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Chairperson: Mr. SMITH (Australia)

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STATEMENT BY THE DIRECTOR OF THE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE)

1. Mr. STROHAL (Organization for Security and Cooperation in Europe) said that the Office for Democratic Institutions and Human Rights (ODHIR) of the OSCE assisted its 55 participating States in implementing international human rights standards and the recommendations of United Nations human rights mechanisms. It did so, like the Commission, in close dialogue with civil society.
2. It was widely acknowledged that one of the most effective ways of preventing torture and ill-treatment was through independent visits by civil society representatives to places of detention. ODIHR facilitated the implementation of the Optional Protocol to the United Nations Convention on Torture and Cruel, Inhuman or Degrading Treatment or Punishment by training representatives of non-governmental organizations (NGOs). Unfortunately, torture remained a serious concern in a number of OSCE States. An OSCE Supplementary Human Dimension Meeting on torture in November 2003 had brought together more than 200 participants, including representatives of 57 NGOs. The meeting had focused on prevention of torture during criminal investigations and on procedural safeguards during pre-trial detention, prohibition of the use of evidence obtained by torture, and effective investigation and prosecution of acts of torture.
3. In recognition of the fundamental nature of the distinct yet interrelated rights constituting the right to a fair trial, OSCE participating States had committed themselves to allowing national and international observers to monitor trials. As a result, ODIHR and OSCE field missions had considerably increased trial monitoring activities, seeking to build up the capacity of local civil society and to increase access to good-quality information on compliance with fair trial standards. ODIHR also provided technical assistance in the broader area of rule of law reform, which included prison reform and institutional and legislative reform.
4. OSCE participating States had demonstrated their resolve to address the problem of trafficking in human beings by adopting an Action Plan at the 2003 Ministerial Meeting and creating a new Special Representative on the issue.
5. The fight against terrorism was a global priority, but it was important to ensure compliance with the rule of law when undertaking counter-terrorism activities. ODIHR was cooperating closely with the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its counter-terrorism and human rights mandate and was currently developing a training module to be published jointly with OHCHR. The module, which was primarily designed for civil society representatives and United Nations and OSCE field staff, focused on the rights at risk from counter-terrorism measures. A recent OSCE counter-terrorism meeting in Vienna had adopted a Declaration that specified areas for further cooperation.
6. Long-term strategies were needed to prevent terrorism and halt the increase in religious and political extremism. The OSCE Ministerial Council Meeting held in Maastricht in December 2003 had assigned new tasks aimed at countering discrimination and promoting tolerance to participating States and the OSCE itself. The principles of tolerance and non-discrimination flowed from the equality in dignity and rights of all human beings and were integral to OSCE's human-centred approach to achieving regional security.

7. ODIHR had long been involved in fighting discrimination against the Roma and Sinti peoples and migrants and in promoting equality between men and women. It would serve as a collection point for information from OSCE participating States on various forms of discrimination and would assist in the development of a good practices network.

STATEMENT BY THE CABINET MINISTER FOR HUMAN RIGHTS OF BRAZIL

8. Mr. MIRANDA (Brazil) said that the Brazilian Government had adopted a transparent and constructive approach to human rights, recognizing the existence of problems and cooperating with the United Nations treaty bodies and the Commission's special procedures. Under the 1988 Constitution, adopted after the ousting of the military regime, the administrative capital Brasilia had become a laboratory for the formulation and consolidation of rights. The Constitution referred to many universal human rights principles and fully recognized the applicability of international human rights treaties.

9. In 1992 Brazil had ratified the two International Covenants on Human Rights and signed the American Convention on Human Rights, and in 1998 it had accepted the jurisdiction of the Inter-American Court of Human Rights. In 2001 Brazil had offered a standing invitation to all the Commission's special procedures mandate-holders. Reports on visits by three special rapporteurs - on extrajudicial, summary or arbitrary executions, on the sale of children, child prostitution and child pornography, and on torture - would be discussed at the current session. Brazil had also been an active participant in the establishment of the International Criminal Court, inaugurated in March 2003. Regrettably, the same month had marked the beginning of a war waged for dubious reasons, which was still claiming hundreds of lives. Brazil reiterated its faith in diplomacy and the role of the United Nations.

10. Since the World Conference against Racism in Durban in September 2001, Brazil had adopted numerous measures to prevent racism and promote racial equality. To counter discrimination against homosexuals, a National Plan against Homophobia would be launched on 16 April 2004.

11. Brazil's Child and Adolescent Statute was closely modelled on the United Nations Convention on the Rights of the Child. Law No. 9,455 of 1997 imposed strict penalties for the crime of torture and the 1997 Hélio Bicudo Act transferred responsibility for the adjudication of crimes committed by military police officers to civilian courts, thereby reducing the risk of partial judgements.

12. Brazil had been one of the first countries to adopt a National Human Rights Programme in response to a recommendation in the Vienna Declaration and Programme of Action. Launched in 1996, it had offered civil society organizations the opportunity to make suggestions at seminars held throughout the country. The second phase of the programme, launched in 2002, focused on economic, social and cultural rights. The Ninth National Conference on Human Rights to be held in June 2004 would seek to consolidate the national human rights system.

13. On the assumption of office by President Lula da Silva, the National Human Rights Secretariat at the Ministry of Justice had been transferred to the Office of the President and two other Special Secretariats - one on policies to promote racial equality and the other on women-related policies - had been created in the President's Office. A National Programme to

eradicate slavery-like employment conditions, spanning the executive, the legislature and the judiciary, had been launched. To combat urban violence, a Statute on Disarmament had been enacted to control the use of small arms, and a referendum on the outlawing of such weapons would be held in October 2005. Under a bill on reform of the judiciary under discussion in the Federal Senate, human rights violations would be treated as federal offences. Other initiatives included the establishment of a Programme for the Protection of Human Rights Defenders and a National Human Rights Education Plan.

14. The Zero Hunger Programme had been launched to ensure the right to food, and a programme of income redistribution on behalf of the country's neediest families was being combined with measures to ensure universal access to basic social rights such as health, education, adequate housing and social assistance. Together with France and Chile, the President had proposed the establishment of a United Nations global fund for the fight against hunger. It was the task of the Special Secretariat for Human Rights in the President's Office to coordinate policies and action to promote basic rights within the different ministries and at the federal, state and municipal levels, and to ensure that civil society was also involved. The Government shared the concern of Brazilian civil society that international economic conditions adversely affected human rights by preventing a more equitable global distribution of income.

15. The Brazilian Government considered that multilateral forums such as the United Nations and the Commission should be strengthened to prevent schemes that threatened to undermine human rights from being carried out without scrutiny by the international community.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

(agenda item 10) (continued) (E/CN.4/2004/10 and Add.1-2, 37-40, 41 and Add.1, 42, 43 and Add.1, 44, 45 and Add.1-2, 46 and Add.1 and Corr.1 and Add.2-3, 47 and Add.1-2, 48 and Add.1-3, 49 and Add.1-2, 120; E/CN.4/2004/G/9-10, 13-14, 16 and 27; E/CN.4/2004/NGO/9-10, 12, 20, 27-29, 83, 93, 103, 116, 122, 135, 144, 152, 185, 193, 199, 223, 230; E/CN.4/Sub.2/2003/12/Rev.2)

16. Mr. SANCHEZ (Colombian Commission of Jurists) urged the Commission to renew the mandate of the Special Rapporteur on the right to education. Ms. Tomasevski had helped to define the basic obligations of States corresponding to the availability, accessibility, acceptability and adaptability of primary school education. During her recent visit to Colombia, she had stressed that education should be compulsory and available free of charge with immediate effect. She had underlined the inextricable link between the right to education and the rights of teaching staff. The Government of Colombia should support human rights education and guarantee protection for teachers.

17. Ms. AGUILA (Women's International Democratic Federation) said that the failure of neoliberalism was nowhere more evident than in Latin America, where almost half of the population lived in poverty. The Commission continued to place more emphasis on individual than collective rights. Consequently, it tended to ignore the systematic violation of the social, economic and cultural rights of Latin Americans. Millions of people suffered from social exclusion as a result of policies designed to protect the interests of the rich minority. Western Governments refused to recognize the right to development as a basic human right. Instead, they

accused the Governments of developing countries of failing to protect human rights, and reaped the benefits of neoliberal economic expansion. International cooperation should be more effective in redistributing resources to poor countries.

18. Mr. AAJAKIA (All For Reparations and Emancipation) said that the economic policies of Pakistan were designed to benefit Punjab province to the detriment of smaller provinces, such as Sindh. For more than 100 years, Punjab had been steadily increasing its share of water from the Indus River, denying the people of Sindh their right to water. In spite of opposition from the Sindh Provincial Assembly, Pakistan was going ahead with plans to construct the Kala Bagh Dam, which would create a water crisis in Sindh. The criteria for distributing resources between provinces in Pakistan must be reviewed to ensure that Sindh no longer had to subsidize other provinces.

19. Ms. ANICAMA CAMPOS (Andean Commission of Jurists) said that the draft agreement establishing the Free Trade Area of the Americas contained provisions concerning intellectual property and patent rights that threatened the enjoyment of economic, social and cultural rights. Jeopardizing the health of their people, countries were prevented from issuing licenses for the manufacture or import of cheap medicines. States should be reminded of their obligation to respect human rights principles even with regard to multilateral treaties relating to trade, finance and investment. He called for an effective international mechanism to guarantee special and differential treatment for developing countries in respect of intellectual property rights.

20. Ms. ARIF (Liberation) said that the Sudanese army and allied militia groups were trying to drive out indigenous African tribes from the Darfur region of western Sudan. The burning of villages and destruction of farms and crops had forced millions of people to flee the region. The United Nations Resident Coordinator in Sudan, Mr. Kapila, had described the situation as close to the definition of ethnic cleansing. The failure of the international community to take action in similar situations in Rwanda, Burundi and Kosovo had led to untold sorrow in recent years.

21. Ms. PARKER (International Educational Development) urged the Special Rapporteur on the right to food to visit Burkina Faso to assess the spirulina programme against malnutrition and to report on the damaging impact of agricultural subsidies in developed countries. Her organization supported efforts by the Government of Mauritius to integrate the right to food into the work of the World Trade Organization (WTO). The Special Rapporteur should also consider visiting Iraq, where the infrastructure for food production and water resources had been destroyed by war. Moreover, the Special Rapporteur on the right to health should investigate the contamination of water and agricultural land in Iraq from weapons containing depleted uranium. She expressed concern that many countries, such as Bolivia, Mexico, Morocco and Sri Lanka, had been forced to privatize water services in order to qualify for loans from international financial institutions. The Special Rapporteur on the right to water should assess the impact of privatization on the supply of affordable water. Lastly, the Special Rapporteur on the right to adequate housing should investigate the destruction of 3,500 Kurdish villages in Turkey and make proposals for remedying extreme violations of the right to housing in South Anatolia.

22. Mr. PUNJABI (Himalayan Research and Cultural Foundation) said that, in contrast to the firmness of legal provisions contained in the International Covenant on Civil and Political Rights, States' obligations with regard to economic, social and cultural rights were only vaguely defined. The marginalization of social and cultural rights had dangerous consequences for

multicultural States, especially in the third world. In southern Asia, violent conflict had resulted from attempts to impose cultural homogenization. Some States in the region had promoted xenophobia and religious hatred through the national education system. He urged the Commission to identify States that used curricula and textbooks designed to promote cultural homogenization.

23. Ms. MIVELAZ (Centre on Housing Rights and Evictions) said that, all over the world, people suffered from insecure housing conditions, homelessness or forced eviction without any legal protection. An optional protocol to the International Covenant on Economic, Social and Cultural Rights would help to encourage legislative changes and to guarantee adequate compensation for the victims in such cases. She urged the Commission to renew the mandate of the working group on the optional protocol. Moreover, she urged States to refrain from conducting forced evictions, in accordance with general comment No. 7 of the Committee on Economic, Social and Cultural Rights.

24. Mr. KUMAR (Voluntary Action Network India) said that the introduction of genetically engineered food products threatened food security in the poorest countries. Genetically modified crops increased the drain of genetic resources from developing to industrialized nations, marginalized small farmers through the impact of intellectual property rights, and replaced traditional technologies and products. Contrary to the claims of large companies, there were no socio-economic advantages to the development of genetically modified crops. Countries should be able to refuse technologies they considered inappropriate, and genetically modified products should be clearly labelled to enable consumers to make informed choices. The dispute settlement body of the WTO should not be allowed to impose genetically modified foods with no regard for the risks to health and food security.

25. Mr. PONCI (International Organization for the Right to Education and Freedom of Education) said that economic, social and cultural rights must be recognized as justiciable. Rights were ineffectual unless it was possible for individuals to seek compensation for violations through the courts. The Special Rapporteur on the right to education had drawn attention to the need for education systems to be adaptable so as to respect the right to difference. Education systems should be diverse and flexible enough to account for cultural specificities. His organization supported the human rights-based approach to education advocated by the Special Rapporteur. He urged the Commission to appoint a Special Rapporteur on cultural rights.

26. Mr. US (International Institute for Peace) said that education could be a powerful tool for promoting a more tolerant society, respectful of cultural and religious differences. Intercultural education should be an essential component of national curricula. It should be designed to provide insight into the cultural practices, values and sensitivities of tribal, minority and immigrant populations. As a result, it would allow students to think critically about their own culture, curbing xenophobia and paving the way for a culture of peace.

27. Mr. HILMAN (International NGO Forum on Indonesian Development), speaking also on behalf of the Netherlands Organization for International Development Cooperation, said that Indonesia was under immense pressure from international financial institutions to channel public resources into debt repayment. As a result, its capacity to provide for the enjoyment of economic, social and cultural rights was severely limited. Although Indonesia was committed

to allocating 20 per cent of State resources to education, the actual proportion was just over 4 per cent. Over 20,000 people had been forcibly evicted over the past 10 months, and many more had been internally displaced on account of military operations in Aceh. The Commission should urge the Government of Indonesia to: ratify the International Covenant on Economic, Social and Cultural Rights; implement a rights-based education strategy; invite the Special Rapporteur on the right to adequate housing to visit Indonesia; stop forced evictions in all regions; allocate increased resources to improving the standard of living of disadvantaged groups; and take effective steps to eliminate corruption.

28. Ms. ZHANG Yunfei (United Nations Association of China) said that her organization was committed to international cooperation rather than confrontation. Therefore she had been dismayed by the arrogant, aggressive attitude of the United States over the past week. It persistently attacked developing countries on human rights issues, while denying the existence of widespread abuses in its own country. The United States had not only refused to ratify the International Covenant on Economic, Social and Cultural Rights, but was one of only two countries not to have ratified the Convention on the Rights of the Child. Besides the growing disparity between rich and poor, discrimination against blacks and women was widespread. More juvenile offenders were executed in the United States than anywhere else in the world.

29. Ms. REN Danhong (China Society for Human Rights Studies) said that the United States failed to protect the rights of ordinary American workers, leading to poverty, hunger and homelessness. The disparity between rich and poor was greater than at any time over the past 70 years, and 12 per cent of the population lived in poverty. An increasing number of people could not afford medical treatment. In Nebraska, 250,000 single mothers had lost their entitlement to free medical care while, in Arizona, some 60,000 children had lost the same privilege. Over 3 million people had been registered as homeless in 2002. It was ironic that the United States tried to portray itself as a defender of human rights in other parts of the world.

30. Ms. CABRAL (MADRE), speaking on the issue of intersexuality in the context of the right to health, said that the term “intersexuality” covered a wide variety of situations in which a person’s genitals did not correspond to current social, cultural and political stereotypes. In conventional medicine, such persons were considered to have ambiguous, deformed or pathological genitalia. For the intersex movement and its human rights allies, the difference in genital appearance did not imply the existence of a deformation or pathology. Studies had shown that at least one in every 2,500 people was born with genitalia that differed from the stereotypes. Many of those people would be subjected to medically superfluous and mutilating cosmetic surgery soon after birth, during childhood or even during adolescence. Intersex people were often denied access to the records of such surgery.

31. The attempt to transform intersexual bodies into culturally acceptable ones was a violation of bodily integrity. Interventions that changed legal gender and bodily shape and sensitivity should not be conducted without informed consent. Genital mutilation of intersex children caused post-surgical trauma and the internalization of prejudice that stigmatized the diversity of the human body. Mutilation did not normalize but constituted a human rights violation with lifelong implications.

32. Invoking the right to health, she called for a review of medical practices relating to intersexuality and the adoption of concrete measures to eliminate genital mutilation of intersex children.

33. Ms. GUERRERO (Centre de Estudios sobre la Juventud) said that in a world in which some 120 million children were being denied the right to education, Cuba had taken steps to ensure that every child and young adult not only acquired a basic education but also learned about other cultures and the complex world in which they lived. That did not prevent the United States Government from launching increasingly aggressive attacks against Cuba with impunity. The 45-year blockade had impeded the country's cultural development, and the lack of access to costly drugs had led to thousands of deaths. Scientists, athletes and artists had been denied visas to travel abroad.

34. Despite all the efforts of successive United States Governments to block Cuban development, more and more young people were going to university and the country's health indicators were comparable to those of developed nations.

35. To date, however, Cuba's assertion of its right to have the blockade lifted had not met with the reception it deserved in the Commission. She wondered how much longer the Commission would be willing to tolerate such injustice.

36. Mr. VAN TROINAVARRO MARTÍNEZ (World Federation of Democratic Youth) said that according to the 2003 State of World Population Report published by the United Nations Population Fund (UNFPA), investment in promoting the welfare and participation of young people would pay dividends for many future generations. The world's Governments, however, clearly ignored that fact, since the situation of young people continued to deteriorate. One in four lived in poverty and every 14 seconds a young person was infected with the AIDS virus.

37. Fuel and water resources and arable land were dwindling in a world whose population was predicted to reach 9 billion by 2050. As noted by President Fidel Castro, current problems were largely due to the existing economic and social system. Instead of investing in education, countries spent billions of dollars each year on consumerist propaganda.

38. As a medical doctor who had studied free of charge despite the genocidal blockade against his country, he wondered whether Cuba's detractors could assemble 15,000 doctors and send them to help the poor in 65 countries of the Third World.

39. Ms. ROCKY OLGUIN (International Indian Treaty Council) disputed Canada's claim to be progressive in recognizing the rights of indigenous peoples. The Committee on Economic, Social and Cultural Rights in 1998, the Human Rights Committee in 1999 and the Committee on the Elimination of Racial Discrimination (CERD) in 2002 had all pointed to the direct connection between the ongoing alienation of the lands and resources of aboriginal peoples in Canada and their social and economic marginalization. Canada continued to extinguish aboriginal treaty rights despite recommendations to the contrary by its own Royal Commission and rulings by the Canadian Supreme Court. CERD had expressed concern about Canada's failure to provide a process to facilitate the recognition of aboriginal title, as it sought to convert existing title and rights into arrangements under "comprehensive claims agreements" or "self-government agreements".

40. The Anishnaabe Nation in Ontario, which had filed suit against a pulp and paper company that was clear-cutting on their land, had suffered the worst case of mercury poisoning ever documented from eating fish contaminated by pulp mills 20 years previously. The Secwepeme People in British Columbia were seeking to halt the expansion of a ski resort and hotels on their territory which were causing irreparable damage to the environment and impairing their health and culture.
41. She called on the special rapporteurs on the right to food, on the highest attainable standard of physical and mental health, and on the human rights and fundamental freedoms of indigenous peoples to work towards a coordinated approach, and urged the Commission to consider supporting a second Decade for the world's indigenous peoples.
42. Ms. BIONDI (International Confederation of Free Trade Unions) said that inequalities within and between countries had continued to grow and the Millennium Development Goals would clearly not be reached. Greater political commitment was needed in areas such as debt cancellation, since resources that could be invested in education, health and other public services were being used to service foreign debt.
43. The international financial institutions and the WTO were supporting an unjust economic model that was undermining democracy and failing to contribute to sustainable development. The International Monetary Fund (IMF) should support the Argentine Government in its efforts to reach an arrangement with international creditors that did not threaten the country's fragile economic recovery. The IMF and the World Bank should assist in drawing up a global stimulus plan to provide employment and improve living standards. Together with the WTO they should adopt an integrated approach to social and economic policies and respect trade union rights and human rights in general.
44. Referring to the recommendations of the World Commission on the Social Dimension of Globalization of the International Labour Organization (ILO), which had met the previous week, she drew attention to the lack of policy coherence at both the national and multilateral levels. International organizations should consider setting up a policy-making mechanism to prevent conflicts and assess policies in the light of the need for coherence, economic growth and equal distribution of benefits. A coherent policy was needed on respect for workers' rights, especially the core labour standards laid down in the ILO Declaration on Fundamental Principles and Rights at Work.
45. Ms. CERVANTES (Organization of Solidarity of the Peoples of Asia, Africa and Latin America) said it was sheer hypocrisy to maintain that economic, social and cultural rights could be enjoyed by all in the era of neoliberal globalization. The system imposed by the international financial institutions at the behest of transnational corporations from powerful countries had led to an increase in extreme poverty. The silent genocide that was being perpetrated had its origins in structural underdevelopment due to colonialism, slavery, neocolonialism and the rule of the market.
46. The Free Trade Area of the Americas project was an imperialist geostrategic scheme to appropriate the vast resources of the Latin American and Caribbean region, to control political developments in the region and to mortgage the future of its peoples. It was unaccountable under those circumstances that a small country such as Cuba that was committed to

human-centred development and had achieved high levels of social justice should continue to be subjected to an immoral economic blockade by the United States. Trumped-up charges of human rights violations were invoked to justify the blockade but the truth was that hunger had been used as a weapon against the Cuban people, who were still being threatened with military aggression.

47. He called on the Commission to put an end to the discredited and politicized practice of singling out Cuba for condemnation.

48. Mr. GRAVES (Interfaith International) drew attention to the continued violation of the economic, social and cultural rights of over 4 million inhabitants of Pakistan-occupied Kashmir or "Azad" Kashmir, of which the region of Gilgit-Baltistan or Balawaristan was an integral part.

49. The majority of the people of that region were Shi`ah Muslims with a distinct social, religious and cultural heritage. In an effort to promote the Sunni branch of Islam, the Pakistani Ministry of Kashmir Affairs and Northern Areas had distorted the school curriculum by prescribing textbooks that denigrated the Shi`ah faith. Widespread protests against the curriculum by students had disrupted the educational system. In response, the Pakistani authorities had deployed the army and the Frontier Constabulary in cities and hundreds of students had been subjected to long periods of arbitrary detention.

50. Academic staff had been punitively transferred to distant locations for allegedly taking part in trade-union activities. Political activists demanding constitutional safeguards and withdrawal of the offensive curriculum had been detained for over a year on fabricated charges of sedition. Others had been subjected to intimidation and harassment.

51. He called on the Government of Pakistan immediately to end its attempts to manipulate the education curriculum, to release student leaders and to promote respect for the economic, social and cultural rights of the people of Gilgit-Baltistan.

52. Ms. AROCHA (Federation of Cuban Women), noting that 48 per cent of total revenue in Latin America was controlled by just 10 per cent of the population, said that the Commission had remained silent about the close correlation between the new form of colonialism practised by the developed world and the exploitation that had been seen in developing countries. Cuba had, however, recorded economic growth four times greater than the rest of Latin America over the previous six years. Rather than voicing concerns, threats and recommendations regarding Cuba, both developed and developing countries should examine their own considerable shortcomings in human rights protection, such as the economic and social rights of the 36 million citizens - 14 per cent of the population as a whole and 29 per cent of the black population - of the United States who lived below the poverty threshold. Fifty-five per cent of those unemployed in Europe were women; those who worked earned 20 to 25 per cent less than men for the same work. While the current economic and political climate prevailed, universal human rights would not be a reality; in order for that to happen, all people and all countries should be involved in joint dialogue and action which recognized them all as equals.

53. Ms. CERVANTES (International League for the Rights and Liberation of Peoples) said that the Kurds in Turkey did not enjoy the right to receive education in their mother tongue, which was a violation of a cultural right that was fundamental for personal development, and a

means of acquiring a cultural identity as part of a group. Despite the large number of Kurds in Turkey, and the recent enactment of legislation on mother-tongue teaching, adopted in an effort to comply with European Union (EU) entry requirements, the Kurdish language had not been introduced into the education system. Several attempts to set up Kurdish language courses and centres had been thwarted by the Turkish authorities, and students demanding to be taught in Kurdish, and parents who supported them, had been arrested, and some of them taken to court on accusations of separatism. New broadcasting laws severely restricted the availability of television and radio programmes in languages other than Turkish. In the light of the unsatisfactory responses to the concerns expressed by the Special Rapporteur on the right to education after her visit to Turkey, the Commission should ensure that a follow-up visit was carried out, and that the recommendations made guaranteed the rights of the Kurdish people.

54. Mr. de ARMAS (Christian Democratic International) said that the Cuban Government had refused to respect the human rights of the people. State security agents had infiltrated the Cuban human rights movement and had publicly admitted that the reports sent to the Commission had not always adhered to the truth. Given that the Cuban authorities did not respect the rights enshrined in the Constitution, the Varela Project had proposed that peaceful means be used to restore all rights to the people, including the ability to change the Constitution and legislation. After the presentation of a petition calling for a referendum to the National Assembly, however, the signatories had been threatened and some forced from their jobs or universities. Seventy-five people were currently in prison for defending human rights and sending information to the Commission, around two thirds of whom had been active in that campaign. A second petition had, however, been presented, signed by different people, in order to continue campaigning for peaceful change.

55. Many questions remained unanswered, such as why Cubans had to request permission to leave and enter their own country, which was often not granted; why, if all Cubans were equal, there was a rich majority and a poor minority, why the privileged class lived in luxury residential areas, while other Cubans were persecuted for building a shack or an extension; why the police demanded to see black or poor people's identity documents in tourist areas; and why there was a humiliating apartheid for many Cubans who were banned from using beaches and tourist facilities. While the Government was denying the Cubans' right to self-determination, those who backed the Varela Project called for solidarity, dialogue, forgiveness and reconciliation, the only way to justice and real peace.

56. Ms. BAMBERG (Movement against Racism and for Friendship among Peoples) said that in developed countries, large numbers of people were, in practice, denied the right to health care, education, adequate housing and work. There had been a regressive tendency in the structures that supposedly guaranteed the fulfilment of basic needs, exemplified by the resurgence of tuberculosis in some areas of France.

57. External debt should be central to any analysis of economic, social and cultural rights in the southern hemisphere. While it was claimed officially that the problem of debt had been resolved, the amounts outstanding had continued to rise and net capital transfers were still advantageous to developed countries. In the majority of sub-Saharan African countries, the amounts of money owed were insignificant relative to figures that made the headlines, such as the United States' commercial deficit, or the fine imposed by the EU on Microsoft. The joint IMF/World Bank Heavily Indebted Poor Countries Debt Initiative was, however, based on the

notion that it was imperative for external debts to be paid, and was so complicated that few countries had achieved any debt forgiveness. Debt had had a similarly detrimental effect on economic, social and cultural rights in such countries as Brazil and Argentina, where the policies imposed on creditors had taken no account of human rights.

58. Mr. SASAKAWA (Nippon Foundation) said that leprosy, if left untreated, resulted in serious deformity and had often led to patients being deserted by their families, discriminated against by society and turned into pariahs. While it was now treatable, some 12 million people having been cured in the early 1980s, the human rights of the 600,000 known current sufferers continued to be violated. They had been denied the right to education and work, and had been left isolated, with no one to denounce the abuses they had suffered. As World Health Organization (WHO) goodwill ambassador for leprosy elimination, having seen that suffering for himself in 27 countries, he urged the Commission to support research and draw up guidelines to guarantee freedom from discrimination for all those affected by leprosy.

59. Mr. TETEVİ AGBODJIAN (International Federation Terre des Hommes) said that, as his organization had been among the first to support the idea of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, it had welcomed the establishment of an open-ended working group to study the matter and hoped that an effective mechanism would soon be set up to handle communications from groups and individuals, and provide international jurisprudence. It was regrettable that attention within the Working Group had been directed away from the fundamental issues by several States' concerns about resources, international cooperation and national sovereignty. Given that the protocol would be optional, it was difficult to envisage misuse of the mechanism. Concern over the cost to States parties of reparation was also misplaced. Adoption of the protocol had symbolic value in that it demonstrated the indivisibility between the rights concerned and social justice. States' obligations under the Covenant would be strengthened and better defined, as there was already a strong body of legal precedent, both national and regional, that supported economic, social and cultural rights.

60. Ms. RIVERO (Liberal International) said that economic, social and cultural rights were not respected in Cuba, as all those aspects of life were controlled by the totalitarian Government. Private enterprise was repressed and those who were self-employed suffered increasing taxation and limitations placed on their right to conduct business.

61. Unrestricted access to the Internet was confined to government officials and foreigners, and access to books and the press was limited. There were currently 17 library owners and 30 journalists in prison, after books and documents had been seized from them in police raids. Activists taking social initiatives, such as José Luis Paneque, who had distributed humanitarian aid and tended the sick in their homes, had often been punished. Mr. Paneque had been given a 24-year prison sentence, and was suffering the effects of solitary confinement. Two teachers who had promoted social projects and non-ideological public education had been sentenced to 20 and 25 years' imprisonment respectively. The same fate had befallen artists and writers who had embraced ideas contrary to those of the Government. The Cuban people deserved the opportunity to develop their economy and society in accordance with the values enshrined in the Universal Declaration of Human Rights.

62. Ms. ALI (Afro-Asian Peoples' Solidarity Organization) said that while it was incumbent on Governments to ensure that education focused on enlightenment, the impact of an unenlightened education policy had been evident in Pakistan. The madrassa culture, which was encouraged by the State for strategic reasons, had emphasized sectarian differences and produced ideologically repressive movements such as the Taliban that denigrated minority groups. Equality of opportunity was impossible in some countries, since State structures did not allow for minorities to improve their fate. In Pakistan, groups such as the Ahmediya community had been denied their faith and their heritage, and enforced integration had often led to violence. Women had suffered from bigotry and gender prejudice and had been denied many basic human rights.

63. Contemporary terrorism was rooted in precisely that ideology of discrimination and intolerance which sought to deprive people of their economic, social and cultural rights. The impact of terrorism, much of it carried out by graduates of Pakistan's madrassas, had been seen in places such as Indian Kashmir, Indonesia, Algeria and the Philippines. The Commission should develop programmes, in consultation with States, to reform structures in countries where religion or politics interfered in the functioning of educational institutions.

64. Mr. SIDOTI (Human Rights Council of Australia) said that it was necessary to adopt an optional protocol to the International Covenant on Economic, Social and Cultural Rights, as the lack of one had resulted in an imbalance in the international legal framework for the protection and promotion of all human rights. His organization had supported the move to develop an optional protocol in February 2003 and continued to do so, urging the Commission to extend the mandate of the Working Group to that end. The protocol would enable individuals to complain to the Committee about violations of those rights, thus giving them international protection in that field for the first time. It would also enable the Committee to assist States in interpreting and applying the Covenant in practice.

65. Regarding the application of some elements of international human rights law to transnational and other companies, in many cases, those companies had more political and economic influence than some States, and could promote and protect, or violate, human rights. Such companies were already major players in international human rights law, particularly with regard to economic, social and cultural rights and the right to development. The Sub-Commission on the Promotion and Protection of Human Rights had prepared draft norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights (E/CN.4/Sub.2/2003/12/Rev.2), and the Commission should support study and further consideration of those norms to permit better understanding of existing obligations and, if necessary, the elaboration of new standards.

66. Ms. JAIMINI (European Union of Public Relations) said that, while the principle of non-discrimination was perhaps the most powerful tenet of international human rights law, current international relations were characterized by the widespread violation of that right by States and non-State actors. As a result, the interests of powerful States and transnational corporations took precedence over those of weaker States, individuals, groups and communities, which were unable to defend their rights. In practical terms, that had translated into activities such as military invasion of countries and unfair trade practices that severely limited the access of least developed countries to export markets. Another recent example had been the efforts of some highly developed countries to implement legislation to discourage business process outsourcing, thus preventing entrepreneurs and professionals in developing countries from

generating wealth and employment, and reducing poverty and inequality in their societies. Such discriminatory and unethical practices eroded people's faith in the process of globalization and the rule of law at the international level, and had a detrimental effect on economic rights in the developing world. That had played a part in the growth of violence, extremism and terrorism, and left the international community with a stark choice between the application of the non-discrimination principle, to enable developing countries to benefit from scientific and technological advances, or policies that exacerbated existing inequalities and encouraged extremist ideologies, which were the antithesis of all human rights.

67. Mr. VIARD (International Movement ATD Fourth World) said that far too many people were continuing to live in extreme poverty all over the world and had struggled to make their voices heard, particularly at events to mark the International Day for the Eradication of Poverty, 17 October, to denounce the violations of human rights they suffered. Recent initiatives had, however, striven to bring those voices to the forefront in the fight against poverty, such as a scheme in Burkina Faso to reintegrate street children into society, and Belgian research that had concluded that human rights protection mechanisms were often not available to the poor. While the idea was often not welcomed, it had become clear that those who lived in extreme poverty had a pivotal part to play in the effort to combat poverty.

68. Ms. UL-SABAB (International Islamic Federation of Student Organizations) said that State terrorism, repression and attrition curtailed the enjoyment of economic, social and cultural rights in Palestine and Kashmir. Kashmir had been devastated by the illegal occupation enforced by 700,000 Indian troops, in flagrant violation of human rights and disregard for United Nations resolutions calling for the right to self-determination for the people of that region. The economic infrastructure had been decimated, society ruined and the predominantly Muslim culture devastated. The Commission should use its influence to bring an end to the occupation of Kashmir.

69. Mr. de MESA (Asian Forum for Human Rights and Development) said that, while he took note of the statement on behalf of the Non-Aligned Movement, contradictions always arose when implementing the right to development. The right to education in Chinese and Tamil primary schools in Malaysia had been severely restricted by low budget allocations, resulting in the closure in 2001 of the Damansara School, without the community being consulted. It should be reopened immediately and the Government should ratify the International Covenant on Economic, Social and Cultural Rights. In Indonesia, 40 per cent of the population of the province of Aceh lived below the poverty threshold and the continuing war there had led to violations of economic, social and cultural rights. The Government should resume peace talks immediately. In Thailand, no consultation had taken place with the people on State development projects, and their attempts to voice their concerns had encountered brutal repression, such as the current conflict over the Trans Thai-Malaysia Gas Pipeline. The Thai Government should ensure implementation of article 2 (1) of the United Nations Declaration on the Right to Development in future. In the Philippines, current development plans had not included the rights of the indigenous peoples of Mindanao and their claims to ancestral land. The Government should ensure that their rights and claims were integrated into those plans.

70. Mr. MALEZER (Foundation for Aboriginal and Islander Research Action) said that while the current year was the last in the Decade of the World's Indigenous Peoples, little progress had been made on the draft declaration on the rights of indigenous peoples, due to the

reluctance of several States to address the relevant issues and to acknowledge indigenous people's human rights. At least 22 of the 45 articles were based on economic, social and cultural rights and should not pose many problems to the Working Group. The Commission should urge that body to conclude its work and to consider the text endorsed by the Sub-Commission on the Promotion and Protection of Human Rights as valid. It should discard alternative text that did not comply with existing human rights standards, ensure that alternative text merited inclusion in a declaration on rights, and encourage States to avoid implementing policies that discriminated against indigenous peoples.

71. Mr. ANANI (German Foundation for World Population) said that despite the assurances given at the International Conference on Population and Development in Cairo in 1994, developing countries were currently providing only two thirds of the funds they had originally pledged to ensure all people had access to sex education and reproductive health-care services, including family planning. Since donor Governments had contributed less than half of the funds they had promised, much more needed to be done by all parties. The concept of sexual and reproductive health and rights had, however, come under attack by some countries, particularly the United States. At several international conferences, that country had attempted to narrow the focus to an abstinence and no-sex-outside-marriage policy as a means of family planning, instead of adhering to the Cairo consensus, and had been joined in those efforts by the Holy See. That policy would have a devastating effect on women's lives in developing countries, as it would result in unplanned or unwanted pregnancies, and would not help stop the spread of HIV/AIDS. The Commission should mark the tenth anniversary of the Cairo Programme of Action by adopting a resolution reaffirming the consensus on access to sex education and modern methods of family planning for all.

72. Mr. WAHARE (Pax Romana) said the HIV/AIDS pandemic was threatening the right to life on a grand scale: in 2003 alone, 5 million people had been infected with the virus and 3 million people had died of AIDS-related diseases. The vast majority of affected persons lived in Africa and most of those were women and young people. Furthermore, of the 6 million people in the developing world who had sought treatment for HIV/AIDS, only 300,000 had received it.

73. The majority of Governments that did not provide annual statistics on the scale of the pandemic in their countries were afraid to face up to the sad reality. In order to improve the situation, it would be advisable to appoint a special rapporteur on pandemics such as HIV/AIDS. Furthermore, the Commission should ensure the effective implementation of its resolutions on the right to health, in order that all those suffering from a pandemic had access to the appropriate medicines. A convention should be signed to promote and protect the rights of persons affected by HIV/AIDS, who were often victims of discrimination. If it did nothing to help, the international community would be guilty of assisting in an AIDS genocide in the developing world. It was no longer enough to hold conferences on the issue; it was time to take action. It was tragic to allow so many people in Africa to die in the knowledge that they had been prevented from gaining access to treatment by poverty or by obstacles imposed by multinational companies.

74. Ms. MIGNOT (Habitat International Coalition) said that development, illegality and security were three pretexts that were typically used to rationalize deprivation of the right to adequate housing. For example, the Sardar Sarovar Dam in India's Narmada Valley had been officially hailed as progress, but had already caused the forcible displacement of almost 15,000 families, many of whom had not yet been adequately rehabilitated or compensated. In the Dominican Republic, official and private attempts to support the developing tourism industry had led to the eviction of the country's most vulnerable rural citizens, while in Indonesia, the authorities had forcibly evicted more than 20,000 people in North and West Jakarta in the name of development, using legal technicalities to justify the excessive use of force.

75. In 2003, Israeli forces had overused the pretext of security to destroy at least 182 Palestinian homes in the West Bank and 1,819 in the Gaza Strip, rendering more than 16,000 people homeless. The construction of a wall throughout the West Bank had aggravated a closure policy that had left 63 per cent of people in the occupied Palestinian territories living below the poverty line.

76. In Kenya, over 330,000 slum dwellers, internally displaced people, forest dwellers and indigenous people had been threatened with eviction. However, the new Government had responded to international pressure calling for the respect of the right to housing. Its will to cooperate should serve as an example to others.

77. Her organization supported the indivisibility of rights approach taken by the Special Rapporteur on the right to adequate housing. It urged the Commission to use the monitoring tools and solutions that the human rights community had to offer and encouraged greater understanding of housing rights violations, including the phenomena of forced evictions, mass exoduses, internal displacement and population transfer.

78. Mr. MAEDA (Japanese Workers' Committee for Human Rights) said that, even though Japan had ratified the International Covenants on Human Rights, the situation of workers in the country had gradually deteriorated. Every year, some 10,000 people died from overwork and some 30,000 committed suicide because of work-related stress. Japan Airlines was one example of a company where working conditions had deteriorated. In April 2003, the airline had changed its policy with regard to night work, disregarding national legislation on childcare and forcing the resignation of many female cabin attendants.

79. Mr. NAJABAT HUSSAIN (International Human Rights Associations of American Minorities) said that, although some efforts had been made by the Commission to promote economic, social and cultural rights, there was a need for a better understanding of those rights and for those responsible for violations to be held accountable.

80. The people of Kashmir were facing all sorts of hardships under the Indian occupation. Collective punishment in the form of burning houses and shops was a routine activity, as was the desecration of religious sites and buildings by the Indian occupation forces. Kashmir was the poorest region in India and unemployment was at an all-time high. The Commission should send a mission to Kashmir with a view to determining the extent of the violations of the economic, social and cultural rights of the people living there.

81. Ms. FAUCHERE (World Confederation of Labour) said that the violation of economic, social and cultural rights was often linked to debt. Although the Heavily Indebted Poor Countries Initiative continued to play an important role in debt reduction, progress was slow. To date, debt-reduction packages had been approved for only 27 of the 49 affected countries. Furthermore, such packages were subject to a series of hidden conditions and the content of poverty reduction strategy documents was all too often based on the structural adjustment programmes of the past. Essential social measures were presented as simple corrections aimed at reducing the negative social impact of the defined policies. The only way to guarantee economic, social and cultural rights was to cancel the debt of the poorest countries.
82. The realization of those rights could not go hand in hand with the marketing of essential services or human labour. The General Agreement on Trade in Services called for the de facto privatization of essential services. However, policies, laws and practices that caused the deterioration of working conditions continued to be implemented. The right to decent work was closely linked to the realization of all other rights contained in the International Covenant on Economic, Social and Cultural Rights.
83. Her organization supported the initiative to establish a forum on the policies of globalization. Both OHCHR and ILO should play a strategic role in introducing to the debate on globalization a vision focused on human rights and dignity.
84. Mr. BARNES (Indigenous World Association) said that his organization strongly objected to the subjugation, exploitation and illegal annexation of Alaska and Hawaii and the racist principles used to justify the plundering of their land and resources. The economic, social and cultural rights of the people of those territories had not been taken into consideration when the United States had illegally annexed them. His organization fully supported the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights.
85. Mr. PARY (Indian Movement “Tupaj Amaru”) said that the neoliberal policies imposed on the poor countries by the World Bank and the IMF had failed and that the structural adjustment programmes had produced very poor results. External debt was a burden of universal dimensions that had become a mechanism in the neocolonial domination strategy that the rich countries continued to impose on the poor. The result of the debt was a huge transfer of resources from the South to the North. In 1996, the 41 most indebted countries had paid creditors, banks and multilateral institutions the sum of \$213 billion in debt servicing alone. Experience had shown that many of the loans that had caused the debt crisis had either been deposited by dictators and corrupt ministers in tax havens or had been used to buy arms.
86. Mr. AL-RIFAIE (World Muslim Congress) said that human progress was being hampered by a crisis of values that had led to the degradation of human dignity and the violation of human rights. The crisis could be attributed to multiple religious, educational, cultural and political causes. It was necessary to review the educational approach of States in order to give future generations a cultural pattern that reflected the aspiration to create a common moral charter. That charter should be based on three elements: respect for human fraternity, respect for human dignity and environmental protection. In order to achieve that goal, human societies needed to be able to guarantee religious, intellectual, moral, social and economic security.

87. The adoption of a universal charter for justice constituted the first step and would provide an appropriate framework for achieving that security. That charter should highlight the importance of human freedom, dignity and justice and should promote respect for all human rights.

88. Ms. DAIRIAM (International Women's Rights Action Watch) said that the first session of the working group on an optional protocol to the International Covenant on Economic, Social and Cultural Rights had provided delegations with an opportunity to raise concerns and discuss elements that could be included in the optional protocol as well as to discuss the benefits and challenges of implementing the Covenant. The participation of NGOs had made it easier to focus during the session on the realities on the ground.

89. The mandate of the working group should be strengthened in order to allow the concerns and issues identified during the debate to be addressed and to permit further discussion on the drafting of an optional protocol. Such an instrument would help to strengthen standards at the national level. Since it would only apply after the exhaustion of effective domestic remedies, it would provide the impetus for the judiciary to focus on economic, social and cultural rights and to develop standards on those at the national level. The optional protocol would set standards according to established and universally applicable international human rights law, taking into consideration existing national contexts.

90. The promotion and protection of economic, social and cultural rights were also strengthened by the special procedures of the Commission. Her organization particularly welcomed the efforts made by the Special Rapporteurs on the right to health and on the right to adequate housing to ensure that women's rights were central to their work.

91. Mr. MICHELLOD (Caritas Internationalis), speaking also on behalf of Franciscans International, expressed concern about the effects of unstable and falling cotton prices on the subsistence farmers of Benin, Burkina Faso, Mali and Chad who depended on the income generated by cotton production to cover their basic living costs. Without that income, many of the basic human rights of those farmers and their communities were denied.

92. There was clearly a need to stabilize the livelihoods of small farmers by guaranteeing a fair price for basic agricultural products. The cotton crisis was directly linked to the policies adopted by the United States, China and the EU to subsidize domestic cotton production, which put artificial pressure on the market and prevented more efficient producers from selling their products. The Commission should remind countries of their international responsibilities in the field of human rights and urge them to stop implementing policies that were damaging to small cotton producers.

93. Mr. BALTI (Atlas - Association tunisienne pour l'auto-développement et la solidarité) said that nothing could justify the failure of the international community to prevent the growing gap between rich and poor. In an attempt to correct that imbalance, the United Nations had sponsored the World Summit on the Information Society, the first phase of which had taken place in Geneva in 2003. It was hoped that the second phase, which was to be held in Tunis in 2005, would produce more concrete results, based on the Declaration of Principles adopted in Geneva. He urged other NGOs to participate actively in the work of the second phase in order to ensure that all people could reap the benefits of new technologies.

94. Ms. TUKHAMMEE (Asia Pacific Forum on Women, Law and Development) said that her organization welcomed the report of the Special Rapporteur on the right to food (E/CN.4/2004/10) and in particular his support for the call for food sovereignty. The Special Rapporteur described food sovereignty as an alternative to the current global trading system and stated that trade rules that threatened the right to food should be challenged on the basis of human rights law. Her organization interpreted that to mean that human rights should prevail over the rules of the WTO, which led to violations of the right to food, the dispossession of people's livelihoods and increasing control by transnational corporations over food systems.

95. Her organization supported the preliminary observations and recommendations by the Special Rapporteur to the General Assembly (A/58/330) on gender dimensions of the right to food. Under existing patriarchal power relations, food sovereignty would not be possible without the realization of women's access and control over productive resources and their meaningful participation in decision-making over food and agricultural production.

96. Her organization therefore called on all Governments to eliminate the unequal global trade systems that violated the right to food and denied the right to self-determination, to implement comprehensive agrarian reform and to ensure the democratic participation of all people in the planning, implementation and monitoring of food and agricultural policies. Furthermore, all Governments should take immediate action to ensure women's equitable access and control over resources.

97. The CHAIRPERSON invited statements in exercise of the right of reply.

98. Mr. PEREZ ZEPEDA (Honduras), in response to the allegations made at the previous meeting by the representative of Franciscans International, acknowledged that 80 per cent of the population of Honduras was affected by poverty and that, until recently, the problem had been addressed with short-term and poorly defined strategies. However, the outlook had changed under the current administration. Significant efforts were being made to redefine State strategy towards social policy, which formed the basis of the Government's Plan for 2002-2006, and to improve the human development of Honduras over the next 20 years.

99. The practical implementation of the new social policy within the framework of the country's Poverty Reduction Strategy, with the coordinated efforts of the national institutions and the cooperating community, would encourage human development and help to break the vicious cycle of poverty. Almost half of the national budget had been earmarked for the social sector and \$80 million had been approved for an "Education For All" Programme. A further \$40 million had been obtained from the Global Fund to Fight AIDS, Tuberculosis and Malaria for a strategy aimed at eliminating those diseases. In that connection, plans were being made to restructure the national health system. He hoped that Franciscans International would continue its good work, together with the Government of Honduras, in improving the situation of the Honduran people.

100. Mr. BAYALAMA (Congo) said that, when the International Federation of Human Rights Leagues had alleged at the previous meeting that there was a correlation between violations of economic, social and cultural rights and oil revenues in Congo, it had failed to take into account the concrete efforts made by the Congolese Government to manage oil revenues in a transparent manner. Within the framework of economic reform and on the advice of certain donors, the

National Oil Company of Congo had been the subject of an audit. The majority of revenue went towards national debt repayment, which made it difficult to implement the rights enshrined in the International Covenant on Economic, Social and Cultural Rights.

101. Mr. BALA CHANDRAN (Observer for Malaysia) rejected the unfounded allegation by the Asian Forum for Human Rights and Development that the right of minorities to education in Malaysia had been hampered by current policies and practice. Malaysia was a multiracial, multi-ethnic and multilingual society where racial harmony was of paramount importance for peace and stability. The Government had been pursuing a policy of national integration among its multi-ethnic society through a national education policy, under which schools for different ethnic groups that were located in the same area shared common facilities to encourage interaction among the students. All Malaysians continued to enjoy a high level of social interaction without losing sight of their own cultural identity. The examples cited by the representative of the Asian Forum for Human Rights and Development were outdated and had been duly addressed by the Malaysian Government.

102. The CHAIRPERSON declared closed the Commission's general debate on agenda item 10.

The meeting rose at 12.15 p.m.