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Sixty-first session

SUMMARY RECORD OF THE 41st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 8 April 2005, at 3 p.m.

Chairperson: Mr. WIBISONO (Indonesia)
later: Mr. OULD MOHAMED LEMINE (Mauritania)
later: Mr. WIBISONO (Indonesia)

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The meeting was called to order at 3 p.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)
(E/CN.4/2005/11)

1. The CHAIRPERSON invited the independent expert on the situation of human rights in the Sudan to introduce his report (E/CN.4/2005/11).
2. Mr. ADDO (Independent expert on the situation of human rights in the Sudan) thanked the Government of the Sudan for extending an invitation to visit the country and for facilitating his mission. The focus of both that mission and his report had been the ongoing crisis in the Darfur region and human rights-related developments in the states of Kassala and Upper Nile. Should his mandate be renewed, his next report would examine issues related to the administration of justice and the implications of the Comprehensive Peace Agreement.
3. During his visit to the country, he had established contact with government officials; NGO representatives; representatives of political parties, human rights and civil society organizations; representatives of the Sudan People's Liberation Movement/Army (SPLM/A); and internally displaced persons (IDPs). He had also visited the Kalma camp in South Darfur, which hosted some 90,000 IDPs.
4. The human rights situation in Darfur had degenerated following the rebel attack on government security forces and the airport in the capital of North Darfur State. In response, the Sudanese Government had launched a massive military campaign involving the Popular Defence Forces and nomad Arab militia known as "Janjaweed" in the rebel stronghold in Darfur, targeting civilians belonging to the same tribal group as the rebels. The operation had left 1 million people displaced and an estimated 300,000 dead; some 300,000 had sought refuge in neighbouring Chad. Instead of fighting the rebels, government forces and the Janjaweed militia had waged a systematic campaign against the unarmed civilian population. The counter-insurgency warfare unleashed by the Government of the Sudan against its own citizens had caused massive and indiscriminate destruction and was inherently intolerable and repulsive.
5. Peace talks between rebel leaders and the Government had been suspended, the rebels were growing more intransigent and the security situation on the ground was deteriorating. Despite the Comprehensive Peace Agreement signed between the Sudanese Government and the SPLM/A in January 2005, which had brought an end to Africa's longest-running conflict, aerial bombardment in Darfur continued and the situation of IDPs was cause for grave concern. In the Jaborona IDP camp near Khartoum, the Government had taken to pulling down dwellings to build new roads without providing for relocation.
6. He had met with members of the representatives of the Beja Congress, who had drawn his attention to the political and economic marginalization of the approximately 4 million Beja nomads living in the Kassala region. Reports emanating from the Civilian Protection Monitoring Team referred to a similar situation in Malakal, where reported attacks and threats against civilians living in and around Malakal had caused fear among the local residents and forced them to abandon their life-sustaining activities.

7. In the light of the alarming reports of systematic rape carried out by the Janjaweed militia in the Darfur region, the international community must step up pressure on the Sudanese Government as a matter of urgency. Rape was used as a weapon of war, often in conjunction with racial insults, whipping, undressing, and public sexual acts as a form of humiliation. The Rome Statute of the International Criminal Court classified rape as a war crime and a crime against humanity. As a State party to that instrument, the Sudan had an obligation to implement its provisions.

8. There were strong indications that both government-sponsored armed groups and rebel forces had committed crimes against humanity as part of systematic attacks against the civilian population, including forcible displacement, rape and torture.

9. In response to the recommendation made by the International Commission of Inquiry on Darfur, the United Nations Security Council had voted in favour of referring the situation in Darfur to the International Criminal Court. That decision was an important step towards ensuring that the perpetrators of those crimes were brought to justice. At the national level, for the first time military and security officials had been arrested on charges of rape, killing and burning villages in Darfur.

10. Mr. MOHAMED (Sudan) said that his delegation welcomed the independent expert's acknowledgement that simmering conflict caused by disputes between nomadic and sedentary groups over resources, clashes between the farming community and nomads, and the use of traditional reconciliation mechanisms had been a constant feature in the Darfur region. The independent expert had also conceded that the deterioration of the situation was a direct result of rebel attacks on the airport in the capital of North Darfur State, involving some 70 military casualties. The independent expert had highlighted the Comprehensive Peace Agreement and its protocols; the Sudanese Government's positive response to an increase in African Union ceasefire monitors; its willingness to expand the mandate of the African Union protection force to include the protection of civilians under imminent threat; and its full cooperation with United Nations agencies and mechanisms and humanitarian organizations. The negative impact of the rebels' growing intransigence, their targeting of aid workers and the massive inflow of weaponry as a result of the insurgency, with its impact on the human rights and humanitarian situation in Darfur, had also found due recognition. The independent expert had praised the measures taken by the Ministry of Justice to facilitate the medical treatment of women victims of sexual violence and the Ministry's commitment to compensating civilian victims. He had also highlighted the important contribution made by the National Commission of Inquiry and the appointment of three High Court judges to investigate specific cases of human rights violations, especially rape. Furthermore, the independent expert had recognized as false allegations concerning the involvement of government forces in the attack on the village of Suleia on 3 July 2004. The independent expert's report confirmed that the rebels had blurred the distinction between civilians and legitimate military targets by taking shelter among the civilian population and had provoked and antagonized certain tribes by killing university students, stealing livestock and attacking law enforcement agents and civilian targets.

11. Contrary to claims made by the independent expert, the agreements the Government had concluded with rebel forces did include a human rights component. The power-sharing protocol contained a section on human rights that stipulated the incorporation of human rights guarantees in the proposed interim Constitution.

12. Since the submission of the report, a number of positive developments had taken place, including ongoing investigations and prosecution of human rights violations committed in Darfur, the return of 22,410 IDPs to their homes and the return of 125,000 refugees from neighbouring Chad. His Government was firmly committed to continuing cooperation with all partners to consolidate the promotion and protection of human rights throughout the Sudan.
13. The CHAIRPERSON invited interested delegations to put questions to the independent expert.
14. Mr. GRIBBIN (United States of America) asked the independent expert to identify ways in which the Sudanese Government, the African Union, United Nations agencies and NGOs could help address the persistent gender-based violence in Darfur. He also wished to know how the protection of IDPs could best be ensured during the period of transition to peace. He asked which components of civil society were particularly important for improving the human rights situation in the Sudan and how the Commission could help strengthen Sudanese civil society organizations.
15. Mr. BERNS (Observer for Luxembourg), speaking on behalf of the European Union, asked whether it would be advisable for the Commission to address the situation of human rights in the Sudan as a whole, given the reported widespread lack of respect for human rights and the rule of law. What specific measures could be taken to improve the human rights situation in the areas under SPLM/A control?
16. Mr. FERNÁNDEZ PALACIOS (Cuba) said that his delegation welcomed the reference made to the Sudanese Government's willingness to cooperate and to African Union efforts in Darfur. The African Union was well-placed to assist the Sudan in resolving its problems, many of which were rooted in the country's colonial history or caused by external imperialist influences after independence. He appealed to the independent expert to desist from serving the interests of those who had historically intervened in the Sudan's internal affairs in pursuit of material or political gain, and instead to continue his close cooperation with the Sudanese Government and the African Union.
17. Mr. JA'AFARI (Observer for the Syrian Arab Republic) asked whether the independent expert had sought to link the ongoing rebellion in Darfur with the continuing export of arms from outside the Sudan to the rebels. The successful conclusion of the peace agreement that had brought an end to years of civil war in the South indicated the Sudanese Government's capacity to also bring about peace in Darfur. He wondered whether the independent expert had drawn inspiration from the success of that agreement in his recommendations on the situation in Darfur.
18. Mr. MOHAMED (Sudan) asked whether the independent expert was aware of his Government's decision to withdraw all military airplanes from the Darfur region and pointed out that allegations that his Government had rejected United Nations Security Council resolutions were untrue. His delegation strongly objected to the reference to the Sudanese Government as the "regime in Khartoum".
19. Ms. VIGANI (Observer for Switzerland) said that her Government was deeply concerned over the situation in Darfur and called on all parties to the conflict to adopt measures to put an immediate end to ongoing human rights violations. Her Government welcomed the international

community's decision to refer the situation in Darfur to the International Criminal Court. In the light of the gravity of the human rights violations committed in Darfur, the Commission as the principal international human rights organ must send a clear message of support for all action taken to rectify the situation.

20. Mr. ADDO (Independent expert on the situation of human rights in the Sudan) said that gender-based violence in the Sudan could best be addressed through the ratification and effective implementation of all pertinent international instruments.

21. The protection of IDPs from human rights abuses during the transition period required the deployment of additional troops, provided that the Government consented to the presence of a large foreign military contingent on Sudanese territory.

22. The fostering of a vibrant civil society in the Sudan required first and foremost respect for the right to freedom of speech. Otherwise, dissident groups were forced underground and often resorted to armed struggle to defend their interests.

23. The improvement of the general human rights situation depended on the Government's willingness to promote and protect fundamental rights and freedoms, in particular freedom of expression and freedom of association.

24. The proliferation of weapons in the Sudan made it difficult to control the insurgency. An improvement of the situation required enhanced efforts on the part of the Government to disarm the rebel forces and militia groups.

25. He welcomed the information on the withdrawal of Sudanese military planes from Darfur.

26. The CHAIRPERSON invited the Commission to resume the general debate on item 3.

27. Mr. MEYER (Canada), also speaking on behalf of Australia and New Zealand, said that the widespread violations of human rights and international humanitarian law in Darfur, including sexual violence, forced displacement, arbitrary execution, forced disappearance and torture, must be strongly condemned. Instead of protecting the civilian population, the Sudanese Government was complicit in permitting the attacks by the Janjaweed militia and had made no attempts to ensure the security of IDPs. The rebel groups and armed militia continued to carry out brutal attacks on IDPs and humanitarian workers, thus impeding humanitarian access in Darfur.

28. He called on the Sudanese Government to acknowledge the violations, take the necessary measures to halt the atrocities committed against civilians, and respect its obligations under international human rights instruments. Concurrently, armed militia and rebel groups must immediately cease all action that impeded access for humanitarian aid. To ensure the protection of IDPs living in camps, law enforcement officials assigned to the camps must be instructed to guarantee security and provide assistance to IDPs, investigate allegations of sexual violence, and cooperate with the African Union and human rights and humanitarian agencies.

29. The adoption of the Security Council resolution on referral of the situation in Darfur to the International Criminal Court was commendable insofar as it would ensure timely accountability for those serious international crimes and deter the commission of further atrocities in Darfur and elsewhere.
30. The envisaged United Nations Mission in the Sudan to support the implementation of the Comprehensive Peace Agreement would make a vital contribution to the success of the ceasefire agreement; the emphasis placed on respect for human rights throughout the Sudan was praiseworthy. He commended the African Union on its ongoing efforts in Darfur. The engagement of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the Security Council process and the deployment of OHCHR human rights monitors to Darfur were also positive elements. The value of a comprehensive and rights-based approach to United Nations crisis response must be further emphasized, and he called on the international community to afford the necessary support for international action taken and mechanisms established in pursuit of that goal.
31. It was incumbent on all parties to the conflict in Darfur and on the international community to cooperate fully with the mission of the African Union, the United Nations Mission in the Sudan, United Nations agencies, humanitarian organizations, OHCHR and its special procedures and the International Criminal Court.
32. The situation in Darfur must remain at the top of the international agenda. He called on the Commission to send a strong message deploring those serious human rights violations and ensure that its response was commensurate to the gravity of the situation in order to maintain its credibility.
33. Mr. BERNES (Observer for Luxembourg), also speaking on behalf of the European Union, the acceding countries Bulgaria and Romania, the candidate countries Turkey and Croatia and the countries of the stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, The former Yugoslav Republic of Macedonia and Serbia and Montenegro, said that it was vital to the credibility of the Commission on Human Rights and the United Nations that they meet the challenge posed by the worrying human rights situation in the Sudan in general and in Darfur in particular by reacting in the clearest possible manner to the report of the International Committee of Inquiry (S/2005/60). The European Union was ready to cooperate with all Member States in that respect.
34. Mr. BOSCHWITZ (United States of America) endorsed the statement made by the representative of Canada and said that the situation in Darfur, where a major human catastrophe was taking place, was one of the most egregious examples of human rights abuse in the world, with looting, rape and terror directed at civilians and the most vulnerable sections of society. While his Government applauded the many efforts to rectify the situation in Darfur, progress remained marginal, peace elusive and the humanitarian situation precarious.
35. In order to restore respect for human rights in Darfur, the Sudanese Government must accept its responsibility and cease attacks on innocent civilians. It must disarm and disband the Janjaweed. Impunity must end. Those from either side of the conflict who had committed war crimes must be held accountable for their actions. Security must be improved in and around the IDP camps. Additional efforts were necessary to protect women and girls from rape. Civil

society institutions must be afforded a political environment in which they could work and flourish. The Commission on Human Rights could help by adopting a strongly worded resolution on Darfur.

36. Mr. STROMMEN (Observer for Norway) said that the signing of the Comprehensive Peace Agreement between the Government of the Sudan and the SPLM had been a historic step towards the prevention of further violations of human rights and international humanitarian law in the Sudan. The lack of security and protection for the civilian population in Darfur was, however, a source of concern. His Government was in favour of the involvement of the United Nations Security Council and the African Union and was about to host a donors' conference to rally wide international backing for the implementation of the Comprehensive Peace Agreement, which provided the framework for peace in the entire Sudan.

37. Mr. LITTMAN (Association for World Education), also speaking on behalf of the International Humanist and Ethical Union and the World Union for Progressive Judaism, said that enslavement had been the fate of black Africans for centuries. The Islamist revival of slavery had been a curse on the Sudan and on mankind in general. It was estimated that over 200,000 women and children had been sold into slavery in the course of the previous two decades. There were, however, signs of hope in the shape of the peace process between the Government of the Sudan and the SPLA and of a United States-funded anti-slavery peace conference. Nevertheless, racial and religious bigotry still blighted the prospects for peace in the Sudan and tens of thousands of women and children remained in bondage. It was therefore mortifying to learn that the United Nations Children's Fund (UNICEF) had called on the Sudanese Government to suspend the slave retrieval operation launched by the Committee for the Eradication of the Abduction of Women and Children (CEAWAC). The return of slaves to the south by CEAWAC should be allowed to resume in a manner which respected the dignity of those who had suffered so much as victims of the crime against humanity that was slavery.

38. Mr. AHMED (Human Rights Watch), also speaking on behalf of the International Commission of Jurists, the International Federation for Human Rights, the International Service for Human Rights, Amnesty International and the Sudan Organization against Torture, said that much needed to be done to end the ongoing violence in Darfur, provide security for its people and reverse the mass forced displacement that had occurred. Despite the lower incidence of large-scale violence, millions of IDPs were unable to return to their villages on account of continued attacks by government-backed militias and other forces. Humanitarian aid workers were also under threat.

39. The Commission on Human Rights should firmly condemn and closely scrutinize the gross abuses of human rights and humanitarian law that had taken place in Darfur. The Commission ought to call for an immediate increase in the number of human rights monitors on the ground and for periodic public reporting on the human rights situation by those monitors. The mandate of the independent expert on the situation of human rights in the Sudan should be renewed. It was particularly important that, during the peace negotiations in Darfur, he ensure that sufficient attention was paid to human rights and justice.

40. Mr. PIAL MEZALA (International League for the Rights and Liberation of Peoples) welcomed the adoption of Security Council resolution 1593 (2005) and said that the findings of

the report submitted by the Commission of Inquiry showed that the Commission on Human Rights must act immediately to end the hell on earth being experienced by the populations of Darfur. It ought to adopt a resolution on the Sudan condemning the ongoing massive violations of human rights and international humanitarian law in Darfur, reappointing the independent expert on the situation of human rights in the Sudan, calling on the international community to provide stronger support for the African Union's efforts to contend with the humanitarian crisis in Darfur and calling on the Sudan forthwith to disarm the militias in the Darfur region, to cease governmental forces' attacks on civilians, to create safe conditions enabling the voluntary return of IDPs and refugees and to cooperate with the International Criminal Court so that those responsible for human rights violations did not escape punishment.

41. The Commission on Human Rights would become an accessory to the horrifying events unfolding in Darfur if it remained silent and shut its eyes to what was currently the worst crisis in the world.

42. Mr. JIBRIL (African Society of International and Comparative Law) said that if any measures adopted by the Commission were to be meaningful, they should take account of all the information in the 26 documents before the current session which dealt in some way with the human rights crisis in Darfur. Thousands of persons originating from Darfur who lived in other parts of the country were also being subjected to excessive taxation, dismissed from their jobs, imprisoned or killed simply on account of their blood ties with the victims of that crisis.

43. The international community's reluctance to tackle the perpetrators of war crimes and crimes against humanity in Darfur had encouraged the escalation of the violence there, while the withdrawal of aid workers from the countryside following threats from the Janjaweed had left thousands of defenceless citizens starving and without protection.

RIGHTS OF THE CHILD (agenda item 13) (continued) (E/CN.4/2005/63, 73-77, 78 and Corr.1-2 and Add.1 and Corr.1 and Add. 2-3, and 129; E/CN.4/2005/G/7; E/CN.4/2005/NGO/18, 29, 51, 73, 98, 124, 126, 194, 206, 222, 229, 251, 269, 319, 326 and 337; E/CN.4/Sub.2/2004/34)

44. Mr. ELKADIRI (Observer for Morocco) said that the international community must take more vigorous collective action to alleviate the plight of children in many parts of the world who were suffering from the combined effects of abject poverty, armed conflicts, pandemics, malnutrition, illiteracy and various forms of exploitation.

45. In his country, many legislative measures had been adopted to improve children's lives and protect their interests. The minimum working age had been raised to 15, and national programmes to combat illiteracy were targeting some 200,000 children annually. His Government had hosted several regional and international conferences aimed at the promotion of minors' rights and, in 1999, it had set up a Children's Parliament in order to enable children to participate in the democratic process.

46. Ms. PHUMAS (Observer for Thailand) said that, given the paramount importance of creating a world fit for children, the authorities of her country were striving to provide an enabling environment for the development of the full potential of every child. Her Government was determined to provide children with the best possible protection and to create a life-long learning society that made it possible for children to reap the fruits of the globalizing world. Its

policy was therefore to guarantee that every child received at least 12 years of education. It attached great importance to forging partnerships with various stakeholders and had therefore hosted a number of regional and subregional meetings. It likewise supported the work of the independent expert for the study of violence against children. The international community must assist countries in their efforts to ensure that every child could fully enjoy the rights to which he or she was entitled, because the realization of the rights of the child was the key to durable peace in the future.

47. Mr. Ould Mohamed Lemine (Mauritania) took the Chair.

48. Ms. KUPCHYNA (Observer for Belarus) said that, since championing children's rights and interests was a priority of her Government, it had enshrined the defence of their rights in the Constitution and in statutory law and it cooperated productively with UNICEF. It paid particular attention to the needs of some 300,000 children affected by the Chernobyl disaster. Furthermore, the four-year national plan to improve the situation of children had lent added momentum to the realization of children's rights in general through measures to promote their physical and mental development and encourage their active participation in society as law-abiding citizens.

49. Her Government was likewise endeavouring to implement the recommendations of the special session of the United Nations General Assembly on children as well as those of the Committee on the Rights of the Child. It intended to launch another four-year plan entitled "The Children of Belarus" and was embarking on steps to extend its participation in international instruments defending children's rights by acceding to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. It urged other States to follow its example.

50. Ms. FORERO UCROS (Observer for Colombia) said that, as the authorities of her country attached great priority to improving the lot of children, they had adopted a policy aimed at bringing existing standards into line with the provisions of the Convention on the Rights of the Child. For that purpose, they had created over 700,000 new places at school.

51. They were trying to cut maternal and infant mortality in 2015 to half the level recorded in 1990 by widening social security coverage and targeting assistance on the poor. In 2004, they had also helped more than 800 children to escape from the clutches of illegal armed groups and were doing their utmost to prevent the recruitment and use of child soldiers.

52. Mr. CROITOR (Observer for the Republic of Moldova) said that, having acceded to the Convention on the Rights of the Child, his Government regarded those rights as essential human rights and was committed to ensuring the all-round development of Moldovan children. To that end, a number of programmes on health, education, juvenile justice and violence against children were being carried out.

53. In the eastern districts of the Republic of Moldova, which had been under the control of a separatist regime since 1992, schools using the Latin script had been closed down, thus depriving children of the right to be instructed in their mother tongue. The pupils, parents and teachers of those schools had even been harassed and intimidated. He therefore appealed to the Commission on Human Rights to condemn those brutal and illegal actions.

54. Mr. VITE (International Social Service), also speaking on behalf of the European Federation of Women Active in the Home, the International Council of Women, the International Federation of Social Workers, SOS-Kinderdorf International, the First Nations Child and Family Caring Society of Canada and Resources Aimed at the Prevention of Child Abuse and Neglect, said the fact that millions of children all over the world were in out-of-home care caused problems that needed to be urgently addressed at the international level. The break-up of families and the ensuing placement of children in care might be prevented if parents were given real support. Any United Nations guidelines on the protection and alternative care of children should seek to prevent the separation of children from their parents, ensure that care decisions were based on valid criteria and that a range of options existed to cater for the specific needs of each child, secure a permanent arrangement through family reunification or an alternative family setting and protect children from abuse, neglect and exploitation. The Commission on Human Rights should request the Committee on the Rights of the Child to proceed with the drafting of those guidelines and to report on progress therewith at the Commission's following session.

55. Ms. FITZSIMMONS (Human Rights Advocates), speaking also on behalf of the Human Rights Council of Australia and the National Association of Criminal Defense Lawyers, said that although the prohibition of the execution of juvenile offenders had become a jus cogens norm, a few countries, including Iran and China, continued the practice. The Supreme Court of the United States had only recently ruled that the juvenile death penalty was not a proportionate sentence. Iran was currently the most serious violator of the prohibition, having already executed one youth offender in 2005, and several in 2004. Although a bill banning the practice had been introduced in the Iranian Parliament, it had not yet been enacted. Two juvenile offenders had been executed in China during the past two years, despite the prohibition, by law, of juvenile death penalties. There had been a positive development in Pakistan, however, where the federal Supreme Court had recently suspended a lower court's decision to reinstate the juvenile death penalty.

56. Sentences of life imprisonment without parole for minors should also be abolished. The United States was the only country that handed down large numbers of juvenile life sentences with no possibility of release. At least 2,000 minors were currently serving such sentences. In many other countries, juvenile life sentences were legal, but could be appealed or shortened. The Commission should recognize that such sentences violated international law, and should monitor the detention of youth offenders. The Commission should also call on offending countries to report on the status of the practice of handing down juvenile death sentences to the Special Rapporteur on extrajudicial, summary or arbitrary executions.

57. Ms. DE CLELLAN (International Catholic Child Bureau), also speaking on behalf of ECPAT International, the International Council of Women, the Women's World Summit Foundation and the World Movement of Mothers, said that although over the past 10 years considerable progress had been made in the fight against the commercial sexual exploitation of children, shortcomings still needed to be addressed. The Commission should urge all States to implement the Yokohama Global Commitment, and to recognize all aspects of the problem of sexual exploitation and abuse. All States should give all children up to the age of 18 the right to special protection against sexual exploitation, and the legal age of sexual consent should be separated from the upper age of protection against sexual exploitation. Children under 18 should not be considered able to consent to engagement in prostitution, pornography or trafficking for

sexual purposes, whatever the legal minimum age of sexual consent. All States should criminalize and effectively penalize all forms of sexual exploitation and sexual abuse of children, including in contexts of child marriage. Child marriage increased vulnerability, particularly of girls, to sexual abuse and exploitation at all stages in their lives, and put very young girls at risk of health problems. Many girls married at a young age had limited schooling, and were economically dependent on their husbands, and thus more vulnerable to resorting to commercial sex work in case of divorce or abandonment. Child marriage could be considered a form of commercial sexual exploitation in the event that parents married off a child in order to gain benefit. In many countries, majority could be prematurely attained through marriage, and girls married at an early age were therefore denied access to child protection services. All States should prevent the practice of early marriage.

58. Ms. ZADEH (National Federation of International Immigrant Women Associations) said that in Iran, girls over the age of 9 and boys over the age of 15 were considered adults and could be executed. There were currently 30 juveniles on death row for offences that they were alleged to have committed under the age of 18. In October 2004, a 13-year-old schoolgirl had been sentenced to be stoned to death, and in November of that year, a 14-year-old boy had died following 85 lashes for eating in public during the holy month of Ramadan. The crimes of the Iranian regime went against Islam and Iranian tradition. Child prostitution had increased dramatically over recent years, and every day, dozens of Iranian girls were taken to Karachi to be sold as sex slaves. Newspaper reports in Tehran had indicated that senior Iranian government officials were involved in human trafficking. By law in Iran a father could force his daughter to marry from the age of 9. A man could have up to four wives and 40 temporary marriages. The international community must take a stand to ensure that human rights were fully respected in Iran.

59. Mr. MANDIANGU BUENZEYI (International Committee for the Respect and Application of the African Charter on Human and Peoples' Rights) said that from 1921 to 1959, the Belgian colonial administration in the Belgian Congo had deported over 150,000 followers of Simon Kimbangu to concentration camps in the east of the country. Many children whose parents had been deported were still traumatized and suffering from serious psychological effects. The Commission should call on the Belgian Government to assume responsibility towards the victims of the deportations, which were only one aspect of the multifaceted colonial repression that had been exercised over the Belgian Congo, and instigate a reparation programme in order to help them to regain their dignity. His committee welcomed the Belgian Government's apology regarding the assassination of Patrice Lumumba, and hoped that the names of Simon Kimbangu, his followers and their children could be cleared.

60. Ms. TROCHU (World Organization against Torture) said that, despite their vulnerability, minors often did not receive the necessary protection against torture. The risk of torture or ill-treatment was particularly high for children in conflict with the law. Despite legal norms imposed on States at the national and international levels, juvenile justice systems did not guarantee children the protection they deserved, particularly when they were being held in detention. Acts of physical, psychological and sexual violence were often committed against children by agents of the State or by other detainees, and minors were often imprisoned with adults and people of the opposite sex, demonstrating a lack of awareness and of implementation of fundamental principles of juvenile justice. Arbitrary arrest and torture were common in countries that were under military occupation, or the scene of armed conflicts, such as Israel, the

Occupied Palestinian Territory and certain parts of the Russian Federation. In Israel the excessive and frequent use of force by the police and the army against young Palestinians had also been observed. In some countries, the death penalty existed for persons who had committed crimes before the age of 18. All States should abolish the juvenile death penalty in law and in practice. Her organization welcomed the recent decision of the Supreme Court of the United States to abolish the death penalty for criminals who had committed offences before attaining the age of majority, and hoped the United States would soon ratify the Convention on the Rights of the Child.

61. Corporal punishment of children continued to be used in schools and detention centres and in the family, and was largely accepted in many societies as a form of punishment or method of education. States should guarantee that such methods would be abandoned. Awareness-raising activities and the establishment of effective controls for the elimination of corporal punishment across the world were of particular importance. Her organization hoped that the reform of the United Nations human rights protection mechanisms would take the rights of the child into consideration, and recommended that the Commission appoint a Special Rapporteur on violence against children.

62. Ms. KADJAR-HAMOUDA (International Federation Terre des Hommes) said that children who were victims of trafficking experienced many different types of abuse. Trafficking in persons not only entailed moving people from one country to another, but also took place within countries. Her Federation was currently running 45 field projects in 25 countries. Governments had specific responsibilities to prevent trafficking, to identify child victims of trafficking and assist them, to protect child victims and to find a durable solution that was in the best interests of each child. Prevention activities could be carried out in the stages before trafficking occurred, measures could be taken to intercept children during the trafficking process, and to rescue them from exploitation. Measures must also be adopted to ensure protection and recovery for children, and to prevent them from falling back into the hands of traffickers. Children who were rescued from traffickers should be placed in the care of a temporary guardian. They must all undergo an urgent needs assessment to establish whether or not they needed medical or other urgent action. Durable solutions could include local integration in the country to which a child had been trafficked, return to his or her country of origin for reintegration, or transfer to a third country for integration there. The child victims themselves must be able to participate in making such a decision.

63. Ms. TOWNSHEND (Friends World Committee for Consultation (Quakers)) said that thousands of children faced problems if their mothers were in prison or being held in pre-trial detention. Many imprisoned women were the sole carer of small children. In countries with indigenous populations, there tended to be a disproportionately high number of indigenous women in prisons, and their children could face additional problems. When a mother was imprisoned, her baby or child might go into prison with her, or might be separated from her. Neither of those situations was satisfactory. Her committee had recently published a paper entitled "Babies and Young Children in Prison", which included some draft suggested guidelines for legislation and policy concerning the treatment of such children. The Commission and its special procedures should give greater attention to those innocent prisoners.

64. Ms. EKSTEDT (International Save the Children Alliance) said that hundreds of thousands of children had been affected by the tsunami disaster in Asia, many of whom had been

separated from their families and left homeless. The catastrophe had raised the issue of how children without parental care were protected, and had highlighted the need to develop high standards to ensure the provision of good and protective care. Such care should focus primarily on community-based options, including extended family care, foster care or group fostering. Protecting children in emergencies should be a priority for all States.

65. The Commission should call on the international community to ensure that a sufficient proportion of the funds pledged for the emergency in Asia were being allocated to the protection and advancement of children's rights in respect of both immediate relief and longer-term recovery. States and United Nations agencies should provide assistance to strengthen local capacities and equitable access to basic services, respect sociocultural contexts and promote non-discrimination and child participation. Donors must make child protection an integral part of every humanitarian response, including the provision of quality education and psychosocial support. Governments and national and international actors must register all children who had been separated from their families and ensure that they were given appropriate interim care; provide children and young people with formal and informal education opportunities; enhance participatory mechanisms through which children could express their concern and constructively contribute to decisions that affected them; and support and strengthen the resiliency and resources of families and communities.

66. Her organization welcomed the decision of the Committee on the Rights of the Child on the need to develop United Nations guidelines for protection and alternative care for children without parental care. Such standards would be the key to ensuring that children were cared for in the best possible environment and that they were protected from the risk of abuse and exploitation.

67. Mr. ARIAS (Agir ensemble pour les droits de l'homme) said that the armed conflict in Colombia had a serious psychosocial impact on children. Thousands had links with the guerrillas and paramilitary groups. They were executed if they tried to escape or for disobeying orders, and were subjected to torture, sexual abuse and prolonged detention. Their involvement in the conflict could not be regarded as voluntary, given the pressure from the guerrillas and paramilitaries and the lack of a clear State policy aimed at protecting their rights. In their campaign against the recruitment of minors, the authorities characterized as preventive activities visits by army representatives to schools in conflict zones where they sought to ensure that the children continued to support the armed forces. The army endangered children's lives by using them as informers and in counter-insurgency activities.

68. Although the paramilitary groups had promised two years previously to release children from their ranks, they had handed over only 180, while thousands continued working for them. The process was aimed at legalizing paramilitary structures rather than safeguarding children's rights.

69. In 2004 at least 18 children had died in incidents involving the armed forces and 10 in attacks by subversive groups. The perpetrators of such acts of violence almost invariably enjoyed impunity.

70. The Commission should urge the Colombian Government to ratify the Optional Protocol to the Convention on the Rights of the Child, establishing 18 as the minimum age for voluntary

recruitment; pursue a coherent rights-based policy of prevention; refrain from using children's facilities as military bases and from involving children in counter-insurgency or intelligence activities; ensure that children detached from paramilitary and insurgent groups were not interrogated, tortured or ill-treated; urge combatants to release children and protect schools and other children's facilities; and call on the Special Representative of the Secretary-General for children and armed conflict to visit Colombia.

71. Ms. DOI (Peace Boat) said that there were currently 1,435 foreigners detained in Japanese immigration facilities, many of whom were children, whose rights were being violated. There were approximately 250,000 irregular foreign nationals in Japan, and there was no blanket regularization or amnesty policy. Japan's Nationality Act adopted a strict jus sanguinis policy and dual nationality was not allowed; accordingly, many children born in Japan were deported. Many foreigners were held in detention for indefinite periods of time, and included families, children, pregnant women, asylum-seekers and refugees. The Japanese Government should immediately abandon the practice of arbitrary detention.

72. Japan did not have any legislation prohibiting racial discrimination, or an independent human rights mechanism. Members of Parliament had specified that no foreign nationals would be permitted on the staff of a national human rights commission. Her organization strongly opposed that policy, since multi-ethnicity was necessary for the effective prohibition of ethnic discrimination and to protect the dignity of minority children.

73. Ms. NARANG (Indian Council of Education) said that the 1993 Vienna Declaration emphasized the importance of major national and international efforts for promoting children's rights. The right to protection included freedom from all forms of exploitation, abuse, inhuman or degrading treatment and neglect, and the right to special protection in situations of emergency or armed conflict. In the context of contemporary globalization, child sex tourism had become a serious problem all over the world. Sexual abuse of children was a serious threat to their right to life. Across the world, over 2 million children under the age of 15 were infected with HIV/AIDS. In a world where Governments gave priority to profit-making and international trade, concerns for social values, norms and the rights of vulnerable groups were being neglected. States must be made aware that children were the future.

74. Mr. Wibisono (Indonesia) resumed the Chair.

75. Ms. BISIAUX (Open Society Institute) said that all over the world, children infected or otherwise affected by HIV were among the most vulnerable of all young people. In addition to serious health concerns, they faced HIV-related stigma and discrimination. In Central Asia the number of children living and working on the street had increased dramatically in recent years. Such children were particularly vulnerable to a wide range of human rights abuses, including harassment by police and sexual exploitation. Children were particularly vulnerable to contracting HIV through injecting-drug use and sex. In Russia, children were thought to comprise more than 25 per cent of new regular drug users. Successful programmes for the protection of such children had focused on developing young people's decision-making and health promotion skills, and harm reduction and self-care strategies.

76. Children suffered greatly from the unintended consequences of repressive drug policies. Orphaned children had often watched their parents struggle in isolation with drug addictions,

owing to a lack of harm reduction services. Some had witnessed their parents' deaths from drug use or HIV. Disproportionately harsh drugs sentences had led to the unnecessary imprisonment of tens of thousands of small-scale drugs offenders. Children who lived apart from their families and were detached from social institutions often had no other refuge but the streets.

77. Children also had a right to privacy and freedom from harassment. Random drug testing in schools in many countries indicated a lack of respect for students and had a negative effect on relationships between teachers and children. Realistic drugs education should not be based on distrust and suspicion, but a system of support, assistance and information. Misguided drugs policies regularly prevented children and young people from being able to protect themselves and others from harm, and constituted a severe violation of their right to health.

78. Ms. KAO (Becket Fund for Religious Liberty) said that Governments around the world, particularly in Europe, were struggling with the issue of how to respect the right of the child to express religious belief in the classroom. France had recently implemented a prohibition on religious clothing that forbade children from wearing any religious symbols to school. The opportunity to wear religious symbols in the classroom would lead to healthy curiosity among students, and greater inter-faith understanding. Prohibiting such symbols would discourage children from discussing their religious and cultural differences. The suppression of such discussions would lead to an increased fear of the unknown, and thus increased segregation and possible hostility, suspicion and mistrust. Children who had been expelled from French schools for wearing religious symbols were being deprived of the opportunity to learn and were being marginalized from mainstream society at an early age.

79. Ms. PONCINI (International Federation of University Women), speaking also on behalf of the Baha'i International Community, the Pan Pacific and Southeast Asia Women's Association International, the International Council of Women, the Women's Zionist International Organization, the Union of Catholic Women's Organizations, Femmes Afrique Solidarité, the International Council of Jewish Women, the International Alliance of Women, the International Federation of Social Workers, and the Women's World Summit Foundation, said that gender-based violence had increased in the last two decades, especially in areas of armed conflict. Since 1990, women and children had been the victims of 80 per cent of conflict-related deaths among civilians. Rape and sexual violence were used as a war tactic and to demoralize communities. Women and girls were routinely trafficked, used in prostitution and held in slavery by armed groups. Those found guilty of such crimes should be held accountable as war criminals.

80. Over 1 million baby girls were killed each year throughout the world, especially in India and China. Some 130 million women had undergone female genital mutilation and over the next 10 years 100 million girls would be child brides. A disproportionate number of girls were being infected with HIV/AIDS, in some countries five times as many as boys, owing to unwanted sexual activity and early marriage.

81. She welcomed an International Labour Organization (ILO) initiative aimed at mainstreaming a gender perspective in the fight against child labour.

82. She reminded the Commission that Governments had undertaken, in the Beijing Declaration and Platform for Action, to eliminate all forms of discrimination and negative cultural attitudes and practices directed against the girl child as well as discrimination against girls in health, nutrition, education, skills development and training.

83. Mr. ASKARY (Organization for Defending Victims of Violence) said that a world that claimed to be committed to justice should not tolerate practices such as forcing children to work in mines and inadequately lit and ventilated workshops and factories, at the same time depriving them of education. Girls in particular were kept from school to perform domestic chores. Street children lived in extreme poverty and were exposed to health hazards.

84. It had been estimated that world poverty would treble over the next 20 years. To prevent further poverty-induced tragedies, politicians and decision-makers must set aside national interests and comply with the provisions of international instruments aimed at protecting children's rights. In particular, Governments should ratify ILO Conventions, pay closer attention to child labour and ensure that those who violated the rights of the child were brought to justice.

85. Mr. GALLAGHER (General Conference of Seventh-day Adventists) said that certain States parties to the Convention on the Rights of the Child were not complying with the provisions of articles 14 and 30 concerning the right to religious freedom.

86. Poverty had an impact on children's development by adversely affecting their health and education. Illiteracy made it difficult for parents to earn enough to care for their family and prevented children from fulfilling their potential. Children were exploited for cheap labour under harsh conditions, for use in armed conflict and for the perverted sexual pleasure of adult predators.

87. His Church gave priority to the right of children to a loving and stable home; to adequate food, clothing and shelter; to proper health care; to an education that developed their potential and provided them with earning capacity; to a religious and moral education in the home and in church; to freedom from discrimination and exploitation; and to respect and development of self-esteem.

88. Mr. LAMA (International Union of Socialist Youth) said there was ample evidence that China was continuing to violate children's rights on a colossal scale in Tibet. The authorities arbitrarily detained and tortured Tibetan children, deprived them of their culture by forcibly removing them from their families and traditional environment, subjected them to religious repression and denied them educational and cultural rights.

89. The recommendations made by the Special Rapporteur on the right to education at the sixtieth session of the Commission had not been implemented. The Executive Director of UNICEF had expressed concern in 2004 at the fact that only 31 per cent of children in Tibet had access to the compulsory nine years of education. Tibetan children accounted for over 60 per cent of refugees who reached Dharamsala reception centre in India. Most of them made the hazardous journey specifically with a view to obtaining an education.

90. China continued to refuse to provide information on the well-being of the young Panchen Lama, who had been held incommunicado since May 1995, or to allow an independent observer to visit him.

91. Ms. LEE (A Woman's Voice International) urged the Commission to pay special attention to its resolution 2004/13 on the situation of human rights in the Democratic People's Republic of Korea, especially children's rights. Food aid did not reach the most vulnerable and undernourished children since it was distributed through State channels and focused on State institutions.

92. The "Great 10 Principles" on which the ruling party's ideology was based enslaved the children of the Democratic People's Republic of Korea to a personality cult of the country's leaders. The Government should abandon those principles and its policy of class discrimination, which had institutionalized inequality, also in terms of enjoyment of economic and social rights. The Government should also stop forcing children to watch public executions, which could result in traumatic shock.

93. Lastly, she called on the Government to release the Reverend Dong-sik Kim, who had been kidnapped by its agents while helping Korean defector children in China.

94. Ms. FURTER (International Alliance of Women) said that the Convention on the Rights of the Child was the only United Nations instrument that enshrined the indivisibility of civil, political, economic, social and cultural rights, particularly in article 40, paragraph 1, concerning the rights of children who had infringed criminal law. She welcomed the steps being taken by the Committee on the Rights of the Child to take account of the two Protocols additional to the Convention in its proceedings.

95. The report of the Special Rapporteur on the sale of children (E/CN.4/2005/78) provided useful information on child pornography on the Internet. He had drawn an interesting parallel between the Protocol dealing with that issue and the Council of Europe Convention on Cybercrime. She welcomed the recommendations to States that they introduce legislation creating the offence of "Internet grooming or luring" and ensure that legislation on child pornography protected all children under the age of 18, regardless of the age of consent to sexual activity, which could be under 18.

96. Mr. GERSHANIK (Permanent Assembly for Human Rights) expressed concern at discrimination against children in Argentina, although the Convention on the Rights of the Child had been given constitutional status in 1994. As a result of the economic and social crises, a large number of poor children and adolescents had been excluded from access to health care, education and housing. Younger children had suffered indirectly through their parents, and children old enough to work had been unable to find employment. An integrated plan was needed to implement all national and international instruments aimed at protecting children's rights. Owing to the lack of such a plan, many poor or marginalized children and street children had become involved in criminal activities and been institutionalized. A distinction had to be made between children who were the victims of crime (abused children, children forced to beg or prostitute themselves), children charged with offences (theft, bodily harm, murder) and children unable to meet their basic needs (children from poor homes, etc.).

97. The existing legislation on children (Ley de Patronato) based on the notion of judicial protection led to the incarceration of children under the age of 16 without due process or their confinement in overcrowded institutions where they were at risk of ill-treatment. The legislation should be repealed and emphasis placed on children as subjects of rights.

98. Ms. M'JID (Union Action Féminine) said that, despite an improvement in Moroccan legislation in recent years, including the reform of juvenile justice, the Labour Code, civil status legislation, the law on kafala and the Family Code, there was no instrument setting forth the broad principles underlying children's rights such as non-discrimination and the best interests of the child. Moreover, it was essential to take action and provide resources to implement the legislation. Closer coordination was needed among central, regional and local authorities and NGOs. An independent monitoring mechanism, accessible to children, was also needed to assess progress and report violations of the rights of the child.

99. With regard to trafficking in children, Morocco was not just a country of origin but also a country of transit between Africa and Europe. A holistic and integrated approach should therefore be adopted to the problem of illegal migration of minors.

100. International bodies concerned with children's rights should jointly develop measurable qualitative and quantitative indicators of the effectiveness of policies to promote children's rights.

101. Ms. PHILPOTT-NISSEN (World Vision International) said that the Commission should seek to determine the nature and extent of abductions of children in Africa. OHCHR should be provided with sufficient financial and human resources to carry out the task.

102. In the ongoing conflict in northern Uganda, atrocities included the abduction of girls and boys for use as child soldiers or sexual slaves. The partial ceasefire negotiated in late 2004 had suffered a setback in early 2005 and a stalemate had now been reached. However, contacts with the Lord's Resistance Army (LRA) held out some prospects of peace.

103. Following the referral of the situation to the International Criminal Court by the Ugandan Government, investigations had begun in July 2005. Although the use of children under the age of 15 in hostilities constituted a war crime, her organization shared the concerns of the Acholi population and civil society groups regarding prosecutions at the current stage. The mediation process should be supported and the LRA encouraged to become involved in the peace process before the question of bringing the perpetrators to justice was addressed. Increased civilian monitoring would help to create safe space for peace negotiations.

104. The LRA and the Ugandan Government should abide by their responsibilities under international law to protect the civilian population. The Government of the Sudan should ensure that Sudanese territory was not used by the LRA and should bring pressure to bear on its leaders to maintain the ceasefire.

105. Ms. NORDENMARK (Andean Commission of Jurists) said that corporal punishment of children, including punishment that left no physical marks, with the intention of correcting undesirable conduct, was an affront to human dignity and a violation of the Convention on the Rights of the Child.

106. In the countries of the Andean region, corporal punishment was rooted in custom and hence deemed socially acceptable. There was no awareness of its physical and psychological impact. Cases of corporal punishment therefore went unreported and the perpetrators enjoyed impunity. There was no explicit prohibition of corporal punishment in national legislation, so that punishment was at the discretion of the judicial authorities. The legislation should be amended to include such a prohibition.

107. She urged the Commission to adopt a resolution on the subject, calling on States to prohibit the corporal punishment of children, mount public awareness campaigns and boost resources aimed at eradicating such violence.

Statements in exercise of the right of reply

108. Mr. SOBASHIMA (Japan) said that the authorization of history textbooks in Japan was founded on the principle of publishing a range of books reflecting the diverse approaches of authors and editors. The Government refrained from imposing historical perspectives and should not be identified with those contained in the textbooks. The text approval system was designed to ensure that obvious flaws or lack of balance were eliminated in the light of objective academic research.

109. In 1995, the then Prime Minister had admitted that in the past Japan had caused tremendous damage and suffering to the people of many countries, especially those of Asian nations. He had expressed deep remorse and presented a heartfelt apology. The position of the Japanese Government had remained unchanged since then.

110. Mr. MOHAMED (Sudan), responding to a statement by the representative of Canada regarding evidence allegedly proving that human rights violations had been committed by the Sudanese Government in Darfur, said that the core of the problem lay in how such evidence was obtained and the credibility of its sources. Some of the so-called evidence was entirely unfounded; yet it was disseminated in the media without proper verification, sometimes in support of a particular agenda. His country's National Commission of Inquiry had recognized that human rights violations had been committed and had agreed with the International Commission on a number of points. He was confident that neither Canada nor many other members of the Commission had read the National Commission's report or the response of the Sudanese Government to the International Commission's report. It had undertaken to combat impunity and to cooperate with the international community and the Commission in order to ensure that nobody who had been guilty of crimes went unpunished. The national judiciary was quite capable of finding the perpetrators and imposing penalties that would serve as a deterrent.

111. Mr. PARK In-kokk (Republic of Korea), responding to the representative of Japan, said that the Government should take a more responsible approach to the approval of history textbooks by developing guidelines and reviewing draft textbooks. The content of some textbooks fell far short of universal values and historical truth. Distorted history teaching had a negative impact on the world view of the younger generation. It also impeded the development of respect for human rights through education, in accordance with article 29 of the Convention on the Rights of the Child.

The meeting rose at 6 p.m.