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HUMAN RIGHTS COUNCIL

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-eighth session

SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 18 August 2006, at 10 a.m.

Chairperson: Mr. BOSSUYT

later: MR. ALFONSO MARTÍNEZ
(Vice-Chairperson)

later: Mr. BOSSUYT
(Chairperson)

later: Mr. CHUNG
(Vice-Chairperson)

later: Mr. BOSSUYT
(Chairperson)

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The meeting was called to order at 10.10 a.m.

SPECIFIC HUMAN RIGHTS ISSUE:

- (a) WOMEN AND HUMAN RIGHTS
- (b) CONTEMPORARY FORMS OF SLAVERY
- (c) TERRORISM AND COUNTER-TERRORISM
- (d) NEW PRIORITIES

(agenda item 6) (continued) (A/HRC/Sub.1/58/23, 27 and Add.1, and 30; A/HRC/Sub.1/58/CRP.6 and CRP.11; A/HRC/Sub.1/58/NGO/5)

1. Ms. PARKER (International Educational Development) said her organization had raised a number of issues with the Working Group on Contemporary Forms of Slavery and could attest to certain positive improvements in human rights in some countries as a direct result of the Working Group's deliberations. Such outcomes were sufficient justification to maintain the Working Group following the reform of United Nations human rights mechanisms.

2. In general, her organization would regard any termination of the Sub-Commission's important work on issues under agenda item 6 as a tragic loss. Steady progress had been noted on the principles and guidelines concerning the promotion and protection of human rights when combating terrorism, for example. The development of guidelines could only start with an expert body, as States could never be sufficiently neutral to promote human rights in that manner, and her organization strongly urged that that work should be allowed to continue.

3. Ms. VERZEGNASSI (European Union for Public Relations) said no war on terror would be successful until the international community made a concerted effort to address the role Pakistan played in contemporary terrorism. There had not been a single recent major terrorist incident anywhere in the world in which Pakistan's name had not surfaced during investigations. The question was why, for 15 years, terrorist groups of all persuasions had found Pakistan a convenient base.

4. The answer lay in the power of Pakistan's armed forces, which were obsessed with destabilizing India and regaining control of Jammu and Kashmir and had close links with extremist religious forces. That nexus had fostered the growth of terrorist groups, initially active in Kashmir but now, in many cases, working for Al-Qaida in other parts of the world.

5. Although the Government of Pakistan touted its role as a front-line ally in the war on terror, the reality was different. Terrorist groups, including one banned by the United States of America, continued to operate freely in Pakistan and, in the guise of charitable organizations, to raise enormous sums of money. Senior members of the Government protected and conferred legitimacy on such groups.

6. Despite President Musharraf's rhetoric, little had been done to curb the activities of the madrassas, which used a religious idiom to impart an ideology of hate and aggression to susceptible minds. If terrorism across the world was to be eradicated, Pakistan's army must be returned to its barracks and genuinely democratic government installed.

7. Mr. BEUTLER (Worldwide Organization for Women), speaking also on behalf of the Association of World Citizens, said all States should share responsibility for regulating the use of the human genome, which was part of humanity's common heritage. Guidelines were needed for gene and drug therapy, and for experimentation, all of which raised a series of ethical and legal issues relating to privacy and the uses of genetic information, and the possible impact on individuals, society and specific groups such as women or indigenous peoples.

8. Such complex issues required careful reflection and public awareness-raising, and resources for education should be made available. His organization wholeheartedly supported the important work Ms. Motoc had done and would, he hoped, continue to do in the area of bioethics and biotechnology.

9. Mr. JOSHI (Commission to Study the Organization of Peace) said his organization wished to draw the Sub-Commission's attention to the increase in terrorism in South Asia. The victims often found themselves deprived of their fundamental rights, and poorer and less developed communities were disproportionately affected as they had no safety net. Many were homeless in their own homeland, and others were forced to migrate. Referring to the Secretary-General's report in document A/60/825, he welcomed the call for States to put mechanisms in place to assist victims with the transition back to a dignified and fruitful life (para. 14).

10. Those who claimed religious sanction for terrorist activities were not true believers, for the killing of innocent persons was prohibited in all religions. Yet some madrassas imparted extremist ideologies that promoted a culture of violence and intolerance. Whatever the underlying objectives, the use of force and the killing of civilians was not excusable or acceptable.

11. Ms. JOURDAN (Association of World Citizens) said increasing numbers of displaced persons and asylum-seekers were making their way to less troubled countries than their own, only to find that they had little chance of obtaining legal documentation and therefore of making themselves a life in which they enjoyed the most basic human rights. Whatever action was taken to help displaced persons and refugees in their own countries, the problem of people without legal status in Europe would remain. In the face of ever tighter legislation and with no obligation on States to ensure the enjoyment by undocumented individuals of such basic human rights as access to food, housing and medical care, she asked the Sub-Commission to conduct a special study on the situation of such people.

12. Ms. BELHADI (Association Tunisienne des Droits de l'Enfant), speaking in response to the statement made by the International Federation of Human Rights Leagues (FIDH), said that statement had amounted to a violent attack on Arab countries, accusing them of misogyny, hypocrisy and violations of women's rights. Such hasty generalizations ill became a human rights NGO.

13. All objective observers and experts in the area of women's human rights were of the view that Tunisia's legislation on women's rights was among the most advanced, not only in the Arab and Muslim countries, but in the world as a whole.

14. The Personal Status Code, introduced in 1956, had brought about a change in men's and women's mentalities and had also established an equal partnership between spouses that had paved the way for women's full development. Tunisian law also protected women's property rights within marriage and the rights of children born out of wedlock, and all forms of discrimination within the family and in labour and contract law had been eliminated.

15. To outside observers, Tunisian women were emancipated citizens whose legal, social, economic and political status was no different from that of men. Further improvements with regard to the minimum age of marriage and the protection of the rights of divorced women had recently been announced.

16. Mr. Alfonso Martínez, Vice-Chairperson, took the Chair.

17. Mr. GOLTYAEV (Observer for the Russian Federation) said that in recent years there had been a sharp increase in the number of new phenomena and trends that threatened the basic principles and standards of human rights protection. Terrorism was one of the greatest threats, since it had no boundaries, race, nationality or religion. Taking account of the threat posed by terrorism, the Russian Federation welcomed the attention that the Sub-Commission paid to the issue. The Sub-Commission's role as an intellectual expert forum for the study of new threats, including terrorism, could not be overestimated, and the work of the Special Rapporteur, Ms. Koufa, was particularly valuable.

18. The Russian Federation welcomed the considerable attention paid by the Sub-Commission to the issue of human rights and terrorism and supported the wish of the experts to continue investigations in that regard in the context of the new expert body. His delegation believed that the intellectual capacity of the Sub-Commission was required more than ever before. In that regard, he wished to emphasize the importance of striking a balance between guaranteeing human rights in counter-terrorism operations and protecting the rights of victims of terrorism, which was particularly relevant in the context of considering the responsibility of terrorists and terrorist groups in respect of violations of human rights standards.

19. Ms. VADIATI (Observer for the Islamic Republic of Iran) said that, despite commendable progress in efforts to eradicate terrorism, the international community still faced a number of hurdles. In particular, the abuse of the fight against terrorism on the part of certain cultures and religions in order to spread hatred and bigotry and demonize other cultures and religions could well prove to be no less serious than terrorism itself.

20. The statement made by the representative of UN Watch at the previous meeting had included allegations against her country, which had itself been the victim of terrorist acts. Such attempts to further a political agenda and evade responsibility for crimes against humanity and genocide in Lebanon and Palestine were part of a scheme to deflect attention from the root cause of all tensions in the Middle East, namely, occupation and State terrorism, including the illegal detention of thousands of Arabs and violations of their rights.

21. Thus the supporters of the occupying Power sought to excuse its recent failure in the face of growing resistance in Palestine and Lebanon, whose aim was to restore their legitimate right to territorial integrity and self-determination.

22. It was regrettable that, during an important phase of transition and reform, the Sub-Commission had had to hear a highly political statement encouraging aggression against a United Nations Member State.

PREVENTION OF DISCRIMINATION:

- (a) RACISM, RACIAL DISCRIMINATION AND XENOPHOBIA
- (b) PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES
- (c) PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

(agenda item 5) (continued) (A/HRC/Sub.1/58/22; A/HRC/Sub.1/58/CRP.2 and CRP.7)

23. Mr. ALFREDSSON, Chairperson-Rapporteur of the Working Group on Minorities, introducing the Working Group's report on its twelfth session (future A/HRC/Sub.1/58/19, circulated in the meeting room), said he considered the standing working groups to be possibly more valuable than the Sub-Commission itself. They constituted the "grass roots" basis of the Sub-Commission's work and came in closer contact with reality than did the plenary. The Working Group on Minorities was no exception, as attested by the fact that the largest component in the extremely well-attended meetings of the Working Group had been the representatives of minorities themselves.

24. In the course of its twelfth session, the Working Group had heard numerous statements by minority representatives, Governments, academics and NGOs, on minority situations, on possible solutions to the problems facing minorities and on the future of the Working Group itself. That debate was summarized in the report.

25. The dialogue function of the Working Group had been severely handicapped by the reduction in allocated meeting time. On the other hand, the Working Group had benefited greatly from the active participation of Ms. Gay McDougall, the Independent expert on minority issues of the Human Rights Council, who had the mandate and, in his view, the will, to deal with many of the situations presented to the Working Group.

26. The Working Group had adopted by consensus a series of recommendations reflecting its work and its desire to maintain such an expert forum with open access to, and full participation by, minority groups. In that regard, he also drew attention to annex IV of the report, which contained a statement on the future of the Working Group by more than 70 representatives of minorities and NGOs.

27. Lastly, he thanked the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Secretary of the Working Group and her staff, and Minority Rights Group International for their contributions to the work of the twelfth session.

28. Mr. BÍRÓ said that although over the past 10 to 15 years progress had been made in respect of minority issues at the international level, and in some cases at the national level, the Working Group on Minorities should be preserved under the aegis of the new advisory body, and should be given at least five days of meeting time per year. He had observed the Working Group's discussions, and had been impressed by the large number of minority representatives attending and the high quality of the statements made. The Group was a very important forum for dialogue and exchange of ideas and good practices, and must continue to operate as such.

29. Certain problems remained to be solved, including the recognition of minorities. There were still countries in which the existence of minorities was not officially recognized, and there were situations where groups that were considered minorities preferred not to be treated as such and would rather be referred to as "peoples" or "nationalities". He hoped that the continuation of the mandate of the Working Group would help to settle that matter. Collective identity should be defined, as should the ways and means of preserving and developing that identity and transmitting it to future generations. The issue of funding for minority institutions also needed to be addressed. Although the issue of autonomy was under discussion at the international level, little progress had been made. Minority participation in public life had been discussed in the Council of Europe for six years, and although a number of schemes and proposals had been developed, the issue had not been resolved. The question should be discussed further in the Working Group of the Sub-Commission or their successor bodies.

30. Mr. Bossuyt (Chairperson) resumed the Chair.

31. Ms. MOTOC said that the high quality of the work conducted by the Working Group on Minorities and the statements made during its sessions made it a model of good practice for the other working groups of the Sub-Commission. She wondered what were Mr. Alfredsson's views on how the Working Group should approach the issue of the distinction between indigenous peoples and minorities, since a number of representatives participated in the sessions of both the Working Group on Minorities and the Working Group on Indigenous Populations. In some areas, particularly in Africa and Asia, there was no formal distinction between indigenous peoples, tribes and minorities. On the issue of new minorities, she wished to know whether the rights of groups which did not have a long-standing relationship with the territory of the country in which they resided were covered by the norms of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. She also wished to know whether new immigrant groups would be protected by laws on minorities, in the event that the State where they were resident was not party to international instruments on migrants, and provided that they were willing to be recognized as minorities. On the issue of the Roma, several initiatives had been taken by the Council of Europe, which had accepted that the Roma should have the status of a European minority. Traditionally, under international law, minorities belonged to a particular State. She wondered whether the acceptance of the concept of regional minorities could be envisaged at the level of international law. She supported the proposals for the continuation of the Working Group.

32. Ms. WARZAZI said that migrant workers often faced discrimination. They should be treated as human beings, and respect must be ensured for all their rights, beginning with respect for their dignity. Europe was increasingly barricading itself in, through the strengthening of laws, although that would not solve the problem of illegal immigration. All efforts to address that problem should take its root causes into consideration. On the issue of legal migrant

workers, it was appropriate to consider the definition of the term “minority”, which had been established by a member of the Sub-Commission some years previously. According to that definition, minorities were groups of people permanently resident in the territory of a State, with national, ethnic, religious, linguistic, cultural or traditional characteristics different from those of the people in that State, and who wanted to preserve those characteristics. That definition could be applied to migrant workers. All studies, particularly those by the Organisation for Economic Cooperation and Development (OECD) showed that European countries would require a large number of migrant workers in the coming years, since their own populations were aging and their social security systems could not provide pensions for all of their nationals that required them. Migrant workers would therefore contribute considerably to the economic development of their host countries. Immigration should therefore not be considered as a negative phenomenon, but rather as an element of progress and rapprochement between countries.

33. Turning to illegal immigration, she said that all those who subjected themselves to dangerous journeys to developed countries did so only through genuine necessity. The increasing flow of migrants to rich countries constituted a serious problem for transit countries such as Morocco. Morocco had recently organized a European-African conference on illegal migration, during which many issues had been raised and a plan of action had been adopted for European assistance in African development, with a view to improving living and working conditions in Africa as a means of reducing migration to Europe. Such cooperation should put an end to European selective migration policies, as a result of which several million Africans with further education qualifications had chosen to live in Europe, thus depriving their countries of origin of their contribution to society.

34. Mr. BENGGOA said it was particularly important to maintain the Working Group on Minorities, or a similar forum, under the new advisory body to the Human Rights Council, since it was the only forum on minority issues that existed in the United Nations system. The recommendation to maintain the Working Group had been supported by minority group representatives. Such a forum was particularly important, since the majority of conflicts in the world had a considerable impact on minority groups. He wished to draw the attention of the members of the Sub-Commission to the report of the Regional Workshop for the Americas entitled “Strategies for the inclusion of people of African descent in programmes to reduce poverty, especially to achieve Millennium Development Goal 1” (E/CN.4/2006/23). That meeting, held in November 2005 at Chincha, Peru, had been particularly significant. Among others, Mr. Doudou Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and Ms. Gay McDougall, Independent expert on minority issues, had participated in the Workshop. The meeting had led to the adoption of the Chincha Declaration, which set out the challenges facing persons of African descent, particularly in respect of development and poverty. That Declaration had been widely disseminated and had received considerable publicity.

35. Mr. ALFREDSSON, Chairperson-Rapporteur of the Working Group on Minorities, thanked the members of the Sub-Commission for their support for the continuation of the Working Group. On the issue of the definition of minorities, many proposals had been discussed over the years, and although a final definition had not been set, minorities were easily recognized. Minorities had national, ethnic, religious or linguistic characteristics that distinguished them from the rest of the population, they identified themselves as a minority group, they constituted less than 50 per cent of the population of a State, and they had been

resident in that country for some time. Although the specific length of time it took for a group to be considered as a minority was undefined, it was clear that a group could not be considered a minority immediately upon arrival in a State. He considered one or two generations to be an appropriate time frame, since third generation immigrants often felt more affiliation with the host country than with their grandparents' country of origin. Some States afforded minority status to immigrants at an earlier stage, which was a positive policy. However, minority status should not be extended to new arrivals, since that would reduce the importance of minority rights. Other instruments were in place to protect the rights of new arrivals. He hoped that in future, the Working Group and the Sub-Commission, or their successor bodies, would focus their dialogue on finding solutions to real problems, rather than on the issue of definition.

36. Although he had been disappointed by the Council of Europe's Framework Convention for the Protection of National Minorities, since its standards were weaker than those that had been adopted in instruments of other international organizations, he acknowledged that the work of the Advisory Committee monitoring that Framework Convention had resulted in the strengthening of a number of its provisions. Turning to the issue of a European regional minority, he said that many minority groups had histories, traditions and customs that led them to cross national borders, such as the Sami in Scandinavia and indigenous North Americans. He did not consider there to be any specific benefit in labelling the Roma as a regional minority, unless the European Union was to be viewed as a super-State. The Roma had a right to cross national borders in accordance with their traditions within their right to culture.

37. Mr. SORABJEE said that a minority could be held to exist if certain criteria were satisfied, and Governments should be made aware that the existence of a minority did not depend on a Government's recognition or acceptance. Moreover, the size of a minority or its ratio to the population as a whole was not necessarily decisive. For example, blacks under the apartheid regime in South Africa had been a minority because of their non-dominant position in the country. It was important to continue working towards a sound and workable definition of a minority.

38. Mr. Asbjørn Eide, a former member of the Sub-Commission, had written a useful commentary on the articles of the 1992 Declaration on Minorities.

39. Mr. YOKOTA, Chairperson-Rapporteur of the Working Group on Indigenous Populations, introduced the Working Group's report on its twenty-fourth session (A/HRC/Sub.1/58/22). The session had taken place immediately before the session of the Sub-Commission and had been attended by representatives of 33 Member States, the Holy See, United Nations organizations and a large number of indigenous peoples and NGOs. A total of 583 participants had been accredited and the de facto participation had probably been even larger because the Working Group traditionally opened its sessions to organizations that did not enjoy consultative status with the Economic and Social Council. Three members of the United Nations Permanent Forum on Indigenous Issues had also attended.

40. The Working Group had lost one working day on account of the Swiss national holiday. Further constraints had been the parallel meeting of the Social Forum and uncertainty regarding the future of the Working Group and the Sub-Commission. The time for in-depth substantive discussion had therefore been limited. However, he had been encouraged by the many pertinent and constructive statements made in difficult circumstances.

41. The agenda had been expanded to include an item on the future of the Working Group. Annex III to the report contained the outcome of the discussion in the form of recommendations to the Sub-Commission.
42. Annex IV listed a number of new topics which representatives of indigenous peoples felt that the Working Group or its successor body should consider in the future.
43. The principal theme discussed by the Working Group was the utilization of indigenous peoples' lands by non-indigenous authorities, groups or individuals for military purposes. Statements had been made by 3 governmental observers and 66 indigenous representatives. Several States had exercised the right equivalent to the right of reply. The debate had been lively and constructive but the militarization of indigenous land presented a major challenge.
44. Under the agenda item on standard-setting, he had prepared a paper on revised principles and guidelines on the heritage of indigenous peoples jointly with a representative of the Saami Council (E/CN.4/Sub.2/AC.4/2006/5). He had benefited greatly from the assistance of a representative of an indigenous community because, however knowledgeable a member of the Working Group might be regarding indigenous issues, he or she could not really share the feelings of peoples who were faced with such problems in their daily lives. He hoped that the revised principles and guidelines would eventually become an official United Nations instrument.
45. A number of important new topics for study or standard-setting were set out in paragraph 27 of the report. They included a study on the impact of landmines on indigenous peoples, a study on the participation of indigenous peoples in international sports, a global mapping exercise on the occupation of indigenous lands for military purposes, and a study on best practices regarding affirmative action for indigenous peoples.
46. At its first session the Human Rights Council had adopted the draft United Nations Declaration on the Rights of Indigenous Peoples, which had originated in the Working Group. It was to be hoped that the General Assembly would endorse the draft Declaration as soon as possible. Indigenous representatives had proposed that commentaries on its provisions should then be elaborated.
47. The Working Group had also discussed the Second International Decade of the World's Indigenous People, cooperation with other United Nations bodies, follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the state of the United Nations Voluntary Fund for Indigenous Populations.
48. He urged the Sub-Commission to support the conclusions and recommendations set out in section VII of the report.
49. Mr. BENGUA said that 2006 had so far proved a particularly important year for indigenous peoples, with the adoption of the draft Declaration by the Human Rights Council. It would be interesting to undertake a comparative study of the version adopted some years previously by the Sub-Commission and that adopted by the Council in order to identify the strengths and weaknesses of the later version. A strong point was the recognition in article 3 of the right of indigenous peoples to self-determination. Article 4 was also very important, since it

gave indigenous peoples the right to autonomy in matters relating to their internal and local affairs. The Working Group on Minorities had been working for many years to achieve the same right on behalf of minorities.

50. Article 28 recognized indigenous peoples' right to redress and compensation, which was a new departure in international law.

51. Turning to the draft Declaration's shortcomings, he noted that the negotiations had changed a coherent text into one vitiated by disorder, repetition and ambiguity. Some articles could be clarified only in the light of the legislative history. He felt that the entire United Nations standard-setting procedure stood in need of reform in the interests of producing sound and coherently drafted human rights standards.

52. Nonetheless, the draft Declaration was a commendable achievement of the Sub-Commission and should be mentioned in the resolution on indigenous peoples submitted to the Council or in a separate resolution urging the General Assembly to adopt it before the end of 2006.

53. Mr. ALFONSO MARTÍNEZ said that the Working Group had been in existence for almost 25 years but its future was about to be reviewed by the Council. The important work accomplished at the recent session demonstrated its continuing potential as a body that had helped to end the social alienation of enormous numbers of indigenous people all over the world. Annex III contained the results of the Working Group's reflection on its future activities and functions.

54. He had been involved in drafting the earliest version of the draft Declaration. Article 3 and its corollary in article 4 reflected just one form in which the right of self-determination could be exercised under the Charter of the United Nations. The right of self-determination that had been exercised, for instance, by the Baltic States when they seceded from the Soviet Union fell into a different category. He agreed that a great deal could be learned from the legislative history of the draft Declaration but it was still clear from the final version of article 4 that the right to autonomy or self-government was cited as one example of self-determination.

55. The draft Declaration had now been referred to the General Assembly for adoption, hopefully by consensus but possibly by a roll-call vote. Although it had not been wholeheartedly endorsed either by States or, more importantly, by the representatives of indigenous communities, it had seemed advisable to end the negotiations since any further discussion would have diluted the norms still further. He urged the Sub-Commission to let events take their course and to refrain from making a recommendation to the General Assembly, since it might simply reopen old wounds among those who opposed parts of the draft Declaration.

56. Ms. MOTO commended the Working Group on Indigenous Populations for its effectiveness. She had experienced at first hand the effect on indigenous communities of efforts by the Working Group to promote guidelines for implementing the principle of free, prior and informed consent. The adoption by the Human Rights Council of the draft United Nations Declaration on the Rights of Indigenous Peoples was among the major achievements of the Sub-Commission, and was the culmination of many years of work.

57. She concurred with a recommendation made by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people that greater attention should be given to customary indigenous law, which was sometimes referred to as unofficial law. Recourse to that form of law might be effective in resolving legal conflicts in States with indigenous populations.

58. She wished to know how members of the Working Group on Indigenous Populations envisioned the future role of women in indigenous communities, which was a topic that had not received adequate attention. That issue would best be addressed in cooperation with the indigenous community in order to build knowledge and improve understanding of the subject.

59. Mr. KHAN (Observer for Pakistan), speaking on behalf of the Group of the Organization of the Islamic Conference (OIC), said that over the years, the Sub-Commission's focus on the issue of the prevention of discrimination had been its strong suit. Incitement to racial and religious hatred was on the rise, and tensions between Europe and the Islamic world had risen with the publication of the caricatures of the Prophet Mohammed in a Danish newspaper the previous year at great human, political and financial cost. The newly created Human Rights Council, at its first session, had adopted a decision expressing deep concern over the increasing trend of defamation of religions and incitement to religious hatred. The Council planned to revisit the subject in subsequent sessions in the context of article 20, paragraph 2, of the International Covenant on Civil and Political Rights, which read: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." The fact that there were approximately 50 million Muslims living in Europe and millions more in other parts of the Western world lent urgency to the matter. Although the countries of Western Europe had adopted wise policies of multiculturalism and integration, those policies were being threatened by a rising tide of xenophobia and Islamophobia.

60. As a result of terrorist attacks, Muslims were increasingly being collectively profiled as extremists, overlooking the fact that Muslim Governments around the world were formulating moderate policies and promoting harmony and coexistence. The effect of such campaigns was that moderate law-abiding Muslim citizens in Europe and North America felt vulnerable even when performing their roles as citizens in their countries of adoption.

61. The OIC believed that attention should be given to filling the existing gaps in international law to combat defamation of religions. It believed that no tension existed between respect for religions and freedom of thought. Freedom of expression, on the other hand, was not absolute and was subject to respect of the rights and reputations of others. There was a need for strong international laws to ensure respect for religions, to create a deterrent against incitement of hatred, and to deliver justice. Over the years, the Sub-Commission had contributed impressively to the development of international law. As it was recasting itself as an expert body, the Sub-Commission could provide comments and suggestions on that pressing issue and guide the Council in filling that gap.

62. Yet laws, however detailed, were not alone adequate. Ongoing dialogue between nations was needed, as well as greater knowledge of Islam in the West and of the West in Muslim countries. That would help to combat negative stereotyping and to reinforce positive images. In the Islamic world, efforts were being made at the political and ideological levels to counter the forces of obscurantism and extremism. The previous year, the OIC had announced its 10-year programme for the promotion and protection of human rights, and it had plans to elaborate a charter on human rights.

63. Mr. ALFREDSSON said that the Working Group on Indigenous Populations was one of the most important forums within the Sub-Commission; its continued existence was in the interest not only of indigenous peoples but also of Member States and the international community. He welcomed the draft United Nations Declaration on the Rights of Indigenous Peoples, which was one of the Working Group's most impressive accomplishments.

64. Mr. GUISSÉ said that the term "right to self-determination" had frequently been used in the context of a people asserting its right to independence and international sovereignty. Members of the Working Group on Indigenous Populations should be more circumspect with regard to its use, as it might be construed by indigenous groups as encouragement to secede from the States in which they lived. It would be useful to devise an alternative expression that reinforced the notion that indigenous peoples belonged to a State in the international sense of the term.

65. Ms. Chung, Vice-Chairperson, took the Chair.

66. Ms. MBONU said that she fully endorsed the comments made by Mr. Guissé. She had always maintained that the Sub-Commission should not use the term "self-determination" when referring to issues concerning indigenous populations. It was not the purpose of the Working Group on Indigenous Populations to promote the territorial disintegration of Member States.

67. Ms. O'CONNOR said that the need to recognize and respect the cultural rights of minority groups had become even more urgent given that those rights were being violated in a new way: traditional herbs and medicines that had been used for millennia by such groups were being patented by outsiders, forcing members of minority communities to buy back what was actually theirs. Immediate attention should be given to that matter and assistance provided to the members of minority groups in order to enable them to patent their traditional remedies before it was too late.

68. Mr. Bossuyt, Chairperson, resumed the Chair.

69. Mr. YOKOTA, Chairperson-Rapporteur of the Working Group on Indigenous Populations, said that a number of participants at the Group's recent session had expressed the view that the Group or its successor body should prepare commentaries to each of the provisions of the draft United Nations Declaration on the Rights of Indigenous Peoples following its adoption by the General Assembly. The procedure was designed to elaborate on the provisions in such a way as to enable them to be interpreted coherently and progressively while ensuring indigenous populations the enjoyment of the rights contained in the draft Declaration.

70. He pointed out that the Working Group on Indigenous Populations was the most accessible body of the United Nations human rights mechanisms for indigenous people to air their grievances and engage in constructive dialogue. It was important for its successor body to maintain that same aspect of accessibility. Many representatives of indigenous peoples, while welcoming the adoption by the Council of the draft Declaration, pointed to the need for a follow-up mechanism within the United Nations to monitor its implementation by Member States.

71. He agreed that many issues facing indigenous peoples could be resolved peacefully and equitably through the use of traditional customary law. There was an opportunity for the Working Group or its successor body to undertake studies on the customary rules of each indigenous people. He agreed that some traditional customary rules of indigenous populations could, in effect, restrict the role and status of women, posing a challenge in terms of reconciling respect for their laws with respect for the rights of women. The solution was a cooperative effort to be undertaken by Member States and the indigenous peoples.

72. Self-determination had been one of the most difficult issues involved in the process of drafting the draft Declaration. Generally speaking, the right to self-determination was increasingly being understood as the right to autonomy, rather than the right to independent statehood.

The meeting rose at 1 p.m.