- (a) TORTURE AND DETENTION (continued)
- (b) DISAPPEARANCES AND SUMMARY EXECUTIONS (continued)
- (c) FREEDOM OF EXPRESSION (continued)
- (d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY (continued)
- (e) RELIGIOUS INTOLERANCE (continued)
- (f) STATES OF EMERGENCY (continued)
- (g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (continued)

(agenda item 11) (continued) (E/CN.4/2005/6 and Add.1-4, 7 and Corr.1 and Add.1 and 2, E/CN.4/2005/53, E/CN.4/2005/54 and Corr.1, E/CN.4/2005/55-59, E/CN.4/2005/60 and Add.1-3 and Corr.1, E/CN.4/2005/61 and Corr.1 and Add.1 and 2, E/CN.4/2005/62 and Add.1-3, E/CN.4/2005/64 and Corr.1 and Add.1-5, E/CN.4/2005/65 and Add.1, E/CN.4/2005/66, E/CN.4/2005/67 and E/CN.4/2005/127; E/CN.4/2005/G/7, 17, 20 and 21; E/CN.4/2005/NGO/5, 11, 24, 27, 31-48, 62-64, 69, 81, 83-87, 89, 95, 105, 107, 111-114, 136, 138, 140, 150, 151, 182-184, 193, 198, 207, 211, 220, 223, 231, 233, 241, 244, 249, 258, 259, 267, 274-278, 295, 299, 303, 305, 307, 310, 312, 314, 317, 323, 325, 333-335, 339, 342, 343, 345 and 348; E/CN.4/2005/CRP.4; E/CN.4/Sub.2/2004/40)

1. Mr. RUIZ (International Association against Torture) drew the Commission's attention to the fact that in Chile, Act No. 19992, which had been adopted on the basis of the report of the National Commission on Political Imprisonment and Torture for the purpose of discovering the truth about those crimes and compensating the victims, had still not been implemented. According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Chile was a party, each State party must ensure that all acts of torture were offences under its criminal law, and that the victims of an act of torture obtained redress and fair and adequate compensation, including any right of the victim or other persons to compensation under national law. However, the Chilean Government had granted only a symbolic pension of less than \$200 to torture victims and, according to article 2 of Act. No. 19992, that payment disqualified the recipient from receiving any pension granted under other national laws. Furthermore, the Act did not provide for any compensation for the spouses or children of victims, particularly when victims had died in exile. All those facts were described in detail in documents E/CN.4/2005/NGO/207 and 277. The Chilean Government justified its attitude by stating that the country lacked resources; that was inadmissible, since it was well known that considerable resources had been devoted to the construction of special prisons for military personnel convicted for human rights violations and that the armed forces received 10 per cent of the income from the sale of the country's principal source of revenue, copper.

2. His organization called on the Commission to urge Chile to respect the instruments to which it was a party and to implement the recommendations made by the Committee against Torture on 14 June 2004, particularly regarding the provision of fair and adequate compensation to victims of torture.

3. Ms. VERA (American Association of Jurists) expressed her disappointment that, contrary to the Declaration on the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly in 1992, and the 1994 Inter-American Convention on Forced Disappearance of Persons, the draft International Convention for the Protection of All Persons against Enforced Disappearances included individuals or non-State groups among the perpetrators of enforced disappearances and did not specifically exclude the intervention of special jurisdiction, particularly military tribunals, for trying the perpetrators of such crimes. As several United Nations bodies, special rapporteurs and declarations had stated, military tribunals by their very nature were neither independent nor impartial and were not an integral part of the system of administration of justice. That attempt to militarize justice, found in paragraph 7 of Commission on Human Rights resolution 2004/32 clearly illustrated the need for a complete reform of the Commission in order to restore its credibility and make it a truly effective, independent, objective and impartial body that contributed to the progressive development of human rights without yielding to pressure, whether from a few States or the transnational economic Power.

4. Ms. FAULKNER (Transnational Radical Party) said that the Transnational Radical Party was gravely concerned at the serious restrictions that were being imposed in Viet Nam on freedom of religion, which was guaranteed by the Constitution, provided that religion was not used as a pretext for violating the interests of the State. That argument was routinely invoked to persecute followers of the main religion in Viet Nam, Buddhism, which was represented by the Unified Buddhist Church of Viet Nam, several leaders of which had been arrested in October 2003, despite the fact that they had been holding a peaceful meeting; the persons in question continued to be held in administrative detention. The plight of patriarch Thich Huyen Quang, aged 87, and his deputy, Thich Quang Do, aged 76, was particularly alarming, since they were still being held in detention without being formally charged or granted due process of law, which was contrary to article 10 of the Vietnamese Criminal Code, and was also a violation of article 71 of that Code, which limited pretrial detention to a maximum of 12 months. The Vietnamese authorities were deliberately isolating the two monks, who defended freedom of religion, human rights and democracy in Viet Nam, since they were supported by many Vietnamese, both in Viet Nam and abroad. Another Buddhist monk, Thich Thien Minh, who had been detained for 26 years in a re-education camp for his support of the banned Unified Buddhist Church, had been released on 2 February 2005, but had since received death threats if he did not end all contact with international human rights organizations and stop criticizing human rights violations in Viet Nam in the foreign media. Moreover, Viet Nam continued to adopt laws that grossly restricted the rights contained in the International Covenant on Civil and Political Rights, to which Viet Nam had acceded in 1982. A new decree signed on 18 March 2005 prohibited all demonstrations in front of State buildings and was intended to prevent farmers from continuing to protest against official corruption and the confiscation of land by the State.

5. The Transnational Radical Party called on the Commission to urge Viet Nam to immediately release the two monks and all religious prisoners, re-establish the legitimate status of the Unified Buddhist Church and all other non-recognized religions, and rescind all legislation that hampered the development of civil society in Viet Nam.
6. Mr. PARI (Movimiento cubano por la paz y la soberanía de los pueblos) denounced the use of the concepts of democracy, sovereignty and human rights for launching violent wars in order to gain strategic resources of the development of the Western world. Democracy, far from reflecting the sovereign will of the people, had become an obsolete, fictitious and hollow notion. Neither democracy nor rights existed for the indigenous peoples who were subjected to the tyranny of a minority and continued to be the victims of neocolonial terror and the terrorism of the dominant class after having experienced military dictatorships that had provoked assassinations, torture and forced disappearances in the name of national security, based on the doctrine of pre-emptive attacks.
7. State terrorism, like colonialism and racial discrimination, was a universal scourge, the causes of which were rooted in selfish interests, economic factors and the geopolitical strategy on which the history of humanity was based. In that regard, he asked the Commission, in the name of what principles an economic and military super-Power could claim the right to impose a uniform way of thinking and its own model of democracy and development, as well as its concept of rights, on other countries, while supporting and financing terrorist attacks against the Cuban people and denying indigenous peoples their right to self-determination as well as their right to land and its natural resources.
8. Ms. ASOKA (South Asia Human Rights Documentation Centre) said that Bangladesh remained one of the most dangerous countries in the world for journalists. She cited three recent cases of attacks on and murders of journalists, who had denounced the illegal activities of members of the coalition in power in Bangladesh and the involvement of politicians in attacks against minority communities. In 2003, the Special Rapporteur on the right to freedom of opinion and expression had sent out at least 10 urgent appeals to the Government of Bangladesh regarding the detention, torture and physical attacks to which journalists and members of the media had been subjected in the country. That trend was continuing in 2005, owing to the impunity of extremist and corrupt political factions and the Government's inability to protect freedom of expression, which was guaranteed in article 39 of the Constitution of Bangladesh and article 19 of the International Covenant on Civil and Political Rights, to which Bangladesh was a party.
9. All perpetrators of attacks against journalists must be brought to justice, and the Government of Bangladesh should accede to the requests of the Special Rapporteur on the right to freedom of opinion and expression to carry out a country visit to examine the situation of press freedom.
10. Mr. KOROTAEV (International League for Human Rights) said that, since 1997, all religions had been prohibited in Turkmenistan, with the exception of Sunni Islam and the Russian Orthodox Church. Although the law of March 2003 prohibiting "unregistered religious activities" had been relaxed in May 2004, members of independent religious communities continued to receive threats and were sometimes arrested, and were forced to meet in secrecy.

Other religious groups feared retaliation against their members and were therefore reluctant to submit to registration procedures. Most religious organizations, such as the Baptist Church, had encountered several obstacles when trying to register. Muslims and Russian Orthodox believers were subjected to considerable pressure from the authorities which, for example, forced imams to place a Turkmen flag above mosque entrances and to deliver a eulogy to President Niyazov at the beginning of every sermon. That was particularly the case in the Dashoguz region, where ethnic Uzbeks made up the majority of the population, and of whom the chief mufti, Nasrullah ibn Ibadullah, had been convicted of treason and sentenced to 22 years' imprisonment in March 2004, principally for his opposition to President Niyazov's attempts to gain more control over the Muslim community.

11. The International League for Human Rights called on the Commission to urge the Government of Turkmenistan to abide by international standards relating to freedom of religion, and, specifically, to carry out a complete and impartial investigation into the charges made against the chief mufti by ordering a retrial in the presence of national and international observers, and to extend an invitation to the Special Rapporteur on freedom of religion or belief.

12. Mr. VO VAN AI (International Federation of Human Rights Leagues), also speaking on behalf of the organization Agir Ensemble pour les Droits de l'Homme (Working Together for Human Rights), denounced the institutionalization of repressive and arbitrary practices in Viet Nam, where the Government used legislation, regulations and circulars to codify practices to preserve the power and privileges of a faction within the Vietnamese Communist Party by every possible means. To that end, the Government had recourse to secret military services, known as General Department No. 2 or GD2, which had committed abuses that had been denounced by military leaders and high-ranking dignitaries in the country, but which had been legally granted vast and excessive powers. The clandestine activities of GD2 were but one salient example of the well-organized system of repression, a planned and pervasive mechanism controlled by the State, the sole aim of which was to crush the nation's rising popular forces in violation of Viet Nam's international obligations.

13. Furthermore, the so-called "non-recognized" religions, particularly the Unified Buddhist Church of Viet Nam, were constantly persecuted and harassed, and two of their main leaders were still under house arrest in their monasteries, forbidden to travel and practise their religion. Arrest, arbitrary detention and harassment were also the daily lot of all Vietnamese who sought to exercise their legitimate right to freedom of religion and particularly their freedom of expression, especially Communist Party veterans and intellectuals who criticized the lack of democracy. Similarly, cyber-dissidents were sentenced to terms of imprisonment at unfair trials, simply for circulating their views overseas on the Internet.

14. The Socialist Republic of Viet Nam could not claim to be fulfilling its obligations under the International Covenant on Civil and Political Rights unless it renounced its arbitrary, repressive practices. The Commission and the international community as a whole should therefore urge Viet Nam to sincerely respect international law.

15. Mr. AAJAKIA (Comité international pour le respect et l'application de la Charte Africaine des droits de l'homme et des peuples) said that he was speaking before the Commission in the name of the duty to remember and to request that the Belgian Government begin the juridical

rehabilitation of Father Simon Kimbangu, the pioneer of the political emancipation of black Africa, and to grant compensation to the 150,000 Kimbanguists who had been unjustly persecuted, tortured, deported and sent by the Belgian colonial administration, between 1921 and 1959, to concentration camps in what had since become the Democratic Republic of the Congo. The rights set forth in the Universal Declaration of Human Rights had been openly denied to black Africans in the name of the doctrine of white supremacy and racial hierarchy, and Catholic and Protestant missionaries had also played an active and decisive role in the violent anti-Kimbanguist repression that had cost the lives of over 37,000 families and had continued for 39 years. The Belgian Government, which in 2002 had recognized Belgium's direct involvement in the assassination of Patrice Lumumba, should now, in the name of the duty to remember and the universality of human rights, recognize the physical and moral damage suffered by Father Simon Kimbangu and his thousands of followers.

16. As Professor Joseph Ki-Zerbo of Burkina Faso had said in Dakar in 2001 during the Gorée Conference on compensation, "The West must recognize an immense moral and material debt, specifically towards the black African world and its diasporas. Attempts must be made to erase that debt through remembering and through the concept of a new, alternative world".

17. Mr. ROSSI (International Association for Religious Freedom) said that at the seminar entitled "Confronting Islamophobia", held in New York on 7 December 2004, the Secretary-General, Mr. Kofi Annan, had clearly stated that efforts to combat Islamophobia must also contend with the question of terrorism and violence carried out in the name of Islam but which had led to unacceptable distortions of Islam. One such distortion was the rule of Islamic sharia that provided for the death penalty for any Muslim who changed religion. The right to change religion was an essential aspect of religious freedom and was mentioned explicitly in article 18 of the Universal Declaration of Human Rights. Furthermore, sharia law was the fruit of tradition and was not divine law, and neither the Koran nor the Prophet Mohammed could be invoked to justify imposing the death penalty on a Muslim who had changed his or her religion.

18. The Commission, which every year adopted a resolution on the abolition of the death penalty, even for the most serious crimes, should denounce and condemn that form of extreme religious intolerance, and the International Association for Religious Freedom proposed that the resolution on the elimination of all forms of intolerance should include the following paragraph: "Condemns all forms of intolerance and discrimination on grounds of religion or belief, particularly the most extreme form of intolerance, the death penalty, for conversion to another religion". Muslims must be helped to respect, effectively and fully, the right to freedom of thought, conscience and religion, in accordance with the teachings of the Koran.

19. Mr. KAYTA (Society for Threatened Peoples International) said that, as the report on human rights published in 2004 by the United States State Department had shown, the human rights situation in the Tibetan areas of China remained worrisome, since Tibetans continued to be subjected to many abuses by the Chinese authorities. Even visits by intergovernmental bodies had proven unsuccessful. The Working Group on Arbitrary Detention had noted with concern that China had not implemented any of the recommendations that it had made in its previous reports. The Commission should encourage the Chinese Government to facilitate visits - to which it had already agreed - by the Special Rapporteur on torture and the Special Rapporteur on religious intolerance, at the earliest opportunity.

20. In order to revive its international image and prove that it was a responsible member of the international community, China must respect international human rights law and uphold its own assertion that it safeguarded human rights. With regard to Tibet, his organization urged the Commission to take note of the Dalai Lama's statement of 10 March 2005, in which he reaffirmed that Tibet was not seeking independence. The Commission should also encourage China to continue dialogue with the Dalai Lama's envoys. Such dialogue was the necessary precursor to any substantive negotiations and to finding a peaceful and lasting solution to the status of Tibet and the Tibetan people.

21. Mr. YERO TRAVIESO (World Federation for Democratic Youth) said that, in order to speak seriously about civil and political rights, it was necessary to begin by changing the unfair economic system that prevailed in the world. Although every people had the right to determine its own destiny, the United States Government did not understand that concept and assumed the right to attack countries that it accused of being terrorists, or to free them from a tyrannical regime. The real tyranny was the tyranny imposed by the imbalance that existed between the interests of minorities, who wished to expand their hegemony, and the vast numbers of men and women who were exploited in order to enable consumer societies to maintain their way of life.

22. The popular Government established by the Cuban people in 1959, after having overthrown a military dictatorship supported by the United States, represented the true interests of the country and had established social justice and equal rights between men and women. That was why the United States had imposed an embargo against the Cuban people, which was impeding their economic and social development and threatening their national security. In order to achieve its objectives, the United States resorted to acts of terrorism organized by counter-revolutionary organizations based in its territory. It was because they had wanted to prevent such criminal activity that five young Cubans were currently in prison in the United States, following an unfair trial. The World Federation of Democratic Youth therefore requested that, in the interest of justice, the five Cubans should be retried before an impartial tribunal in accordance with the provisions of the Universal Declaration of Human Rights.

23. Ms. BRASIER (Liberation) said that, despite the signing in 1997 of a peace agreement between the Government of Bangladesh and the leaders of the Jumma indigenous people, which had put an end to over 20 years of armed conflict in the Chittagong Hill Tracts, peace was still not a reality in the region. The impunity granted to the Bangladeshi security forces and Bengali settlers for gross and widespread human rights violations that they had committed against the Jumma people in the region was of particular concern. Although such violations - torture, rape, death in detention, extrajudicial executions and attacks against the local population - had been reported by Liberation for many years, owing to a lack of real political will, successive governments of Bangladesh had not succeeded in bringing them to an end.

24. Turning to the human rights situation in Indonesia, she said that, although Indonesia had a democratically elected Government, it was still led by the military, which had taken control of government policies, in particular those that affected indigenous peoples and ethnic minorities, especially in West Papua and Aceh. Although the military had allowed foreign humanitarian agencies unlimited access to Aceh, in order to cope with the aftermath of the tsunami tragedy, it was currently attempting to re-establish the former situation, by closing the area and keeping it

under military rule. Aceh must remain open to the outside world, and military operations there should end; a dialogue for a ceasefire should be opened between the Indonesian Government and the Free Aceh Movement; and all political prisoners must be released immediately, particularly those who had been arrested during the last three months of 2005 and who had been hastily tried in one-day hearings without proper defence. The situation in Western Papua was almost the same as that in Aceh.

25. Mr. WARIKOO (Himalayan Research and Cultural Foundation) said that the independence and impartiality of the judiciary was an essential condition for the protection of citizens' rights. Furthermore, it was inextricably linked with democracy. However, in many countries, the judiciary remained subservient to the executive, the most extreme cases of which were dictatorships, in which the judiciary was used to legitimize the military regime and judges and lawyers were the object of physical attacks. In some countries, the judiciary was subjected to political pressure and could also be used to eliminate the opposition. The manipulation of the judicial system led citizens to take their own measures to obtain justice, which led to an increase in militancy and terrorism. Corruption among judges was also a serious problem, which turned people away from justice and led to the emergence, inside and outside the judicial system, of groups with a vested interest, who saw justice as a lucrative activity. The concept of "might is right" then became the order of the day. Efforts must be made to combat the corruption in the judiciary and promote independent judicial institutions. He therefore urged the Commission to monitor the functioning of judicial systems on a regular basis.

26. Ms. KIDANE (Jubilee Campaign) said that many violations of human rights, particularly freedom of religion, freedom of opinion and the right to a fair trial, had been committed in Eritrea, despite the fact that that country had signed instruments that guaranteed those very rights. Since the beginning of 2003, evangelical Christian churches, which were a minority in the country, had been the target of persecution by the authorities, including raids during religious services, the confiscation and burning of Bibles, and the arrest and beating of church members, who were later tortured in military detention centres. Far from relenting, repressive measures had intensified in February and March 2005. Jubilee Campaign called on the international community to condemn such acts, and to launch an appeal for the release of those persecuted for their faith.

27. Mr. KINGSLEY (Consultative Council of Jewish Organizations) welcomed the draft Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, and invited the members of the Commission to adopt them. The principle of the right of victims to a remedy had long been accepted. On 5 January 1943, 17 Governments, including those of the United Kingdom, the United States, France and the Soviet Union, had signed a declaration in which they pledged to restore what was rightfully theirs to victims of looting perpetrated by the enemy and the enemy's accomplices. Laws had been adopted in that regard, and international compensation tribunals had been established after the Second World War in Germany, where they continued to exist. Sixty-two years later, it was time for the United Nations to reaffirm the rights of victims, since the Jewish community, after having been beaten, had finally obtained the right to remedy and reparation for survivors of the Shoah, and therefore recognition of their suffering. Other victims of genocide were still waiting for justice.

28. This organization considered that the commemoration of the sixtieth anniversary of the liberation of the Nazi camps provided the Commission on Human Rights with an opportunity to reaffirm its commitment to the victims of all atrocities and to bring together existing international norms under one set of principles.

29. Mr. POLANCO (José Martí Cultural Society) said that the independence and freedom currently enjoyed by the Cuban people had been won through a bitter fight and the overthrow of the dictatorship that had been supported by the United States. It was only thanks to their belief in the truly democratic socio-political system that they had chosen that the Cuban people had found the strength to resist the economic blockade that had been imposed more than 40 years earlier by the United States, and which Pope John Paul II had described as unacceptable during his visit to Cuba. President Bush's current policy was not limited to strengthening the blockade, but was an attempt to recolonize the island, in total violation of the civil and political rights of not only the Cuban people but also the citizens of the United States.

30. It was unfortunate that the flagrant and systematic human rights violations that the United States was committing in Iraq and at Guantánamo Bay under the guise of combating terrorism had not been included under agenda item 11. He recalled that five young Cubans were currently unfairly imprisoned in the United States for having tried to combat terrorism. He therefore called on the Commission not to adopt the resolution against Cuba that had been submitted by the United States with the sole aim of justifying the current Administration's aggressive policy and strengthening the blockade against the Cuban people.

31. Mr. ROSA (International Association for the Defence of Religious Liberty) said that his organization shared the concerns expressed by the Chairperson in his opening statement on the very delicate issue of religion. It was particularly alarming that threats against respect for human rights in the sphere of religion were increasing and were taking place not only in countries with theocratic regimes, but were also being committed in the name of secularism. His organization understood the States members of the Commission that had insisted that the religious beliefs that they represented should be respected during the sixty-first session, and hoped that they would be open to the same demands made in their territory. Another subject of concern was the rise in Islamophobia throughout the world, as a reaction to various acts of terrorism committed in the name of Islam. His organization condemned all forms of oppression of a religion, no matter which religion was targeted, and considered that the freedom to believe in the God of one's choice was not only an inalienable right but also a fundamental element of the individual. He hoped that, as in the Commission, a respectful coexistence between believers and non-believers would be possible in all countries.

32. Mr. SECADE (Centre d'Études Européennes) said that the measures adopted by various States under the pretext of fighting terrorism had led to numerous violations of human rights and international humanitarian law, the most outrageous of which had occurred at Camp X-Ray at the Guantánamo Bay naval base, Abu Ghraib prison and other detention camps in Iraq and Afghanistan. The Commission should denounce those blatant human rights violations, which had been committed with the authorization of the highest leaders of the coalition States, and those responsible should be reminded that they must immediately apply the rules established by international humanitarian law and human rights. The Centre d'Études Européennes called on

the Commission to urge the President of the United States to repeal the Military Order of 13 November 2001, which created the concept of “enemy combatant”, under which persons could be deprived of their most basic rights.

33. The Commission should demonstrate that it did not apply double standards, unlike the United States, where five Cubans, who were heroes in the fight against terrorism had been imprisoned for seven years, following a rigged trial, which had resulted in sentences of life imprisonment for four of them, and 200 years’ imprisonment for the fifth, while the terrorists who were responsible for thousands of victims in Cuba remained free to walk the streets of Miami or train in paramilitary camps in Florida. The Centre d’Études Européennes called for the retrial of those five men, in a location other than Miami, by an impartial jury, and insisted that they should be allowed to receive visits from their families.

34. Ms. GONZALEZ (Centrist Democrat International) said that her son, aged 35, had been sentenced to 25 years’ imprisonment in Cuba for having expressed his political opinions and worked for an independent newspaper. He had been sentenced as a result of a summary trial, without any opportunity to defend himself, and had been transferred to a prison 700 kilometres away from his home where he had been beaten, humiliated, deprived of all contact with his family and held with highly dangerous common law prisoners and with prisoners infected with tuberculosis. He had contracted tuberculosis and was suffering from malnutrition. Since he had refused to renounce his ideas and to take part in a re-education programme, which was in fact a system of political indoctrination, he had not received any medical care, visits from his family, or religious assistance. Hundreds of other political prisoners were also serving unfair sentences in Cuban prisons. Centrist Democrat International said that the Commission should be aware of the high price that human rights defenders and their families had to pay in Cuba to defend their rights and dignity, and called for an end to political repression and for the release of all political prisoners and prisoners of conscience and for a peaceful transition to democracy in Cuba.

35. Ms. MACJUS (Permanent Assembly for Human Rights) urged the Commission to extend for a year the mandate of the open-ended intersessional working group for the drafting of a legally binding normative instrument for the protection of all persons against enforced disappearances in order to enable it to continue its vital work, since the systematic practice of enforced disappearances was a crime against humanity, and its prevalence throughout the world required that it should be the subject of a dissuasive convention. Since States were the principal guarantors of human rights and must ensure that their citizens were not victims of crimes against human life and dignity, their responsibility should not be diminished by including non-State actors among the perpetrators of enforced disappearances, since that would open the door to impunity, nor should account be taken of considerations relating to national security or respect for privacy, which would reduce the impact of the planned instrument and compromise its effectiveness. It was necessary to create a body responsible for monitoring States’ implementation of the instrument; that body would be authorized to investigate possible individual complaints and to carry out verification missions in the countries in question, since only an independent and impartial body with such authority could truly be a mechanism for monitoring and preventing such crimes.

36. Her organization supported the draft resolution on the right to truth that had been submitted to the Commission by the delegation of Argentina, bearing in mind the tragic experience of that country during the years of State terrorism. The establishment of truth and reconciliation

commissions was an essential stage in the fight against impunity and for the promotion and protection of human rights, since light must be shed on the past in order to build a future in which human rights would be respected: justice, truth and memory were the pillars of social reconstruction and respect for peace, freedom, democracy and human rights.

37. Ms. CRUZ (Centro de Derechos Humanos Miguel Agustín Pro Juárez) said that, as a result of the technical cooperation programme established in Mexico by the High Commissioner's Office, President Vicente Fox had presented a national plan for human rights on 10 December 2004. The participation of civil society in the process of creating, drafting and implementing the plan had, however, been limited. Furthermore, the method used had not made it possible to identify the structural problems that were preventing the State from fulfilling its international obligations, and human rights violations persisted, particularly arbitrary detention, torture and enforced disappearances which, in certain States, were not being followed up. Moreover, in cases where human rights violations had been committed by the military, the primacy of military jurisdiction over civilian jurisdiction systematically resulted in impunity for the perpetrators. The influence of the military was gradually spreading within bodies responsible for security and justice. Indigenous peoples, whose territories were still under military rule, were persecuted, harassed and imprisoned, and although the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. Stavenhagen, had recommended a review of the 2001 constitutional reform in order to bring it into line with the San Andrés Accords, the national plan for human rights did not provide for any measures to be taken to that effect.

38. The mandate of the OHCHR office in Mexico should therefore be broadened to include follow-up on international recommendations, and the High Commissioner's Office should ensure that its technical cooperation programmes targeted problems that were impeding respect for and protection of human rights.

39. Ms. DOLMA (International Fellowship of Reconciliation) said that her organization had regularly drawn the Commission's attention to the gross and systematic violations of religious freedom in Tibet. In April 1996, the Chinese authorities had launched a crime prevention campaign which, in the Tibet Autonomous Region, targeted secessionist activity by focusing on the suppression of political dissent in religious institutions. One of the principal methods of repression had been "patriotic re-education", which aimed to adapt Tibetan Buddhism to socialist norms and enforce regulations governing the management of monasteries and convents. In practice, that "re-education" was conducted by teams that visited religious institutions for extended periods of time and instructed monks and nuns in the "proper" understanding of Tibetan religion and history, while seeking to identify unpatriotic clergy members and extract loyalty pledges from the rest. That campaign, which had been relaunched in April 2001 and 2004 and had been extended to other Tibetan areas in China, had led to expulsions, arbitrary arrests and detention, torture and even death. Furthermore, through prohibiting religious education for young persons under the age of 18, it was seriously threatening freedom of religion and belief in Tibet and was compromising the future of the Tibetan monastic tradition.

40. The International Fellowship of Reconciliation called on the Commission to condemn the gross and systematic violations of religious freedom in Tibet, and urged the Special Rapporteur on freedom of religion or belief to visit China in order to investigate the effects of the "patriotic re-education" campaign on religious and secular communities in Tibet.

41. Mr. CALZON (Liberal International) drew the Commission's attention to the situation of political prisoners and prisoners of conscience in Cuba, whose numbers were continuing to increase, and to the harshness of their detention conditions. In Cuba, dissidents paid dearly for opposing the regime, and doubly if they were black. He referred to the fate of Mr. Jorge Luis García Pérez, also known as Antúnez, who had been held in prison since 1990, simply for having expressed his opinions and defended the principles set forth in the Universal Declaration of Human Rights, and who had continued, even in prison, to state his beliefs peacefully, but not without paying the price. He had been imprisoned at the age of 25, and was suffering from chronic illnesses following ill-treatment and long stints in solitary confinement; he had been forced to go on hunger strikes to obtain medical care and receive visits from his family.

42. He cited cases of several other political prisoners and prisoners of conscience, who were ill and were serving long sentences in extremely poor conditions; many of those prisoners were suffering from chronic infections and should receive medical care outside of penitentiary institutions. One such prisoner, Angel Moya Acosta, a political prisoner who had eventually been transferred to a hospital in Havana following a public protest march, organized by his wife, had written a letter in which he refuted the statements made before the Commission, according to which there were no disappearances or torture in Cuba and that the Cubans had access to the mass media. He recounted the ill-treatment to which he had been subjected at the prison in Holguín province and noted that the State-controlled press did not mention such practices. Several young Cubans who had been unjustly imprisoned were currently staging a hunger strike in order to obtain the release of all political prisoners in the country. All countries and all democratic institutions should support the Cuban people's fight for human rights.

43. Mr. FIRDOUS (European Union of Public Relations) said that the cult of violence was curbing freedom of opinion and expression. Drawing attention to the suffering of the people of Jammu and Kashmir, he said that the period after 1989 had been very difficult for the media in Kashmir, where terrorist groups had prohibited most of the few dozen newspapers published there and had carried out many attacks on media personnel. If the threats and coercive tactics employed by the terrorists and their interlocutors were taken into account, it would not be an exaggeration to say that the population of Jammu and Kashmir had been living under siege for the past 15 years. A reduction in the violence in 1996 had led to the return of press freedom in Kashmir, where some 150 daily newspapers were in circulation in English and Urdu. The situation was not the same, however, in the area of the State under Pakistani occupation, where the concept of a free press did not even exist.

44. The re-establishment of political, social and economic order in Kashmir and the restoration, to a large extent, of democratic values and rights for the people of Jammu and Kashmir were encouraging. The people of Kashmir, who had suffered so greatly for having dared to express their opinions, placed high hopes on the Commission and hoped that it would take a resolute stance to safeguard their life and liberties, and dissuade those who wanted to ruin the peace. Only the dismantling of the terrorist infrastructure across the border would guarantee permanent peace and stability in the region.

45. Ms. BISIAUX (Open Society Institute) said that, in many countries, policies to suppress illicit drug use were extremely harsh and failed to take account of the fundamental rights of

drug addicts, who could be arbitrarily arrested and even imprisoned. In detention, they were frequently denied medical care, which could seriously damage their health. The authorities often considered that drug addicts “deserved” the suffering that they endured in detention, and increasingly presented them as threats to national security, thereby justifying violations of their fundamental rights. For example, in Thailand in 2003, more than 50,000 people, most of whom belonged to ethnic minorities, were arrested in the first three months of the “war on drugs” campaign, and more than 2,000 had been killed.

46. National policies were not the only problem. International conventions on drugs and drug trafficking were often used to justify a “zero tolerance” approach to drug use; that approach had been associated with a range of human rights violations. For example, the Russian authorities had invoked United Nations conventions in order to limit assistance programmes - such as needle-exchange and methadone programmes - for drug addicts. That vulnerable population was being deprived of its basic rights, including the right to health.

47. Ms. KIBRIA (International Institute for Peace) drew the Commission’s attention to the climate of violence, intolerance and impunity that reigned in Bangladesh, and in particular to the assassination of her father, Shah AMS Kibria, the former Ambassador and Permanent Representative of Bangladesh to the United Nations Office at Geneva. Her father had been a renowned statesman and had held several senior positions, including Finance Minister and Foreign Secretary of Bangladesh, as well as Executive Secretary of the Economic and Social Commission for Asia and the Pacific. At the time of his death, he had been a leading member of an opposition party in Parliament and had not been afraid to criticize openly the rise in State-sponsored violence and of Islamic extremism in the country. On 27 January 2005, when leaving a public meeting in his constituency, he had been the victim of a grenade attack, and had died as a result of his injuries in the ambulance in which he was being taken to hospital.

48. Since 2001, there had been 37 bomb attacks in Bangladesh. The list of victims unambiguously showed that a deliberate campaign to eliminate certain persons, including opposition leaders, religious minorities, intellectuals and journalists, was under way. The Government of Bangladesh did not condemn such attacks and did not take any measures to prosecute the perpetrators, which meant that they enjoyed total impunity.

49. On behalf of her family, she urged that an independent inquiry should be carried out, as soon as possible, in order to clarify the circumstances of her father’s death. Those in the international community who were committed to human rights should support the people of Bangladesh in their efforts to establish democracy and peace. The Government must be held accountable for the reign of terror that prevailed in the country and for the failure to abide by international human rights conventions to which Bangladesh was a party.

50. Mr. ASKARY (Organization for Defending Victims of Violence) said that the respect for the right to a fair trial was an indication that freedom and democracy existed in a country. Some States that claimed to be standard-bearers of democracy, exercised double standards, as could be seen from the situation of detainees at the Guantánamo naval base and the violations committed in Abu Ghraib prison. In many developing countries, the rights of persons accused of criminal offences were not respected.

51. In the Islamic Republic of Iran, although defence rights were guaranteed by the Constitution, the police and the judiciary did not apply the relevant provisions in a transparent manner, partly because individuals and the relevant authorities were unaware of their rights and duties and partly because of the vacuum that existed in national legislation. His organization was aware of those problems and was seeking to establish a rapport between judicial authorities and lawyers and legislators and university lecturers, and to raise awareness of international human rights principles among judicial and police officials.

52. His organization, which firmly believed in the Islamic and international concepts of human rights, called on the international community and the Commission in particular, to react to countries that applied double standards in the field of justice.

53. Mr. FATTORINI (Movement against Racism and for Friendship among Peoples) said that his organization was deeply concerned by the climate of intolerance and racism against persons of Arab origin, particularly Muslims, which had prevailed since the rise in international terrorism. At the same time, it unequivocally condemned all acts of terrorism, irrespective of who committed them, and emphasized that terrorist acts were different from acts relating to the exercise of the right to self-determination. He stressed the need to establish objectively the extent of States' responsibility in the development of a terrorist movement. It was well known that many terrorist groups received logistical, military and financial support from certain States.

54. His organization invited the Commission to create a special procedure for the protection of fundamental rights and freedoms in the context of support for terrorist groups and the fight against terrorism, the main objective of which would be to prevent that phenomenon.

55. Mr. Vassilenko (Ukraine) took the Chair.

56. Mr. BUDIAN (International NGO Forum on Indonesian Development) said that Indonesia would have to meet immense challenges in 2005, following the tsunami of 26 December 2004, which had left hundreds of thousands dead and homeless and caused extremely serious material damage, particularly in Aceh. Before the disaster, an emergency law that imposed a range of restrictions on personal freedoms, particularly the right to freedom of expression, had been in force in that province, and it had been almost impossible for journalists, aid workers or human rights defence groups to get permission to visit Aceh, as had been emphasized by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in his report (E/CN.4/2005/64/Add.1). Several incidents had taken place since the beginning of 2005 that demonstrated that freedom of expression was still restricted in Aceh, particularly the fact that Amnesty International had not obtained authorization to visit the area in January 2005 to monitor human rights, the prohibition in February 2005 of a meeting of civil society groups to discuss an alternative blueprint for reconstruction, and the intimidation of villagers who had spoken to former President Clinton and former President George W. Bush during their visit to Aceh.

57. The International NGO Forum on Indonesian Development urged the Indonesian Government to rescind the emergency law that was in force in Aceh, to grant all international bodies permission to visit the province, whether to assist in reconstruction or to monitor the human rights situation, and to invite the Special Rapporteur on the right to freedom of opinion and expression to visit Indonesia.

58. Mr. BROWN (International Humanist and Ethical Union) said that his organization thanked the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance for his report on defamation of religions and global efforts to combat racism (E/CN.4/2005/18/Add.4), and particularly for his recommendations, which encouraged dialogue between cultures and religious traditions. However, his organization, did not share the view expressed in paragraph 54 of the report, according to which a tradition of secularism denied religions the possibility of playing a role in public life. That form of prejudice against Christians, which existed in Europe and the United States, concerned questions relating to sex, marriage and the family. Criticizing Christian views on society was not the same as practising a form of discrimination against Christians themselves. Secularism should not be confused with militant atheism, and he urged the Commission to recognize that a truly secular society - one that was neutral towards all religions - was a necessary protection against religious intolerance.

59. At the Commission's previous session, the International Humanist and Ethical Union had requested the Commission to recognize the distinction between defamation and criticism of a religion, and he emphasized that concerns about defamation must not be used as a pretext for limiting freedom of expression.

60. Mr. BIJLANI (Human Rights Advocates) said that, according to international law, all citizens had the right to vote in genuine elections, by universal and equal suffrage. However, that right continued to be violated through law and fraud. In the United States, persons with criminal convictions were deprived of the right to vote, although that measure was often disproportionate to the offence that they had committed, and was imposed mostly against African Americans. In Saudi Arabia, women did not have the right to participate in municipal elections. New electronic voting systems also threatened the principle of free, regular and transparent elections, since they did not enable a written record of votes to be kept. Fraud continued to be widespread. During the first round of the Ukrainian presidential elections, voting slips had been destroyed and false absentee ballots had been cast. Recently in Romania, voters had been able to vote at several polling stations.

61. Human Rights Advocates called on all nations to comply with the relevant treaties on voting rights, and urged the Commission on Human Rights to authorize an in-depth study of the norms, commitments, principles and good practices in that field. His organization also called on all nations to respect international conventions and, in particular, to guarantee the right to defence of persons arrested and detained in the context of the fight against terrorism. Lastly, he recalled that the torture of detainees was prohibited in all circumstances.

62. Mr. CHEIKH (International Movement of Youth and Students for the United Nations) said that the situation in Western Sahara, which had been occupied by Morocco since 1975, had seriously deteriorated. Repression had been intensified, and members of trade union and student movements received threats, were prohibited from leaving the territory, and were the victims of arbitrary arrests and extrajudicial killings. The statistics demonstrated the gravity of the situation: 200,000 refugees, several hundred missing persons, prisoners of war and persons arbitrarily deprived of their liberty, some 25,000 victims of torture and degrading treatment, and 600 persons disabled by anti-personnel mines. The 2,700-kilometre "wall of shame", which

had been built by the Moroccan authorities, divided the territory and had deprived part of the Saharan population of its freedom of movement for over two decades. The wall was permanently guarded by the army, and symbolized the Moroccan occupation and exploitation of the Saharan people's resources.

63. It was time to end the violation of civil and political rights in Western Sahara and to respect the right of the Saharan people to self-determination. In order to do so, the international community must join forces and use all possible means of pressure to ensure that the Moroccan Government stopped repressing the Saharan people and respected the commitments that it had undertaken by acceding to a number of international human rights instruments, particularly the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

64. Ms. ALBAYATY (Afro-Asian Peoples' Solidarity Organization), recalling that article 7 of the International Covenant on Civil and Political Rights provided for the prohibition of torture, said that, according to a report published in 2004 by the United States State Department, some 850 Palestinians had been interrogated by Israeli secret services each year since 1987. Torture was one of the methods used during those interrogations. By failing to condemn such practices, Israel's High Court condoned them. Furthermore, the Criminal Code of Israel contained an article that authorized the use of torture in the event of a state of emergency. Since the prohibition provided for by article 7 of the Covenant was absolute and no circumstance could be invoked to derogate from it, that provision of Israeli domestic law should be rescinded.

65. There was a tendency throughout the international community not to respect article 9 of the Covenant, which guaranteed the right to freedom and security and the right not to be arbitrarily arrested or detained. For example, Israel regularly took advantage of article 4 of the Covenant to derogate from article 9. Israel could not maintain that a "public emergency" had been threatening its existence for nearly 50 years, and that the measures derogating from its obligations under the Covenant were being taken "to the extent strictly required by the exigencies of the situation", in accordance with article 4. In the United Kingdom, the legislation that had been adopted following the attacks of 11 September 2001, provided for serious infringements of fundamental rights, including the right to a fair trial, and allowed the Home Office to hold suspects in detention for extended periods of time.

66. Her organization urged the Commission to ensure that all States members complied with article 7 of the Covenant, and if necessary, to amend their legislation in order to bring it into line with that instrument, adopt measures to restrict the use of emergency and military courts, increase the independence of the judiciary and scrutinize the situation in States that were taking measures that derogated from article 9 of the Covenant.

67. Mr. FAUTRE (International Helsinki Federation for Human Rights) said that Eritrea was the country where religious freedom was under the greatest threat. Jehovah's Witnesses were the authorities' principal target, and they were arrested in large numbers and deprived of their Eritrean citizenship. Repression also affected Protestants, Catholics and members of the Orthodox Church. He cited several incidents during which many members of those denominations, including children, had been arrested during religious activities.

68. In the Russian Federation, religious freedom had been seriously threatened when Jehovah's Witnesses had been prohibited in Moscow by the decision of a local court. Furthermore, many Protestant congregations were continually denied permission to rent public buildings for worship services. Recently, churches had been destroyed and religious believers, particularly members of the Baptist Church, had been fired from secular jobs. The Roman Catholic Church was facing difficulties obtaining visas for its clergy. The situation was similar in Turkmenistan.

69. Conscientious objectors were often thrown into prison, particularly in Armenia and Nagorny Karabakh, where they were sentenced to four years' imprisonment, and in South Korea. In Uzbekistan, the tactic most commonly used by the authorities to obstruct the activities of religious communities, was to refuse to register them and make them illegal. In closing, he mentioned the case of the wife of an imam in Tashkent, who had been imprisoned for several years and tortured.

70. Mr. BARNES (Indigenous World Association) said that his organization continued its diplomatic protest against the subjugation, domination and exploitation of Alaska and Hawaii by the United States of America, which had used the principles of the federal Indian law to limit the status of indigenous peoples. In cases such as those of Alaska and Hawaii, it was clear that domestic law could not be used to settle international claims. The United States, however, used Supreme Court decisions, presidential decrees and domestic legislation, and had created puppet institutions for the continued exploitation of the internationally recognized indigenous peoples, in defiance of international law on decolonization.

71. Alaska and Hawaii must be recognized as separate international legal personalities with autonomous political institutions, and their peoples must be able freely to express their desire for self-determination. His organization requested the Commission to consider the issue of the international status of the peoples of those two territories, whose right to self-determination had been flagrantly violated.

72. Ms. MOUANDE (International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities) drew the Commission's attention to a long-standing but little known armed conflict, namely the conflict in the Cabinda enclave in Angola, between the Front for the Liberation of Cabinda Enclave and the Angolan armed forces. According to a Human Rights Watch report, the army, as well as some members of the national police force, had committed serious human rights violations against the civilian population, including extrajudicial executions, arbitrary detention, torture and sexual violence, with complete impunity. Other reports by local civil society groups and international NGOs corroborated those allegations.

73. Her organization welcomed the visit to Cabinda by the Special Representative of the Secretary-General on the situation of human rights defenders, Ms. Jilani, who had noted that the fear of reprisals against human rights militants prevented the population from becoming involved in activities for the defence of fundamental rights, and that justice was completely non-existent in many parts of the country, and was very often ineffective. She urged the Commission to put pressure on the Angolan Government so that it ensured that the Angolan army respected the international treaties to which Angola was a party, and to urge it to begin negotiations in order to enable the belligerents to reach a peaceful settlement of the conflict in the Cabinda enclave.

74. Mr. GALLAGHER (General Conference of Seventh-day Adventists) said that religious intolerance and discrimination on grounds of religion were again on the rise: many countries did not respect the generally recognized right to have and express religious opinions, or to change one's religion, and some regimes even imposed the death penalty for changing from one religion to another. Despite the fact that international instruments prohibited discrimination against minorities, some countries had published lists of religious groups described as potentially dangerous sects, and had taken political and legislative measures to combat them. Hundreds of thousands of believers were being treated as second-class citizens.

75. The Seventh-day Adventists actively defended religious freedom, which they considered to be a fundamental human right. While acknowledging that it was necessary to obey the laws of the land, his organization opposed any law, policy or activity that could give rise to discrimination against a religious minority or restrict the free expression of religion. The Seventh-day Adventists were therefore concerned at the treatment of religious minorities in several countries: in Turkmenistan, where the recently instituted process of registering religious organizations was nevertheless a step in the right direction; in Eritrea, where churches had been closed; in some parts of the Russian Federation, where the media and some extremists misrepresented religious minorities; and in some East European countries, where there had been a slide towards domination by the State Church.

76. Ms. NOVASIGIRO (Catholic Institute for International Relations), speaking also on behalf of the Asian Forum for Human Rights and Development and the Netherlands Organization for International Development, drew the Commission's attention to the situation of the judiciary and the danger of continuing impunity in Timor-Leste and Indonesia. Those two countries must find a way of compensating the victims of human rights violations perpetrated by the Indonesian military and local militias during the "popular consultation" in 1999 in Timor-Leste. The two legal mechanisms that had been established for that purpose had been either unwilling or unable, owing to lack of funding or support, to prosecute those responsible, and she welcomed the recent establishment by the Secretary-General of a commission of experts to assess efforts already undertaken and to recommend other solutions. She feared that the Commission of Truth and Friendship, which had recently been established by mutual agreement between the Governments of Indonesia and Timor-Leste, could undermine the ongoing process of judicial reform and the truth-seeking efforts of the Commission for Reception, Truth and Reconciliation in Timor-Leste. In addition to the fact that its mandate violated the Constitution of Timor-Leste, the Commission of Truth and Friendship had been established without regard for the views of victims and civil society groups and was merely a political tool that neglected both national mechanisms and United Nations decisions.

77. The Catholic Institute for International Relations called on the Commission, in any decision concerning Timor-Leste, to urge the Governments of Indonesia and Timor-Leste not to resort to the Commission of Truth and Friendship, since that would hinder the work of other established mechanisms, to support the proposal to establish an international human rights tribunal with a mandate to try the alleged perpetrators of serious human rights violations committed in 1999, and to urge the Indonesian Government to support a multilateral process of transitional justice and to lend official support to the work of the Commission of Experts in order to enable it to accomplish its mandate.

78. Mr. FU (A Woman's Voice International) denounced the persecution of three Chinese religious leaders by the authorities in the People's Republic of China. The first, Cai Zhuohua, a Christian pastor, had been arrested in 2004 for having printed "illegal religious literature", which according to the State-controlled newspaper, constituted the most serious case of foreign religious infiltration since the founding of the People's Republic of China. The arrest had been ordered from the highest level of the Communist Party. According to a fellow inmate, Pastor Cai had been repeatedly tortured with an electric shock baton. Forced to confess, Pastor Cai faces a prison sentence of 10 to 15 years under the current Criminal Code. After demonstrating the use of an electric shock baton, the speaker said that the case would set a precedent for freedom of the press and freedom of religion in China, and would facilitate an understanding of how constitutional laws that were supposed to guarantee those freedoms were actually defined.

79. The second religious leader, Gong Shengliang, had been sentenced to life imprisonment in 2002, following accusations of rape brought against him by several women from his church, who had been tortured into making such accusations. According to eyewitnesses and a report by Amnesty International, he was in poor physical and mental health as a result of his harsh detention conditions. The third leader, Chen Jingmao, had been sentenced to four years' imprisonment in 2002 for having sent his granddaughter to Bible classes.

80. The three cases exemplified the arbitrary nature of justice and the sad state of religious freedom in China, despite the amendments made to the Constitution in order to protect human rights. The Commission should do its utmost to convince China to cooperate with United Nations mechanisms and to desist from persecuting religious minorities.

81. Mr. RUTIHUNZA (Agir Ensemble pour les Droits de l'Homme) drew the Commission's attention to the serious situation of civil and political rights in Rwanda. In its resolution of 30 June 2004, the Rwandan Parliament had stated that the "genocidal ideology" had been spread in the country by churches, including the Catholic Church, foreign NGOs in Rwanda and Rwandan associations. In making that statement, the authorities had attacked those organizations, particularly the Rwandan League for the Promotion and Defence of Human Rights, which was the principal human rights organization in Rwanda. The Government's aim had been to dissolve those organizations in order to prevent any monitoring or complaints of human rights violations, thereby forcing certain persons in authority into exile. Even though that aim had not been achieved, the Government had regained control of the organizations, depriving Rwanda of any independent human rights monitoring mechanism. At the same time, the regime had continued to violate press freedom by harassing the remaining journalists who dared to express a different opinion. Political parties were tolerated only if they pledged their allegiance to the Government. In violation of article 9 of the Universal Declaration of Human Rights, the regime continued to carry out arrests and arbitrary detentions. Some detainees, including the deputy Leonard Kavutse, had never been tried, while others, such as former President Bizimungu, had received harsh sentences during trials that had not respected international norms. Furthermore, enforced disappearances continued to take place.

82. Mr. ANDERSON (International Criminal Defence Attorneys Association) said that his organization brought together lawyers, legal experts and law-related associations that were committed to the rule of law, fairness and a transparent and balanced system of justice. The way that the international community brought to justice persons alleged to have committed the most heinous crimes against humanity would define its capacity to sustain world order.

83. Considerable progress had been made in efforts to end impunity, and the establishment of an international criminal justice system had been a major development. In order to be considered as a credible and legitimate body, the International Criminal Court must maintain a balance between its three pillars: the prosecution, the legal profession and the judiciary; those three pillars must be independent from each other. Since an international criminal court could face enormous pressures, everything possible must be done to enable it to withstand those pressures. The International Criminal Defence Attorneys Association therefore requested that justice within international criminal tribunals should be incorporated into the mandate of the Special Rapporteur on the independence of judges and lawyers.

84. Mr. FOSTER (International Indian Treaty Council) said that it was virtually impossible for American Indian prisoners in the United States to carry out their traditional religious and spiritual practices of healing and rehabilitation. The new restrictions imposed on them included a time limit on the sacred sweat lodge ceremony; compulsory supervision of the ceremony by the prison chaplain; rationing of the firewood needed to heat the stones of the sweat lodge, which undermined the heating of the stones, and reduced the effectiveness of the ceremony; and the discriminatory and racist obligation to use English only during the ceremony, when the native language should be used in order for the songs and prayers to be blessed by the Creator. All those traditional practices and beliefs were very important for the rehabilitation and recovery of indigenous detainees, particularly those with alcohol or drug problems, and all American Indian nations and spiritual leaders needed to be consulted to rectify those new policies. The denial of basic rights and indifference towards spiritual healing were tantamount to a cultural genocide of a young generation of American Indian prisoners.

85. Mr. LITTMAN (Association for World Education), after quoting the statement made at the 10th meeting of special rapporteurs in 2003 by the Chairperson of the fifty-ninth session of the Commission, condemning the personal attacks on NGO representatives who addressed the Commission, drew attention to the use of military tribunals for trying civilians in Egypt. That unjust system had been reintroduced following the assassination of President Sadat in 1981, in cases where offences were considered to fall under the general category "act of terrorism". The Commission should also turn its attention to the serious discrimination and religious intolerance against the Copts in Egypt. Information on that subject, particularly the massacre of 21 Copts in Al-Khoshesh and two specific cases of arbitrary detention, could be found in document E/CN.4/2004/NGO/90.

86. He denounced the confirmation, in February 2005, of the 1989 fatwa against Salman Rushdie, which was one of the grossest violations of freedom of opinion and expression. He called on the Islamic Republic of Iran, the Organization of the Islamic Conference, the relevant special rapporteurs of the Commission and the Commission itself to condemn that decision and to refer to document E/CN.4/2004/NGO/252 on that issue.

87. Mr. PIAL MEZALA (International League for the Rights and Liberation of Peoples) said that, while the spontaneous reaction of democrats and the peoples of Africa to the military and constitutional coup d'état following the death of President Eyadama had led to the defeat of the usurpers, the human rights situation in Togo remained as worrying as ever. Individual and public freedoms had been flouted, since demonstrations had been violently suppressed, many cases of

enforced disappearance, arbitrary arrest and detention had been reported, and independent private media had been shut down. Suitable conditions had still not been established for the holding of free, transparent and democratic presidential elections on 24 April 2005, since the elections would be placed under the surveillance of over 3,500 gendarmes and police officers responsible for the coup d'état and the human rights violations that had followed.

88. His organization, which was extremely worried about the situation and the risk of the perpetuation of the dictatorship in Togo, recommended that the Commission should invite Togo, which was a State member of the Commission, to ensure scrupulous respect for human rights and individual and public freedoms in the spirit and letter of the 22 commitments undertaken by the Togolese authorities before the European Union; to facilitate the establishment of an international commission of inquiry on violations of the provisions of the Togolese Constitution and human rights that had taken place since 5 February; to bring the perpetrators of those violations before competent courts; to make efforts to organize credible elections in Togo, by allowing the presence of national and international, and civilian and military observers; to invite the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Working Group on Arbitrary Detention; and to make the declaration under article 34, paragraph 6, of the Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and People's Rights in order to enable Togolese citizens and NGOs to use that innovative tool for combating impunity.

89. Ms. HEREDIA (Latin American Federation of Associations of Families of Disappeared Detainees) said that her organization deplored the continuing disappearances of detainees in Latin America and elsewhere, as well as the absolute impunity enjoyed by the perpetrators. Although there had not been any dictatorships in the Southern Cone for over 20 years, and peace agreements had long ago been signed in Central America, little progress had been made and the structures that had been established at the time still existed, thus allowing those responsible for disappearances, torture and murder to go unpunished in Chile, in Brazil, in Uruguay, in Colombia, where six or seven persons disappeared each day, and in Guatemala, where human rights defenders were attacked. There was still no international norm to protect all persons from the crime of enforced disappearance. The work of the Working Group established for that purpose was trammelled by the presence of certain countries that wanted to change the nature of that crime, which had been clearly defined in the General Assembly Declaration of 1992 and in the Inter-American Convention of 1994, and to reduce the inescapable responsibility of States to protect and guarantee the full exercise of human rights. At the same time, her organization welcomed the progress made by the Working Group and the active participation of representatives of nearly 75 countries and organizations in its sessions.

90. Her organization would continue to promote the adoption of a convention supported by a permanent commission that would oversee its implementation in all countries and would guarantee monitoring and the imposition of sanctions against those who continued to resort to enforced disappearances and other crimes against humanity to control social movements.

91. Mr. ANTHONY (Asian Legal Resource Centre) regretted that, although Sri Lanka had reaffirmed its determination to protect human rights, particularly by acceding to certain international instruments, it was not developing the mechanisms that would enable it to implement those instruments. The State party should enact legislation to implement the

Optional Protocol to the International Covenant on Civil and Political Rights, otherwise its accession to that instrument would remain a mere exercise in external diplomacy without any meaning for the protection and improvement of human rights.

92. The same applied to the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which had not been followed by local procedures to enable its implementation; that could endanger torture victims seeking redress under the Convention. Without protection, some had been tortured again in order to prevent them from giving evidence in criminal cases. Since it took an average of five to seven years or more for a criminal case to come to trial, it was virtually impossible to protect complainants from intimidation or worse when the accused were agents of the State. It was the duty of all States parties to an international instrument to adopt laws to ensure its implementation, and to allocate adequate funds for training, investigation, prosecution and judicial proceedings relating to crimes in general and gross human rights violations in particular. His organization therefore urged the Government of Sri Lanka, which constantly affirmed its allegiance to United Nations human rights mechanisms, to take the necessary steps to implement its human rights obligations.

Statements in exercise of the right of reply

93. Ms. SINJELA (Observer for Zambia) said that, in his report, the Special Rapporteur on the right to freedom of opinion and expression had mentioned that the judge responsible for ruling on the deportation order by the Zambian Government against Mr. Roy Clarke had cancelled that order within the 40-day time period in which a ruling had to be made. Mr. Clarke was still residing in Zambia, where he continued to exercise his right to freedom of opinion and expression.

94. Regarding the allegations that Mr. Ngola had been tortured while he was in detention, which was mentioned in the report of the Special Rapporteur on the question of torture, she said that neither the arrest nor the detention of that person could be found in police registers or in prison registers. That information had been communicated to the Special Rapporteur, and the Zambian Government was awaiting his reply. It should be pointed out that, as the Special Rapporteur himself had stated, Mr. Ngola was a mercenary who should be handed over to the Angolan authorities. Zambia had ratified the Convention against Torture and was fulfilling its obligations under that instrument.

95. Mr. DANG TRAN NAM TRUNG (Observer for Viet Nam) categorically rejected the allegations made by the representative of the Transnational Radical Party, which were mainly motivated by political considerations and not by the desire to defend freedom of religion. Considerable progress, which had been acknowledged by the whole world, had been made in the field of human rights in Viet Nam, where the rights to freedom of belief and religion and freedom of assembly were guaranteed by the Constitution and implemented through various policies and regulations. Religious or political repression simply did not exist in Viet Nam.

96. Mr. KAVRUGANDA (Observer for Rwanda) said that the allegations made by the organization Agir Ensemble pour les Droits de l'Homme with regard to violations of the right to freedom of opinion and expression, and to arbitrary detention and forced disappearances in Rwanda were completely unfounded. He would therefore not waste the Commission's time by refuting in detail the allegations that the NGO in question had made against Rwanda.

97. Mr. BAGLAY (India), referring to the statement made by the delegation of Pakistan under agenda item 11 concerning an Indian State, recalled that Pakistan was occupying Jammu and Kashmir. Pakistan would do better to end that illegal occupation and allow the people of Jammu and Kashmir to live in freedom, dignity and democracy, rather than wasting the Commission's time with political considerations.

98. Mr. MARDALIYEV (Observer for Azerbaijan) reminded the representative of the International Federation for Human Rights, who had referred to human rights violations committed in Nagorny Karabakh, that Nagorny Karabakh was currently occupied by Armenia, although it still constituted an inalienable part of Azerbaijan, the territorial integrity of which had been recognized by the entire international community.

99. Mr. KHAN (Pakistan), replying to the comments made by the representative of India, said that India had demonstrated the incapacity of existing human rights protection mechanisms to alleviate the suffering of the people of Indian-occupied Kashmir. The Indian security forces had killed 80,000 Kashmiris in the context of violent repressive measures to keep the territory under Indian occupation. While Pakistan was continuing the dialogue with determination and optimism, India was stepping up its barbaric practices against the Kashmiri people. His delegation therefore urged the Commission on Human Rights to intervene in order to bring an end to the violence committed against the Kashmiris by the Indian forces.

The meeting rose at 12.55 p.m.