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COMMISSION ON HUMAN RIGHTS

Sixtieth session

SUMMARY RECORD OF THE 47th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 14 April 2004, at 10 a.m.

Chairperson: Mr. SMITH (Australia)

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

REPORT OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(b) ELECTION OF MEMBERS (agenda item 16) (continued) (E/CN.4/2004/82 and Add.1)

1. The CHAIRPERSON invited the Commission to elect, in a third secret ballot, a candidate from the African Group to fill the remaining vacancy on the Sub-Commission.
2. Mr. DEMBRI (Observer for Algeria) said that the composition of the Sub-Commission should reflect the plurality of legal systems, cultures and societies present within each regional group. Given that North Africa was already well represented on the Sub-Commission, Algeria withdrew its nomination of Ms. Leïla Zerrougui as candidate for re-election.
3. The CHAIRPERSON announced that Cameroon, Sierra Leone and Togo had also withdrawn their candidates for election.
4. At the invitation of the Chairperson, Mr. Al-Faihani (Bahrain) and Mr. González-Sanz (Costa Rica) acted as tellers.

A vote was taken by secret ballot.

Number of ballot papers: 53

Number of valid ballots: 53

Number of members voting: 53

Required majority: 27

Number of votes obtained:

Mr. Fisseha Yimer (Ethiopia) 23

Ms. N.U.O. Wadibia-Anyanwu (Nigeria) 30

5. Having obtained the required majority, Ms. N.U.O. Wadibia-Anyanwu (Nigeria) was elected a member of the Sub-Commission.

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS:

- (a) TREATY BODIES
- (b) NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS
- (c) ADAPTATION AND STRENGTHENING OF THE UNITED NATIONS MACHINERY FOR HUMAN RIGHTS

(agenda item 18) (E/CN.4/2004/4, 89, 95-98, 100, 101, 125; E/CN.4/2004/NI/1 and 2; E/CN.4/2004/NGO/2, 24, 64, 87, 132, 196, 205, 247, 252; A/59/65-E/2004/48 and Add.1)

6. Mr. AMOR (Chairperson of the Human Rights Committee) said that the International Covenant on Civil and Political Rights and its first Optional Protocol concerning individual communications were increasingly universal in scope; a total of 152 States had ratified the former, while 104 had ratified the latter. It was important to foster a fruitful dialogue with States that were not party to those instruments, so as to avoid their marginalization in the human rights area. Meetings with States parties took place every two years to allow for a frank and constructive dialogue. The Committee was considering various proposals to improve the efficiency of its working methods.

7. Many States parties still failed to submit their reports under article 40 of the Covenant in a timely manner. By introducing a procedure for considering country situations in the absence of a report, the Committee hoped to re-establish dialogue with those States and encourage others to submit reports within the relevant time limits. Besides following the established guidelines, States should try to submit more focused reports, by responding to the concerns expressed by the Committee. A discussion concerning new proposals for streamlining reporting procedures would take place at the next Meeting of States Parties in October 2004. A new procedure concerning the follow-up to concluding observations had been introduced and applied successfully.

8. Increasingly, national and regional courts referred to the jurisprudence of the Committee in respect of communications received under the Optional Protocol. In view of the quasi-judicial status of the Committee, its views concerning violations of the Covenant must be considered authoritative for States parties. The Committee had been forced to review the procedure for receiving communications on account of the growing backlog. Regrettably, some States had ignored requests by the Committee for protective measures to be applied in certain cases involving persons facing deportation or execution. An effective follow-up procedure to communications had been adopted, which strengthened the quasi-judicial character of the Committee.

9. General comments by the Committee were designed to provide official guidance concerning the interpretation and scope of provisions contained in the Covenant. He drew attention to general comments recently adopted, concerning equality between men and women, reservations and states of emergency. The previous month the Committee had adopted a general

comment on article 2 of the Covenant, and work had begun on a draft general comment concerning the right to a fair trial, with particular reference to article 14 of the Covenant. He emphasized the need to strengthen the human and material resources allotted to the Committee and to protect the status of its members.

10. Ms. MILLAR (Australia), also speaking on behalf of Canada and New Zealand, said that improvements had been made with regard to the effective functioning of international human rights monitoring mechanisms over the past year. A number of useful proposals for streamlining the treaty bodies had emerged from the brainstorming session organized by the Government of Liechtenstein and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in May 2003. Moreover, Inter-Committee Meetings constituted a valuable forum for enhancing the consistency of the treaty body system. For instance, the Meeting of June 2003 had identified a series of measures, such as expanded core documents, focused periodic reports, and greater harmonization of working methods, reporting guidelines and steps to address non-reporting. She welcomed proactive measures by treaty bodies to improve working methods, such as attempts to engage in dialogue with non-reporting States.

11. In July 2003, Australia had hosted the third of three regional workshops on treaty body reform, focusing on practical steps to improve coordination across the system. It had also provided funding to OHCHR for a project to examine harmonized reporting guidelines. Ultimately, the human rights reporting system should be designed to improve the human rights situation at the national level. An accessible, innovative system would lighten the load for States and help them to fulfil their reporting obligations. The focus on technical assistance should be strengthened to enable small States to discharge their treaty obligations.

12. Mr. SÁNCHEZ OLIVA (Cuba) said that, as one of the key political and ideological components of the United Nations system, OHCHR must reflect the diversity of political and economic trends, legal systems, cultures and religious traditions in the world. In spite of the concern expressed by the Commission over the unequal geographical composition of the staff of the High Commissioner's Office, there were more staff members from the Group of Western European and Other States than from the rest of the world combined, and the disproportion was growing. Of the six members of the consultative group on personnel questions created by OHCHR to propose solutions to that problem, only one was from a developing country.

13. Decisive managerial action was required to address the current imbalance. High standards of training and efficiency were entirely compatible with the principle of equitable geographical distribution. Although candidates from the Group of Western European and Other States might have better technical and language qualifications than those from developing countries, they could never have the same in-depth knowledge of the cultures and traditions of developing countries. Affirmative action to promote candidates from developing countries was required.

14. The increasing dependence of the High Commissioner's Office on voluntary financing was a serious problem, also reflected in the geographical composition of its staff. Since many basic functions were funded from voluntary contributions, project staff from developed countries

occupied most of the corresponding positions. Consequently, they gained a comparative advantage over candidates from developing countries when applying for vacancies. An action plan should be prepared, reducing the current geographical imbalance in the staff of OHCHR, identifying specific targets and setting deadlines for implementation.

15. Ms. KRAAV (Observer for Estonia), speaking also on behalf of Denmark, Finland, Iceland, Latvia, Lithuania and Sweden, said that national human rights institutions had an important role to play in implementing the provisions of international human rights treaties. She urged States to establish and support national human rights institutions, and to encourage their participation in the work of the Commission. Governments should furnish information concerning national human rights protection systems to the High Commissioner's Office, so as to facilitate the process of identifying gaps or deficiencies.

16. National human rights institutions should play an active role in the legislative process, by commenting on draft legislation and contributing to public policy development from a human rights perspective. They should help to raise public awareness through human rights education. The use of modern information technology was particularly important in that regard. A web site on national human rights institutions should be set up to facilitate the exchange of information and sharing of best practices between national institutions. In all of the Baltic and Nordic countries, Ombudsmen had been appointed to enhance independent monitoring, and the Ombudsmen of the Baltic Sea region met annually to share information and experiences. She encouraged other regions to follow that example, in cooperation with OHCHR. Civil society should also play a significant role in the process of reporting to international monitoring bodies.

17. The reform of the treaty body system would help to encourage universal ratification and implementation of international human rights treaties. She welcomed further harmonization of working methods and closer cooperation between treaty bodies. Seminars and expert meetings were valuable tools in creating a more efficient system. States should ensure that their reports and the concluding observations of the monitoring bodies were disseminated widely, in order to enhance the effectiveness of established reporting mechanisms.

18. Mr. BELASHOV (Ukraine) said that the issue of imposing criteria for membership of the Commission was extremely complicated but ought to be discussed since it reminded States that the Commission's strength was determined no less by the values of its members than by the efficiency of its procedures.

19. There should be an efficient way of measuring follow-up to the Commission's resolutions on thematic issues since they otherwise risked becoming a dead letter. The Commission, its special procedures and the treaty bodies must continue revealing patterns of human rights violations and work with Governments to improve situations.

20. He supported the Secretary-General's idea of establishing an office of adviser on the prevention of genocide to highlight the link between massive and systematic human rights violations and threats to international peace and security.

21. The international community should avoid selectivity and one-sided approaches and engage instead in an honest discussion of whether existing mechanisms and Commission resolutions had actually improved countries' human rights record. More dialogue, consultations and cooperation were needed to achieve better results.
22. Welcoming the outcome of the recent meeting in Ireland on draft laws for post-conflict States, he suggested a more central role for the High Commissioner for Human Rights in assisting countries emerging from conflict situations.
23. As a State party to the six core international human rights instruments, Ukraine supported the streamlining of State party reporting requirements and welcomed the efforts of the treaty bodies to rationalize their work and make reporting procedures more transparent and less duplicative. The diverse practices and approaches of the six committees in regard to reporting made it difficult for States parties to honour their reporting obligations. In view of the number of overdue reports and the backlog in their consideration, Ukraine supported the idea of consolidated reports, especially where an initial report had already been submitted. It was convinced that duplication of reporting could be avoided without impairing the quality of reports and that a less bureaucratic process would prove more politically relevant, especially at the domestic level.
24. Mr. VLASSOV (Russian Federation) said that the proliferation of new Commission mandates and bodies had created serious problems in terms of duplication and a shortage of financial resources under the regular budget of the United Nations. The time had come to declare a moratorium on new mechanisms and to undertake an in-depth analysis of existing treaty bodies and special procedures in order to enhance their efficiency and ensure close coordination among cross-cutting mandates. He was concerned about persistent attempts to establish new mechanisms with intrusive powers such as the drafting of a legally binding instrument to protect all persons from enforced disappearance. Moreover, such attempts failed to take account of the existence of comparable regional mechanisms.
25. He was also concerned about the partisan inclinations of some of the Commission's special procedures mandate-holders, who based their reports and enquiries addressed to Governments on unsubstantiated information. Some of the enquiries were downright improper and had no bearing whatsoever on human rights. There was a need to review the procedure for appointing special rapporteurs, Chairs of working groups and independent experts. All members of the Commission should be given an opportunity to endorse them through a transparent procedure. Mandate-holders should not be allowed to occupy other human rights-related posts, both for reasons of efficiency and to allow new staff to join the human rights team.
26. The appropriation of funds to the different thematic procedures should be more balanced. Many mandate-holders, especially those dealing with economic, social and cultural rights, were unable to fulfil their mandate effectively for financial reasons.
27. The Russian Federation strongly supported the treaty body system and current efforts to reform working methods, including many of the recommendations of OHCHR. It had serious doubts, however, about the idea of States parties preparing a single consolidated report because of the possible adverse impact on the quality of reporting and hence also on the quality of States' dialogue with the treaty bodies. To improve the functioning of the system, he suggested

adopting three basic measures, which would not require any amendment of the treaties concerned: ending of the practice of appointing country rapporteurs for periodic reports; standardization of the procedure for preparing and examining reports (including timely transmission of written questions on the report to States parties); and standardization of the periodicity of reporting.

28. While welcoming the role played by non-governmental organizations (NGOs) in the dialogue between States and treaty bodies, he deplored the recent increase in NGO lobbying of committee members while reports were being considered and the submission of so-called shadow reports by NGOs.

29. It was counterproductive to change treaty body practices without consulting the States parties, for example the decision by some treaty bodies to consider the human rights situation in a country in the absence of a report and a government delegation. Such extreme measures should be taken only in the case of wilful non-fulfilment by a State party of its treaty obligations and after conducting consultations with the State and providing technical assistance.

30. Lastly, he stressed the importance of objectivity, impartiality and non-selectivity. United Nations human rights activities should be free from double standards and should not be designed to serve the interests of a small group of States.

31. Mr. LI Baodong (China) said that some fundamental human rights and important human rights treaties had not been universally recognized or given due importance. For example, although the United States had acceded to some treaties, it had not fully honoured the obligations incurred. Although it was a party to the International Convention on the Elimination of All Forms of Racial Discrimination, black Americans, who represented about 13 per cent of the population, accounted for about 47 per cent of prison inmates. The unemployment rate for black people was almost twice that for whites. He urged the Committee on the Elimination of Racial Discrimination to monitor United States implementation of the Convention more closely.

32. The Commission's special procedures were more likely to target developing countries. The United States often urged other countries to issue invitations to mandate-holders, while it had ignored the joint request by the Special Rapporteur on torture and the Special Rapporteur on health to visit Guantánamo Bay. He urged the United States to issue an immediate invitation to the two Special Rapporteurs for an unconditional visit as soon as possible, to extend a standing invitation to all special procedures mandate-holders and to cooperate fully with all human rights mechanisms.

33. Reports from Iraq indicated that the right to life was under constant threat. According to Amnesty International, more than 10,000 civilians had been killed since March 2003. The Secretary-General of the United Nations had recently called on the parties to respect international law and, in particular, to protect civilians during armed conflict. The human rights situation of women and children in Iraq had been deteriorating for more than 10 months. How could the special mechanisms stand idly by while international humanitarian law was being trampled underfoot?

34. It was essential to reform the Commission's consideration of agenda item 9. Earlier in the session, many developing countries had called for its revocation since most of them had fallen victim to the politicization of human rights under the item. Some countries exploited it for domestic and other political purposes, for example in order to shirk their responsibility to provide official development assistance. Agenda item 6 on racism, racial discrimination, xenophobia and other forms of discrimination had never been given due importance. Attempts by some countries to abolish or weaken it were totally unacceptable. He called on OHCHR to increase its human and financial input into the fight against racial discrimination, to establish a long-term monitoring mechanism for the purpose and to make recommendations on the subject to the Commission as soon as possible.

35. Mr. FERNANDO (Sri Lanka) expressed the view that confrontational approaches to human rights situations would not achieve the desired result. Sri Lanka, by ratifying the first Optional Protocol to the International Covenant on Civil and Political Rights, had paved the way for its citizens to file complaints to the Human Rights Committee after exhausting domestic remedies. However, effective domestic mechanisms were of fundamental importance in providing redress for alleged human rights violations without delay and with minimum expenditure of resources.

36. In 1972 Sri Lanka had incorporated key principles from international human rights instruments in its Constitution. In 1978 they had been made justiciable and the Supreme Court was empowered to adjudicate cases of alleged violations and imminent violations of human rights by executive or administrative action. The Court had been exercising that jurisdiction responsibly and judiciously for the past 26 years, earning a reputation for expanding the scope of human rights through its judgements. Access to the Supreme Court was facilitated by government and Bar Association legal aid schemes. Where appropriate, the Attorney-General assisted the Court by negotiating with relevant State institutions on providing relief to aggrieved parties.

37. The Human Rights Commission of Sri Lanka, established in 1997, was a statutory body which was independent of the executive and empowered to investigate alleged violations of fundamental rights. It could also take preventive action and advise the Government on legal reforms needed to bring domestic law into conformity with Sri Lanka's international obligations. The Commission had successfully resolved many disputes and provided redress to aggrieved parties. He acknowledged the assistance provided by donor countries for some of its projects.

38. The Parliamentary Commissioner for Administration (the Ombudsman) and the Parliament's Public Petitions Committee were also accessible to members of the public seeking redress for grievances suffered through the actions of public officials. In addition, the Constitutional Council, the National Police Commission and the Administrative Appeals Tribunal were empowered to ensure good governance and adherence to human rights norms. The National Police Commission would soon introduce a public complaints mechanism.

39. The Convention against Torture Act of 1994 recognized torture as a substantive criminal offence. Further, arrest without adequate justification or arrest contrary to legal procedure was deemed to constitute the criminal offence of abduction. Detention without valid reason or detention contrary to law constituted the criminal offence of wrongful confinement.

40. Mr. AL-THANI (Qatar) said that Qatar had hosted the twelfth United Nations workshop on regional cooperation for the promotion and protection of human rights in the Asia and Pacific region in March 2004. Thirty-six States, 16 national human rights institutions and 17 NGOs had taken part in the workshop, the highest ever attendance recorded since the beginning of the series. The NGOs had held a one-day consultative meeting prior to the event and their report had been taken into account during the workshop. A programme of action had been adopted by consensus for the period 2004-2006.

41. The workshop had discussed national human rights action plans, especially training of national human rights professionals, human rights education, and realization of the right to development and economic, social and cultural rights. The participants had expressed their intention to develop national human rights action plans and to monitor and assess their implementation. They had agreed that human rights education played an important role in the protection of human rights, in promoting a culture of peace and in ensuring respect for the rule of law. Such education should reflect a country's diverse social and cultural values and traditions in order to strengthen the universality of human rights and thereby promote understanding among cultures. Noting that human rights institutions could also make an important contribution to human rights education, the participants had encouraged exchanges of experience in that area. They had taken note of the recommendation by the Acting High Commissioner for Human Rights concerning a possible international instrument on human rights education. The participants had stressed that the right to development was a basic and universal human right and reiterated the need for effective international cooperation to ensure its realization.

42. Mr. ABDEL LATIF (Egypt) said that Egyptian experts had been involved in drafting many United Nations instruments and Egypt had ratified the core human rights treaties. The Government had established human rights departments in the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of Internal Affairs, and the Attorney-General had created a human rights unit in his office.

43. As the task of promoting and protecting human rights called for joint action by the Government and civil society, Egypt had set up two independent institutions, a National Council for Mothers and Children and a National Women's Council, to protect the rights of vulnerable groups. A National Council for Human Rights, chaired by Mr. Boutros Ghali, former Secretary-General of the United Nations, had been established in 2003. Its 26 members were prominent figures with acknowledged expertise in human rights issues. The Council reported to the Consultative Council and enjoyed independent status. Under the law establishing the Council, its mandate covered 14 areas, including, in particular, formulating a national human rights action plan and proposing measures to achieve its goals, receiving human rights complaints and referring them, where appropriate, to the competent authorities, informing complainants of the legal steps they should take and offering them assistance, or reaching a settlement with the parties concerned, monitoring the implementation of international human rights treaties and making proposals and recommendations to improve compliance, and promoting a human rights culture with the assistance of educational and cultural bodies and the media.

44. The Council would submit an annual report with recommendations to the Egyptian President and to the Presidents of the Parliament and the Consultative Council. It had an independent budget and was permitted to accept donations and grants. The provisions of the law establishing the Council were modelled on the Paris Principles relating to the status and functioning of national institutions for the protection and promotion of human rights, especially in terms of the Council's administrative and financial independence.

45. As soon as the law was enacted, the Council had begun to examine complaints from individuals. It had already considered some 450 complaints and was awaiting the response of the competent authorities. It was also studying with a number of ministries the possibility of repealing the Emergency Law and amending a number of statutes that were incompatible with human rights.

46. Mr. ROWE (Sierra Leone) said that the National Commission for Social Action in Sierra Leone played a leading role in the promotion and protection of human rights through its efforts to reduce poverty, encourage sustainable development and lessen the risk of renewed conflict. The Commission for War-Affected Children and the Office of the Ombudsman were other important human rights institutions.

47. A National Commission for Democracy and Human Rights had been established 10 years previously to sensitize people to their human rights, including democratic governance. Five years later, the President had expanded its scope in order to create a more powerful national institution that would not only educate people about rights but independently investigate complaints of human rights abuses.

48. The mandate of another national institution, the Truth and Reconciliation Commission, was to investigate and report on the causes, nature and extent of human rights violations during the conflict in Sierra Leone, to respond to the needs of victims and to promote reconciliation. It had now completed its mandate and would shortly issue its report and recommendations, which would lay the basis for a permanent national institution focusing on civil and political rights. The bill establishing the new Human Rights Commission of Sierra Leone would shortly be enacted. To ensure its credibility and independence, the membership criteria were strict. The commissioners had to be persons of high moral probity who had distinguished themselves in their respective fields and had a proven record of respect for human rights. Neither the Commission nor its members would be subject to the control of any person or authority. In addition to its legislative and monitoring functions, it would be empowered to review existing legislation and advise the Government on compliance with Sierra Leone's obligations under international human rights treaties.

49. He expressed concern that while attention was focused on bringing to justice perpetrators of human rights violations, insufficient attention was paid to the victims. He therefore appealed to the international community not to forget the victims of human rights violations in Sierra Leone. The bill for the establishment of Sierra Leone's new Human Rights Commission provided for the payment of compensation, where appropriate, to victims of violations and their families and for awarding costs to their legal representatives. The Government was studying the whole issue of restitution and compensation for victims of serious violations of human rights and humanitarian law during the conflict in Sierra Leone.

50. A few months previously, the General Assembly had urged the Secretary-General to continue giving high priority to requests from Member States for assistance in establishing and strengthening human rights institutions. He therefore suggested that any resolution on Sierra Leone adopted by the Commission at the current session should focus on enhancing national institutions and mechanisms that were crucial for the protection and promotion of human rights, including the justice system.

51. Mr. HARROUN (Sudan) said that his Government attached great importance to the promotion and protection of human rights. Its efforts to provide a framework for such efforts had culminated in the establishment of the Advisory Council on Human Rights in 1994, whose members included representatives from all relevant government institutions, members of civil society, NGO representatives and human rights activists. The Advisory Council's mandate was to prepare reports and surveys, make recommendations to the Government on human rights-related issues and investigate allegations of human rights violations. It played an important role in implementing the resolutions of the Commission on Human Rights and had been instrumental in elaborating the technical assistance agreement between the Sudan and OHCHR, concluded in 2000.

52. In connection with that agreement, the Council had held a number of seminars on the establishment of an independent national institution for the promotion and protection of human rights. One seminar held with the participation of a United Nations expert in 2002 had been attended by government representatives, members of civil society, human rights workers, members of NGOs and members of the Islamic and Christian clergy, and by a large number of women. All participants had confirmed the need for a national institution and there had been consensus on the conduct of further discussions in order to reach an agreement.

53. In February 2003, a workshop had been organized for representatives of all the governorates of the Sudan, women's organizations, members of civil societies, NGOs and human rights activists to discuss three key issues: the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles); the experience gained by other countries in that field; and the criteria for selecting the members of a national institution. As a result, a draft bill on the establishment of such a body in accordance with the Paris Principles had been prepared. It provided for a national human rights institution entrusted with training human rights experts; investigating human rights violations; submitting periodic reports; and making recommendations to various State bodies on human rights issues. It would consist of 15 members to be appointed on the basis of their expertise, impartiality and integrity, bearing in mind the equal representation of all sectors of Sudanese society. The institution would have permanent headquarters and an independent budget. The bill had been submitted to Parliament for discussion in early April 2004.

54. On the initiative of the Special Representative of the Secretary-General on internally displaced persons, a regional workshop on internally displaced persons had been held in September 2003 for the States members of the Intergovernmental Authority on Development.

55. Ms. HATTORI (World Health Organization) said that United Nations human rights mechanisms were vital instruments in increasing accountability for health. WHO was endeavouring to further strengthen cooperation with the human rights treaty bodies with a view to helping Governments improve public health, and the treaty monitoring process was an important tool.

56. Harmonization of the procedures and practices of the treaty bodies, as well as early scheduling of sessions and pre-sessional meetings, would facilitate cooperation among treaty bodies, and with concerned countries and other actors. In addition, information-sharing and improved coordination among United Nations agencies and with national actors involved in the monitoring process would enhance the monitoring process.

57. Her organization looked forward to providing technical expertise to the body responsible for monitoring the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It was also granting technical support to member States during the drafting of the International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities.

58. She commended the Special Rapporteur on health for his work and stressed the value of his dialogue and cooperation with WHO on pertinent matters.

59. Mr. MARAFI (Observer for Kuwait) said that full implementation of human rights instruments by States parties facilitated the work of treaty bodies. It also demonstrated States' commitment to the principles enshrined in such instruments.

60. As the current session of the Commission was drawing to a close, it was important to recall the major role the international community had played in protecting human rights in the Middle East. During the past two decades, Kuwait and the entire region had witnessed events that had severely undermined security and stability. The aggressive policies pursued by the former regime in Iraq vis-à-vis neighbouring countries had led to widespread violations of human rights and international humanitarian law. The Commission and its mechanisms had responded promptly and taken appropriate measures. The documentation and condemnation of the atrocities committed by the former regime in Iraq, including the killing of Kuwaiti prisoners of war, was proof that the international community had fully discharged its responsibility.

61. Mr. OWADE (Observer for Kenya) said that his Government, which comprised a number of former human rights activists, attached great importance to the promotion and protection of human rights. It had undertaken major judicial reforms with a view to eliminating corruption and promoting the rule of law and the administration of justice, and a new Ministry of Justice and Constitutional Affairs had been created. The constitutional reform process had almost been completed. Provisions included the incorporation of fundamental rights and freedoms into legislation and the establishment of a Commission on Human Rights and Administrative Justice.

62. The Kenya National Commission on Human Rights had already been established to enhance the rule of law and sustain, consolidate and strengthen Kenya's young democracy. The appointment of Commission members was subjected to public scrutiny and the Chair was no longer appointed by the Executive, but instead elected by the Commission itself. Appointment

of the Vice-Chair was based on gender equality. The Commission comprised members of different sectors of society and had the power to investigate and prosecute human rights violations committed by public officials.

63. Governments increasingly recognized the value of national human rights institutions and he therefore called on OHCHR to redouble its efforts to strengthen the capacity of those institutions.

64. Mr. DIOP (Observer for Senegal) said that his Government was deeply committed to the ideals of the United Nations and the promotion of human rights. Concrete measures to that end included Law No. 97-04 of 1997 that reconfirmed the mandate of the Senegalese Human Rights Committee, strengthened its status and broadened its powers. The Committee was a forum for dialogue between the different actors on all issues related to human rights. It was composed of members of human rights organizations and trade unions, as well as government representatives. Action taken by the Committee and State initiatives in the field of human rights were complementary in many respects, and public institutions attached particular importance to the Committee's recommendations, as demonstrated by the current implementation of a recommendation regarding the creation of a mechanism to prepare material for the drafting of Senegal's periodic reports.

65. At the regional level, the Committee collaborated with the African Commission on Human and Peoples' Rights in pursuit of the implementation of the African Charter of the same name. The latter provided for a special mechanism to safeguard the rights and freedoms enshrined in it, and the recently established African Court on Human and Peoples' Rights had been created to that end. It was an important milestone for the de facto recognition of human rights in Africa. He called on all African States to ratify the Court's statutes so as to provide political safeguards for observance of human rights as a fundamental element of peace, stability and security.

66. Mr. DOEK (Chairperson of the Committee on the Rights of the Child) informed the Commission that, during the past year, the Committee had reviewed the reports of 27 States parties. It had also adopted a general comment on adolescent health and development and another on general measures of implementation of the Convention on the Rights of the Child. Topics of future general comments to be prepared included the rights of children with disabilities; the rights of indigenous children; the basic principles of juvenile justice; early childhood development; and the rights of unaccompanied asylum-seeking children. They would be drafted in collaboration with United Nations agencies, NGOs and experts.

67. The Committee was also devising strategies to heighten awareness of the importance of the reporting and reviewing process under the Convention and the need for adequate follow-up to concluding observations. To that end, it had launched a programme of visits to States parties whose reports were to be or had recently been considered. The first such visit had taken place the previous week to the Democratic People's Republic of Korea, where Committee members had visited educational and health-care facilities and met with representatives of the Government, United Nations agencies, national and international NGOs and ambassadors. Further visits were planned for 2004, although visiting all the States parties concerned would be beyond the Committee's current capacity.

68. In order to strengthen the follow-up to the Committee's concluding observations, a series of subregional workshops had been planned. The Government of the Syrian Arab Republic had hosted the first such workshop in December 2003, and representatives of Government, NGOs and national human rights institutions from neighbouring countries, as well as several members of the Committee, had attended. Future workshops would be held in South-East Asia (2004), Central America and West or East Africa (2005) and South Asia and South America (2006). Those activities, among others, were made possible by the support of the United Nations Children's Fund (UNICEF), OHCHR, States parties and the dedication and commitment of the members of the Committee on the Rights of the Child.

69. The Committee was facing a major challenge in regard to reviewing State party reports. The current backlog in reports awaiting review was about two years, which did not serve as an incentive to States parties to submit reports in a timely fashion. To date, 71 States parties had acceded to the two Optional Protocols to the Convention and most reports on the implementation of those Protocols were due for submission by the end of 2004. That circumstance would significantly increase the already heavy workload of the Committee and compromise its intention to encourage States parties to submit their report by providing a prompt and timely review.

70. In response to that situation, the Committee had decided to review States parties' reports in two chambers in an attempt to reduce the backlog of reports awaiting review and had adopted a recommendation to that end.

71. Mr. AZZIMAN (International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights) said that, in an era where respect for international law, international institutions, peace and the rule of law and democracy itself were under threat, it was important for the international community not to lose faith in its values and close ranks in order to defend its achievements.

72. There was cause for optimism in the fact that international human rights law was increasingly recognized and mechanisms had been established to ensure compliance with international standards for criminal justice, although implementation in both cases was not always guaranteed. The proliferation of national institutions for the promotion and protection of human rights was also a hopeful sign. Cooperation between national institutions had been improved over the past year in the Asia-Pacific region, in Africa, in Europe and in the Americas. The African Secretariat of National Human Rights Institutions had been established in Johannesburg in 2004, and the International Conference of National Human Rights Institutions would be held in Seoul in September 2004. However, the need to reinforce national human rights institutions still further was beyond doubt and he was confident that the future High Commissioner would do her utmost to pursue that objective.

73. The role of reports submitted by national institutions was vital, as they provided a wealth of essential information and proposals. They testified to difficulties encountered in the implementation of human rights in the context of political and socio-economic constraints, and recorded the commendable efforts made and measures taken to promote human rights at the national level.

74. In the light of globalization, sustainable development, cultural diversity and intercultural dialogue, and in an international political climate marked by rising insecurity, promotion and protection of economic, social and cultural rights was particularly important. National institutions, associated in regional and international cooperation, could further that objective and be instrumental in fostering a North-South dialogue.

75. It was particularly important for national institutions to participate actively in the field of human rights education. Its value could not be stressed enough, since teaching children from an early age the principles of tolerance, peaceful coexistence, justice and solidarity was a key element of the promotion of human rights and the best way to combat extremism.

76. He drew attention to the draft resolution on national institutions and stressed that its adoption would facilitate a progressive change in their status within the Economic and Social Council and the United Nations system as a whole.

77. Ms. SEKAGGYA (Coordinating Committee of African National Human Rights Institutions) said that various African countries had established national human rights institutions. The role of the Coordinating Committee was to collaborate with other organizations such as the African Commission on Human and Peoples' Rights and African Union initiatives such as New Partnership for Africa's Development on key issues.

78. The conflicts prevalent in the African continent were at the root of a series of problems such as the increase in child soldiers, internal displacements and refugees. Her organization had called on Governments to implement plans for the peaceful resolution of conflicts and to put in place early warning mechanisms and instruments to address conflicts that might lead to genocide and other grave violations of human rights. It was essential to devise educational curricula to inculcate a culture of tolerance, design methods for timely conflict management and eliminate the root causes of conflict. It was incumbent on States to ratify the Optional Protocols to the Convention on the Rights of the Child and the Ottawa treaty banning anti-personnel landmines. Legal frameworks were needed for the protection of internally displaced persons and for the elimination of illegal possession of small and light weapons. Her organization pledged support for any action taken to promote peace, development and respect for human rights and called on the international community to consider a "Marshall Plan" for war-ravaged African economies to help restore conditions conducive to peace. She called on OHCHR and the United Nations Educational, Scientific and Cultural Organization to spearhead efforts towards the drafting of a convention on the right to peace.

79. Addressing the problem of poverty was also a primary concern, as the unequal distribution of resources and the lack of adequate development programmes were frequent causes of conflict. Implementing socio-economic rights and devising programmes of action with a focus on the people in need were thus crucial.

80. Certain traditional and customary practices were contrary to international human rights standards and although in many African countries international human rights instruments enjoyed constitutional status, those provisions were not always applied in practice. Educational campaigns were therefore needed to change some deeply ingrained patterns of conduct.

81. Her organization greatly appreciated various countries' support for the activities of the African national human rights institutions, as well as the financial and advisory assistance provided by OHCHR.

82. Mr. CAMPOS ICARDO (Network of the Americas), presenting a report by the Network of National Institutions for the Promotion and Protection of Human Rights in the Americas covering the period between April 2003 and April 2004, said that poverty was a growing problem in most of the American continent, with the exception of Canada. In the context of promoting and protecting human rights, combating poverty was therefore a matter of urgency. Measures needed to be taken to promote economic growth based on equality and social justice, and cooperation in that effort was vital. His organization, which had been created with a view to strengthening recognition and implementation of international human rights standards, needed to reconsider its role in the context of a shift in international relations.

83. At present, there were 15 national human rights institutions in the Americas, 13 of which had been established in accordance with the Paris Principles and formally recognized by the International Coordinating Committee. Among them was the Paraguayan Office of the Ombudsman, while the Offices of the Ombudsman for Human Rights in El Salvador and Nicaragua were about to complete the accreditation process. The Network would monitor the creation and future operation of the national human rights institutions that were being established in Brazil, the Dominican Republic and Uruguay and welcomed the developments made in Chile towards creating the post of ombudsman. It was hoped that the necessary steps would be taken to implement the initiatives in that regard. The Network had observer status in 11 Caribbean institutions and always had at least one representative from that region present at its meetings.

84. At its second annual meeting, held in Costa Rica in March 2003, the Network had agreed on the future activities that were needed to strengthen human rights institutions, assessed its financing plan and approved the creation of a web site. The meeting had represented a unique opportunity in a climate of global insecurity to strengthen the relationship between the national institutions of the Americas and to exchange views. In July 2003, the Network's Coordinating Committee had held a meeting in Mexico City with a view to developing and defining strategies and activities for 2004. In September 2003, a workshop on security and human rights had been held in Cartagena in Colombia to encourage national institutions to examine and comment on national security legislation in order to improve their capacity to address complaints relating to that legislation. In March 2004, another workshop had been held in Mérida, Mexico, to assess the situation of indigenous women. Information about the workshop had been widely disseminated in the Mayan language to indigenous communities throughout the area. A meeting had also been held to review the petition for OHCHR funding for the Network's third annual meeting and an international workshop on torture that was scheduled to be held in Buenos Aires in June 2004. Referring to the tragic events at the United Nations headquarters in Baghdad in August 2003, he concluded by saying that the Network strongly condemned acts of violence against the civilian population and international civil servants.

85. Mr. FITZPATRICK (Asia Pacific Forum of National Human Rights Institutions) said that, in 1996, given the absence of a regional intergovernmental human rights mechanism, the four existing national human rights institutions in the Asia Pacific region had decided to establish their own regional mechanism, namely the Forum. The increasingly important role being played by national human rights institutions in the region was demonstrated by the rapid

growth in the membership of the Forum, which now comprised 14 members and was set to expand even further as more countries recognized the importance of practical and effective national human rights protection systems. In order to become a full member with decision-making powers, a national human rights institution had to have been established in compliance with the Paris Principles.

86. The Forum focused its activities on three broad areas. The first involved strengthening the capacity of individual member institutions to enable them to undertake their national mandates more effectively. In November 2003, for example, the Forum had implemented a training programme on human rights investigation skills for the Human Rights Commission of Sri Lanka. It had also entered into bilateral cooperation programmes with national institutions in Jordan and Palestine. The second broad objective of the Forum was to assist Governments and NGOs in establishing and strengthening national institutions in accordance with the Paris Principles. A Forum delegation had recently visited Japan to offer assistance and advice to the Japanese Government, which was considering the establishment of a national human rights institution. The third main objective of the Forum was to promote regional cooperation on human rights issues. For example, a workshop had recently been held in New Delhi on the role of national human rights institutions in the development of the proposed international convention on the rights of persons with disabilities. The United Nations should formally recognize the unique and independent status of national human rights institutions and encourage their participation in relevant forums.

87. Mr. THORAVAL (European Coordinating Committee of National Institutions) said that the National Human Rights Consultative Commission of France, which he represented, was presiding over the European Coordinating Committee together with two other bodies. The list of accredited European institutions was constantly expanding and new human rights institutions, such as those in Norway and Turkey, were being established. The strengthening of the European network was attributable to the close cooperation not only between the different national human rights institutions but also between them and the Human Rights Commissioner of the Council of Europe, through the recently established liaison office. It was within the framework of that cooperation that the third round table for national human rights institutions would be held in Berlin in November 2004. The discussions at that meeting would focus on recent human rights developments within the Council of Europe, respect for human rights in the context of the fight against terrorism and trafficking in human beings.

88. As the European Court of Human Rights was clearly unable to process the volume of claims it received, it was essential to find more effective ways of implementing the standards laid down in the European Convention on Human Rights, including the right to individual recourse. It was also important to find new ways of implementing the decisions of the Court and to improve the provision of domestic remedies. One way of doing that was by raising the national legislature's awareness of the provisions of the Convention. The national institutions were ready to play a significant role in terms of education, information and training.

89. The Coordinating Committee also cooperated with a number of other bodies. For instance, it had been consulted by the United Nations on issues such as the human rights of disabled persons and had participated in three seminars on discrimination organized by the European Union (EU). The fight against racism, xenophobia and all forms of discrimination should be approached at different levels and from different angles. It was therefore useful to

exchange information and good practices and to adopt an analytical approach. The national institutions of Europe believed that the Vienna-based European Observatory for Racism and Xenophobia should be restructured to become a new human rights agency and hoped to be closely involved in the work of that new agency.

90. Mr. MUNDARAIN (Ibero-American Federation of Ombudsmen) said that the Ibero-American Federation had been established to encourage cooperation and the exchange of experiences between national human rights institutions and to strengthen the role of ombudsmen and other public institutions that formed part of the State machinery but which were independent from Governments. Although the Federation represented 18 countries throughout Latin America and Europe, it was particularly concerned about the situation in Latin America, where the economic experiments of the past two decades had led to a rise in poverty, a reduction in economic, social and cultural rights and consequently a decline in civil and political rights. In 1980, approximately 35 per cent of the Latin American population had consisted of poor people. Two decades later, that figure had risen to 44 per cent. It was impossible for poor developing countries to meet their commitments in terms of economic, social and cultural rights when the agricultural subsidies and barriers to trade imposed by industrialized powers such as the United States, the EU and Japan cost them approximately \$320 billion per year in lost sales and when the global budget for development assistance was \$57 billion. Furthermore, despite its ongoing repayments, Latin America's foreign debt did not decrease. Every dollar that went towards repaying foreign debt should be invested in services that would contribute to human development. In recent years, the fragile economic situation had caused political turmoil in a number of countries such as Ecuador, Argentina, Venezuela, Bolivia and Haiti, which had led to the collapse of democratically elected Governments and the adoption of plans that were torn between meeting international financial obligations and meeting the needs of the population. The mixture of economic and political crisis and poverty, fiscal deficit, economic imbalance, intolerance, political violence and institutional fragility had led to the re-emergence of terrorism as a political instrument. Terrorism not only affected countries such as Colombia, Venezuela and Bolivia, but had also reared its head in Spain. The support of the international community for the work of national institutions was important because it was precisely those institutions that worked to preserve and improve the democratic systems of countries. It would be difficult to build institutions to protect and promote human rights in a climate of poverty, exclusion and confrontation. The international community should therefore assert its influence not only to encourage Governments to meet their international obligations but also to offer their assistance and advice in seeking solutions to the economic problems that prevented countries from implementing human rights instruments.

91. Mr. SOW (Francophone Association of National Human Rights Commissions) said that his Association had been created in Paris in 2002 in accordance with the Declaration issued by the Symposium on Practices of Democracy, Rights and Freedoms in the French-speaking Community that had been held in Bamako in November 2000. The aim was to bring together the national human rights institutions that had been established in the French-speaking world in accordance with the Paris Principles. Consequently, the Paris Principles and the Bamako Declaration formed an integral part of the Association's statute. Since its establishment, the Association had adopted a procedure for the accession and accreditation of national institutions, based largely on the procedure established by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. It had also adopted an ambitious programme of action that addressed all fields of activity coming within the mandates

of national human rights institutions, such as education and training. A meeting to follow up the Association's first general assembly was scheduled to be held in 2005 and would focus on the theme of poverty and human rights and freedoms. The Association would endeavour to strengthen its relationship with its partners in the future, which included the Intergovernmental Agency of la Francophonie and OHCHR. Since its creation, the Association had been working hard to create the structures, define the programmes and find the resources necessary to implement its mandate. The sixty-first session of the Commission would provide a timely opportunity for the Association to summarize its activities and achievements. The States whose institutions formed the Association should conduct a constructive dialogue, bearing in mind the differences of each individual State, in order to implement the provisions of the Bamako Declaration.

92. Mr. THORAVAL (National Human Rights Consultative Commission of France) said that the international community as a whole had to rise to the challenge of terrorism. However, the United Nations alone had the legitimacy to lead the collective battle, which was being carried out first and foremost in the name of international law. In that context, the ratification of the Rome Statute of the International Criminal Court was more urgent than ever. The Consultative Commission had made its views clear on several occasions regarding the amendment of French legislation to take the Rome Statute into account and would give careful consideration to the inclusion of terrorism among the crimes listed in the Statute in the light of the forthcoming review conference. The Consultative Commission had recently focused its attention on the application of humanitarian law in situations of internal crisis, given that the number of civilian victims had increased in wars throughout the world. Terrorism should not be allowed to hold human rights hostage. On the contrary, reaffirming the close link between democracy and the rule of law, securing peace and strengthening the collective guarantee of human rights were the only means of combating terrorism effectively.

93. National institutions had a duty first and foremost to contribute towards the development of human rights in their own countries. Every year, the Consultative Commission submitted a public report to the French Prime Minister on the elimination in France of all forms of racial discrimination. It had carefully considered the question of intolerance towards Islam in French society and had devoted attention to the question of secularity. It believed that the principles of secularity, tolerance and pluralism were components of the right to freedom of conscience and religion. It also attached importance to the principle of non-discrimination and had supported the establishment of an independent body to receive individual complaints of discrimination. The Consultative Commission gave particular attention to the most vulnerable groups and had adopted an important opinion on the human rights of disabled persons. It was monitoring the implementation of anti-exclusion legislation and international efforts to eliminate extreme poverty and to promote human rights. It had issued an opinion on the draft immigration and asylum laws in France and had been monitoring the judicial reforms and the situation in prisons. It welcomed the adoption of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and hoped that that instrument would be swiftly ratified by all States.

94. The Consultative Commission also intended to give due attention to less urgent issues that would bear fruit in the long term, such as training and information. It had actively participated in the United Nations Decade on Human Rights Education and believed that such education should be considered as the first human right. The observation made in

the 1789 Declaration of the Rights of Man and of the Citizen that ignorance, neglect or contempt of the rights of man were the sole cause of public calamities and of the corruption of governments remained just as valid today. Ten years after their adoption, the Paris Principles called for a forward-looking approach aimed at strengthening the independence of national institutions and recognizing their unique role as forums for independent dialogue. The emphasis placed by the Secretary-General on the creation of national human rights protection systems encouraged such institutions to play a role at the national as well as at the international level.

95. Mr. TALIB OTHMAN (Human Rights Commission of Malaysia) said that the past year had been eventful for the Human Rights Commission of Malaysia, which continued to promote and protect human rights. Details of its activities could be found in its annual reports to the Parliament and in individual reports on specific issues. The Human Rights Commission had made particular efforts to promote and protect civil and political rights by continuing to review legislation that was perceived as being in conflict with international human rights principles and by monitoring the situation in places of detention throughout the country. In its report on the review of the controversial Internal Security Act of 1960, it had called for a repeal of that Act and the enactment of a new comprehensive law that took a tough stance on threats to national security but remained firmly in line with human rights principles. Since the release of that report, there had been a number of positive developments. For example, the Penal Code (Amendment) Bill had been passed in 2003, providing for the insertion into the Code of a number of provisions relating to the trial of persons detained on terrorism charges; furthermore, there had been an announcement that controversial laws would be reviewed and a call for the more restricted use of the Internal Security Act. In September 2003, the Human Rights Commission had decided to celebrate Malaysian Human Rights Day by hosting a two-day conference on the theme of human rights and the administration of law. One of the recommendations of that conference was that more should be done to provide judges with materials on international human rights norms and jurisprudence.

96. Efforts had also been made to promote and protect economic, social and cultural rights in Malaysia. For example, the Human Rights Commission had held nationwide dialogues with persons with disabilities in order to identify the areas in which their rights were violated. Efforts had also been made to promote public awareness of the rights of those persons. Furthermore, a seminar had been held in July 2003 to address the issue of access to basic services such as health care, education and housing. A report on the seminar containing recommendations relating to the further realization of the rights pertaining to basic needs had since been published.

The meeting rose at 1.05 p.m.