

**THE INTERNATIONAL MOVEMENT AGAINST
ALL FORMS OF DISCRIMINATION AND RACISM
(IMADR)**

**Final Report on the 60th Session of the United Nations Commission on Human Rights
Geneva, 15 March – 23 April 2004**

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Note: This report is by no means meant to serve as an official record of the actual discussion of the Commission on Human Rights, and the IMADR-UN Office does not assume any responsibility for any inaccurate summary of a statement wherever it may exist.

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I. INTRODUCTION

A. Resolutions and Brief Evaluation

The United Nations Commission on Human Rights (CHR) held its 60th Session from **15th March to 23rd April 2004**. After six weeks of session, member states adopted **88 resolutions, 28 decisions and 5 Chairperson's statements. 3 thematic procedures** were established as well as **2 country mandates**.

This year the CHR was chaired by the Australian Ambassador **Mike Smith**. Unlike other years, the Commission kept mostly to time, there was no clustering of items and no meeting went beyond its designated time. There were several extra meetings at lunchtime, when it appeared the Commission was lagging behind, (one notably following the Israeli assassination of Sheikh Yasin), but otherwise the Chair kept everyone within their time limit, aided by swift use of gavel for all transgressors. There were no complaints of bias or lack of integrity this year.

A large group of member States expressed increasing discontent with **country specific resolutions**, as they felt this was a means of targeting less developed countries. This led to no action motions on Chechnya, China and Zimbabwe and there was considerable commotion in the room when the Cuban resolution was adopted, leading to someone being removed and undignified scuffles in the foyer, when a Cuban delegate knocked an American delegate unconscious. There was also a continuing trend to publicly attack the integrity of **Special Rapporteurs** (SR) and call into question their integrity or whether they were acting within their mandate. Several states, notably USA and Australia, warned against a proliferation of mandates and for this reason opposed certain resolutions.

B. Four Burning Issues

For the second time the **High Level Segment** (HLS) was held and over 85 State Dignitaries from different countries and institutions each gave a 15 minute speech. Which meant that four days passed before the Commission could begin its work on actual Items. The vast majority of the speeches began with a tribute to the late High Commissioner, **Sergio Vieira de Mello**, who was tragically killed in a terrorist bombing last year in Baghdad. Condolences were also expressed for the Madrid bombing of the 11th March, the Thursday just prior to the Session and a one minute silence was called for, and observed, by the Irish Minister as the first speaker of the HLS.

This naturally placed terrorism and the **combating of terrorism within the rule of law**, very high up on the agenda for the majority of statements. How ironic, that only last year Sergio de

Mello had spoken out on behalf of restraint in counter terrorism measures. Many spoke of the effect of counter terrorism measures on human rights, particularly the growing Islamophobia, whereby Islam is being linked to terrorism. Numerous statements from all regions reiterated that terrorism has no religion and that Islam is a religion of peace.

On the eve of the first day, the Swiss Minister for Foreign Affairs invited all her female counterparts to a meeting on **violence against women**. They adopted a joint declaration, which was applauded by the majority of speakers in the next few days of the HLS. Along with counter-terrorism and violence against women, the third main focus of the HLS was on **trafficking**. Mr Ramcharan, the acting High Commissioner (HC), started the ball rolling with his opening speech, where he spoke of the complex root causes and 'that the gravity of this has not been fully recognised.' A thematic procedure on trafficking was later adopted, for which Mr Ramcharan expressed his gratitude in his closing statement.

On the **8th April**, Secretary-General (SG) **Kofi Annan** started off an hour's memorial for the **10th Anniversary of the Genocide in Rwanda**. On this occasion, the SG announced his plan for a designated person to link the CHR with the Security Council in the form of an **early warning system against genocide**. This was followed by speeches from a Rwandan Minister and a genocide-survivor, as well as the 5 representatives of the five regional coordinators, all applauding Mr Annan's initiative.

C. Interactive dialogue with Special Rapporteurs

For the second year the interactive dialogue was seen as a very useful way to interact with the Special Rapporteurs (SR) and Independent Experts (IE). This section tended to be the first topic under each item, which placed the reports at the centre of the proceedings, and several countries had prepared targeted questions for elaboration or extra comment, notably Ireland (on behalf of the European Union), Switzerland and Cuba, whilst others contributed on an ad hoc basis.

II. Issues of Concern to IMADR

A. Racial Discrimination, Including Caste and Descent-Based Discrimination

i) Reports

- Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (Mr Doudou Diene) Please see appendix on the summary of his reports.

Mr Diene submitted his main report under his mandate: E/CN.4/2004/18, with addenda 1-4, which were mission reports to Guyana, Trinidad and Tobago, Canada, Colombia and Cote D'Ivoire, as well as E/CN.4/2004/61. In the presentation of his main report he spoke of the resurgence of traditional forms of discrimination: **caste system**, colour, **Roms**, **Anti-Semitism**, **Islamophobia** and against **people of Arab descent**. He also said he was concerned about new forms of racism such as against **non-nationals, refugees and migrant workers**. These new 'insidious' discriminatory cultures were based largely on economic and social factors. They have not been helped by the excessive attention since 9/11. The fight against terrorism has cultural and religious elements and is identity fixated; these are leading to new discriminatory practices and a general lowering of political and ethical standards. Another concerning trend was the legitimisation of racism and discrimination, including Islamophobia, amongst intellectuals and revisionism of Anti-Semitism.

Mr Diene also gave a brief summary of his visits noting **Canada's** innovative legal strategy, which he felt needed an intellectual strategy in order to construct a more egalitarian multiculturalism. He noted with sadness the rise in discrimination in **Cote d'Ivoire**, a country that had no history of such problems, and highlighted the need for a legal strategy in **Colombia**, observing the extreme violence against **Indigenous Peoples** and **People of African descent**.

In the interactive dialogue **Pakistan** welcomed the report, which shows the spiralling of Islamophobia and urges states to educate about religion, in particular Islam. **Ireland** (on behalf of the EU) expressed concern about the use of **Internet** in spreading intolerance and **Canada** a concern for inter-sectionality, which is discrimination on 2 grounds, for example race and sexuality.

India referred specifically to the **caste system** in India, noting how much they spent on welfare and upliftment for lower castes. They remarked that the legal system was sensitive to caste and tribes and that they had proactive programmes that were worthy of emulation. They were critical of the SR, as they felt time and resources were best spent on areas not already being dealt with. They pointed out that the caste system is not racism but a sociocultural problem based on 3000 years of tradition, which was slowly being dealt with and was centre stage for their government. Mr Diene acknowledged the legal and political strategy on the caste system, but that countries need to bear in mind that what they are looking at is an iceberg, and that expressions of racism and attacks have a deeper layer and there is a culture of discrimination that is deeply rooted. He finished with a comment on the importance of education in promoting a culture of tolerance and respect.

- Political platforms, which promote or incite racial discrimination. Mr Doudou Diene (E.CN.4/2004/61)

In this report the SR stated the following: "Racism subsumed in the caste system still plays a role in violence and social displacement in India. The 3,000-year-old caste system of social hierarchy still excludes millions of **Dalits** ("untouchables"). Even though the nation's 1950 Constitution outlawed discrimination and introduced quotas for government jobs, thereby promoting millions of former untouchables and members of indigenous tribes, the system still leaves much to be desired. Even the real gains registered by affirmative action programmes are eroded by politicians' campaigns of expediency."

Furthermore, the Special Rapporteur wrote, "In **Japan** the issues of racism, discrimination and xenophobia are closely related to two key factors: the internal social structure and the

history of conflicts with other countries of the Asian continent. The first factor, still deeply marked by the legacies of a feudal and rigid hierarchical society, is still profoundly discriminatory against historically marginalized groups and communities like the **Buraku**. The second factor, recently historical conflicts and the ideology of 'national harmony and cohesion' are the sources of a deeply rooted mentality of racism and discrimination against other Asian communities, notably the **Korean** community. While political parties do not openly and publicly promote xenophobic platforms, recent incidents have revealed the profundity of the culture and mentality of discrimination, notably the writing and teaching of the history of relations with Asian countries, in particularly China and Korea as do public discourses and statements by political leaders." (Paragraph 40) Hence, "the argument that such issues as caste must be considered internal matters and given generations to change is also deemed unacceptable on the basis of accepted international principles" (note 28, page 23 of E/CN.4/2004/61)

- Working Group on People of African Descent (E/CN.4/2204/21)

The Chairperson, Mr Kasanda, spoke of the use of media in terms of both negative and positive effects. He called for responsible journalists, ombudsmen and combating stereotyping which has left a negative image of people of African descent. He focused on the access to education, particularly an education without discrimination and work on issues of stereotyping and racial profiling. He called for affirmative action, including the provision of extra-investment in educational infrastructure, as providing the main answer to increasing access to education by people of African descent. He felt there was not enough time for the WG to meaningfully discharge their mandate and that there was a greater need for resources. In the report there is a substantive summary of the 3rd Session of the WG and recommendations concerning the administration of justice, the media, access to education and the organisation of and participation in further sessions of the WG.

- Working Group on the effective implementation of the Durban Declaration and Programme of Action (E/CN.4/2004/20)

The Chair, Mr Martabit, spoke of the correlation between poverty and racism, and appealed to financial institutions to be aware of this. States need to improve their social policy by approving programmes to combat racism and urged them to provide necessary funding to achieve the Millennium Development Goals (MDG). He informed the CHR that the agenda for the 3rd session of the WGDDPA will focus on discrimination on health and racism, as well as Internet and racism. The acting High Commissioner, Mr. Ramcharan added to this that the OHCHR gave as much money as they could and that the Anti-Discrimination Unit (ADU) was now almost at full complement.

Other relevant documents submitted:

- Report of the UNHCHR on Combating Defamation of Religions (E/CN.4/2004/16). This has summaries of the contributions received from Governments in response to a request for information on the implementation of CHR Resolution 2003/4, which called upon the HCHR to promote and include human rights aspects in the Dialogue among Civilisations. It also details steps taken by the mechanisms of the CHR and the OHCHR.
- Report of the UNHCHR on Comprehensive Implementation of and follow up to the World Conference Against Racism (E/CN.4/2004/17 and Add. 1-3). This contains information on activities undertaken by States, special procedures of the CHR, UN bodies and specialized agencies, National Human Rights Institutions (NHRI) and NGOs to implement the DDPA. The 1st Addendum concerns a seminar hosted by the Czech government, the 3rd in a series of regional expert seminars reflecting on ways and means of implementing the provisions of the DDPA. The 2nd Addendum was a report on a regional seminar for Western States held in Brussels last December, looking at recommendations touching upon discrimination in general; institutional responses to eliminate racial discrimination; educational and public information programmes to promote tolerance and respect for diversity; equality and diversity in the workplace; responses to discrimination against non-citizens; and the development of national plans of action (NAP). The 3rd Addendum is a report of a regional workshop on Affirmative-Action Policies for People of African Descent

in the GRULAC region, held in Montevideo in May 2003. It includes concrete recommendations for poverty reduction, development, land ownership, access to employment, participation in public life, discrimination and the law, torture and the excessive use of force, health, education, cultural identity religion and housing.

- Views of the independent eminent experts on the implementation of the DDPA (E/CN.4/2004/112). This document stresses the centrality of human dignity, the respect for diversity and the importance of protection of civilians. The importance of non-discrimination in combating terrorism and highlights access to education, access to justice and awareness raising as priority areas. It recommends the development of a 'Racial Equality Index' similar to the 'Human Development Index'.

ii) Summary of the debate

Under the **HLS**, racism and discrimination were not frequently touched upon. Where it was it was mainly European countries who expressed concern at the resurgence of certain forms, e.g. Anti-Semitism (Italy, Germany, Poland) or Islamic countries concerned at the rise in Islamophobia and the equation by many since 9/11 that terrorism and Islam are linked. This was something, which all States, from all regions, who touched upon it vigorously denounced. Nepal touched briefly on discrimination against **Dalits** and several Eastern European states mentioned the **Roma** (Croatia, Romania and Slovakia).

In the general debate on racism (item 6), some countries spoke of the links between **poverty and racism (Nepal, Sri Lanka)**. They suggested that there was a need to address issues of development and abject poverty if the CHR wanted to succeed in their fight against racism. **China** in particular spoke of the need to address the 'north/south' gap, as racism will not stop until the rich countries help the developing countries with their poverty. **Egypt** also emphasised that there needed to be greater political will to enable the UN to give priority to Africa in the fight against poverty.

Many countries likewise spoke about the **Durban Declaration and Programme of Action (DDPA)**. Some were concerned at the slow pace of implementation (**Pakistan**, on behalf of the OIC) or a call to all states to attach greater importance to the DDPA. Others mentioned their domestic legislation, which now incorporated ideas of the DDPA, notably **Ireland** (on behalf of the EU) spoke of the new EU laws that entered into National legislation concerning access to jobs, pay, benefits, health and education. **Nigeria** added that there was a need for a **racial equality index**. **South Africa** pointed out that it was thanks to the African group that the DDPA was being kept alive and that certain countries disappointed them. **Norway** urged all States to do their utmost to implement the DDPA: 'No region, no country, no community can claim to be free of intolerance', and they noted with disappointment that only 28 States had responded to the HCHR request for information on follow up activities.

The **Anti-Discrimination Unit (ADU)** was referred to by many. **China** spoke of its importance in conjunction with public awareness campaigns. Both **Congo** and **Algeria** were concerned about insufficient funding for the ADU, Congo in particular said that donors were not following in the spirit of Durban and Algeria felt that there should be a focus on **People of African Descent**.

Misuse of the Internet figured largely in the debate. It was mentioned by **Cuba, Eritrea, Iran, Israel** and **Norway**. Israel spoke of how it was being used by extremist groups to promote hatred. Norway urged 'the international community to intensify its co-operation to combat the dissemination of racist and xenophobic propaganda through the use of modern communications technologies, including by adopting appropriate measures to combat the use of Internet for racist purposes.' They applauded the WG decision to undertake a thematic discussion on racism and the Internet at its next session.

➤ Dalits

Nepal was the only State to mention Dalits in the HLS. In the context of proactive measures, they mentioned the rights of Dalits. They charted out legal reforms, judicial

administration, management and institutional strengthening for the promotion of human rights. Resolute steps were being taken to accelerate their mainstreaming process, as well as institutional mechanisms such as the independent commission to promote the well-being of women, Dalits, minority nationalities and the disadvantaged. In the general debate Nepal emphasised that Caste discrimination is illegal and punishable by law, further that it is illegal to disseminate racism. They were working hard to mainstream and improve participation in all sectors of society. They have taken many proactive measures, involving amongst others a **Dalit** Commission. They are looking at poverty elimination as a way of enhancing the Dalit situation. Figures were given for the proportion of Dalit's in Parliament and that special provision for Dalit women would be adopted for a measure of time. Under the agenda item on women (Item 12), they spoke about the progress in literacy of girls and Dalits, following educational reform and essential health services.

The **ILO** also covered issues relating to the **caste** based discrimination. They have commissioned a number of studies on the **Dalits**, to improve their knowledge, but also because of their work on child labour, which they view as taking place predominantly amongst the most vulnerable socio-economic groups, including **indigenous and tribal peoples**, migrant workers and lower classes. Likewise these groups are also more likely to be targeted for trafficking.

A joint statement by **IMADR**, Anti-Slavery International, The Lutheran World Federation, Minority Rights Group International (**MRG**), Asian Forum for Human Rights and Development (Forum Asia) and Pax Romana, spoke specifically about the situation on the 'persistent problem of **cast-based** discrimination', that continues to affect the daily lives of an estimated 250 million people. They expressed encouragement by the increased attention of CERD and the Sub-Commission on the Promotion and Protection of Human Rights. They viewed CERD's General Recommendation XXIX on 'descent-based discrimination' as a valuable instrument for the guidance of State Parties, where it, for example, helped to focus CERD's recent consideration of the Nepalese periodic report. They quoted the Special Rapporteur on Racism at length on his study contained in E/CN.4/2004/61. They concluded with calling on the Commission to remember the millions of people suffering daily from inherited social exclusion.

Voluntary Action Network India, under Item 11 relating to democratic participation in the governance of the state, made extensive reference to Dalit discrimination. There was a concern that the CHR needs to understand the caste dynamics in current socio-political context, that affirmative action programmes need to be evaluated, so that they do not degenerate into quota systems, but rather that they look into systems of local self governance, leadership enhancement programmes for the marginalised and promotion of a universal system of education.

The **National Human Rights Commission of India** (NHRCI), under Item 18, talked of their bold steps taken to protect the rights of persons belonging to vulnerable sections of society such as Dalits. The NHRCI had been redressing individual complaints of atrocities and recommending the payment of compensation and action against negligent public servants. They had participated in the Durban Conference and set up a **Dalit Cell** in 2003, which is looking into complaints of alleged atrocities against persons belonging to scheduled castes.

India however continued to deny that the **caste** discrimination has anything to do with the mandate of the SR on Racism. They maintained that it was a societal and class distinction from ancient times and that affirmative action in India was above anything elsewhere.

Sri Lanka informed the commission of its recent 'landmark legislation' of 7/10/03, which enables any person of Indian origin with permanent residence in Sri Lanka since 1964, to have citizenship for themselves and their descendants. This solves a long-standing problem of statelessness of the descendants of Indian labour brought over in the Colonial period.

Aside from the HLS, **Roma** were hardly mentioned under this item, with the exception of the ILO and the European Roma Rights Center. The latter spoke of segregation of the Roma, which has been banned under International Law according to Article 3 of ICERD. There was still a strong anti-Romani presence in Europe, enforced separation in education and health care. They were put into 'Gypsy schools' with reduced curriculum, which resulted in difficulties finding employment later. Roma are living in ghettos, there is no housing development for them and they have suffered forced evictions from non-segregated areas. Whilst the ILO spoke of their Committee of Experts which has continued to address systematically the situation of the Roma, the office holding international meetings on the Roma, highlighting the need to address their employment situation from an equality perspective. (Please see under Minorities)

Islamic countries continued to air their concerns regarding **Islamophobia**. **Pakistan** (on behalf of the OIC) spoke out against a growing number of attacks against Muslims, particularly Arabs. **Egypt** urged States to strengthen respect for Human Rights to protect Muslims and Arabs, whilst **Saudi Arabia** spoke of an increased tendency to discriminate against people on religious grounds, notably Islam. **Iran** urged a revision of National Laws in Europe to combat violent nationalists. Under the agenda item on specific groups and individuals (Item 14), one NGO spoke at length of the discrimination against Indian Muslims. This included under-representation in Parliament and State Institutions, the promotion of Hindu religious beliefs, philosophy and methodology in schools and attacks of both slanderous and physical nature.

With regards to **Anti-Semitism**, several countries mentioned their concerns and Israel spoke at length of this 'ancient, persistent form of racism'. Several Jewish NGOs also broached the topic. **B'nai B'rith** called for Anti-Semitism to be a category of racism, regretting that it wasn't included in last Year's resolution and the **Association for World Education** spoke of Judeophobia in the Arab Muslim world.

Cuba was vociferous in denouncing the slave trade as a crime against humanity, which was supported by **Congo**. They talked of compensation to groups including **Indigenous Peoples**, for historical injustices. The topic of reparation was very much in evidence in the statements by the International Association against Torture (IAAT) and the December 12th Movement. They were virulent in their attacks on the USA; both for their Human Rights record against **People of African Descent**, but also for their lack of co-operation with the follow-up to Durban. The IAAT was also concerned with the rescheduling of the WGPAD to last September, which was given with a week's notice, which meant non-European NGOs could not attend. They pointed out that it would be better if the WG met in a country where People of African Descent actually reside. The African Canadian Legal Clinic expressed their support for the WGPAD and the SR's recent visit to Canada where he spoke to Canadian of African Descent. They listed the issues facing the Descendants of the trans-Atlantic slave trade: poverty, forcible displacement of the Black community of Africville in Nova Scotia, criminalisation of Black people, racial profiling, police violence and systematic racism, education rights and media bias.

Congo, Argentina and Colombia also spoke about their support for the **WGPAD**. Colombia mentioned an affirmative action policy document for the Afro-Colombian population. Under Item 14, All For Reparations and Emancipation (AFRE) spoke of the statelessness and the forced mixed-breeding over the centuries of People of African Descent. They called for their recognition as 'Afro-descendants' rather than Afro-American or Blacks, and as such they request the CHR's recognition, protection and assistance.

Cuba, amongst others, also spoke of the **Anti-terrorist legislation**, which is based on stereotypes and has exacerbated racism. The NGO **Liberation** added that discriminatory laws are leading to a demonisation of asylum seekers in the war on terror. Several mentioned Guantanamo Bay in this context.

Some spoke of **Human Rights Education** (HRE) in the context of racism, e.g. **Republic of Korea** saw HRE as vital for the eradication of racism, **Indonesia** saw it as a top priority,

Benin viewed it as having a key role and **Nepal** spoke of education needed to include multiethnicity.

Republic of Korea (ROK) explained their new Employment Permit System, whereby all workers are on an equal footing and therefore their children have access to schools.

The USA, in what appears to be a disturbing trend, put forward a Vietnamese refugee of 30 years to speak on their behalf under Item 6. As well as the George W. Bush quotes that became customary for all American delegates, this delegate claimed that there was no racism against immigrants in the USA. When speaking of the success he and his descendants have had, he claimed that only in America could he have achieved this. In the coming days a number of NGOs decried this as being particularly distasteful and an insult to the Commission, Vietnam went as far as to ask why it was then that so many refugees were returning.

iii) Resolutions

- World Conference against Racism (WCAR) and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action **Resolution 2004/88**. This resolution was introduced by Congo on behalf of the African Group and was **adopted** by a roll-call vote of **38 votes in favour**, 1 opposed (USA) and 14 abstentions. In this resolution the CHR acknowledges no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid or slavery. It is stressed that States and international organisations have a responsibility to ensure that measures taken in the struggle against terrorism does not discriminate in purpose or effect on grounds of race, colour, descent or national or ethnic origin, and urged all States to rescind and refrain from all forms of racial profiling. The OHCHR is to submit a progress report in that regard to the 61st CHR, and should provide States with advisory services and technical assistance to enable them to implement the recommendation of the SR on contemporary forms of racism.

In explanations of their votes, the USA had concerns about the Durban WCAR and could therefore not join consensus. Ireland on behalf of the EU explained their abstention as being based on the absence of some of the EU proposed amendments, e.g. on the importance of National Action Plans and universal ratification of ICERD. They welcomed many aspects, but could not accept the use of a 'racial equality index', as this is contrary to legislation in many EU States. Those voting in favour spoke of the importance of the eradication of racism as paramount for all countries. Cuba spoke of their disappointment that not all could agree on what they considered the most important draft resolution.

- Combating defamation of religions **Resolution 2004/6**. This resolution was introduced by Pakistan, on behalf of the OIC. It was **adopted** by roll-call vote by **29 votes in favour**, 16 against and 7 abstentions. (Swaziland was absent). The CHR thus welcomed the report of the SR entitled 'Situation of Muslim and Arab peoples in various parts of the world', expressed deep concern at negative stereotyping of religions and manifestations of intolerance in some regions of the world. It expressed deep concern that Islam was frequently and wrongly associated with human rights violations and terrorism, and the ethnic and religious profiling of Muslim minorities in the aftermath of the tragic events of 9/11. It urges all States to take all appropriate measures to combat hatred, discrimination, intolerance, and acts of violence motivated by religious intolerance. It strongly deplored physical attacks on businesses, cultural centres and places of worship of all religions and urged all public officials to respect different religions. It requests the SR to examine the situation of Muslim and Arab peoples in various parts of the world and to submit a progress report on his findings at the 61st session.

In explanations of votes, Ireland, on behalf of the EU, believed wholeheartedly in the principles of tolerance and as the CHR had ample evidence, discrimination was not limited to any one belief or region of the world. The EU had unsuccessfully tried to make the draft more fully reflective of such considerations, pointing out that racism exists between people of the same religion. They believed that such a resolution should be balanced, but as the text remained unchanged from previous years, they therefore called

for a vote and would vote against. USA felt the resolution was incomplete, as it failed to cover defamation of all religions, and more inclusive language would cover this. They also stressed the importance of being able to change religion and having a legal framework of freedom of religion. India felt that defamation of religions belonged under 'religious-based discrimination', and therefore under Item 11: civil and political rights, rather than under racism. They felt that defamation on the grounds of religion was felt by all religions, not just constrained to any one particular religion. They therefore chose to abstain, as it did not give equal stress to protecting all religions, but mentioned one specific religion five times. Several Latin-American countries also reflected on the lack of balance, whilst some used this as a reason to vote against, others noted the imbalance but would vote for.

- Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism
Resolution 2004/16. This new resolution was brought by the Russian Federation and Belarus. It was **adopted** by a roll-call vote of **36 votes in favour**, 13 opposed and 4 abstentions.

The CHR reaffirmed the provision of the DDPA in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist prejudice. It expressed deep concern over the glorification of former members of the Waffen SS organisation, in particular, erecting monuments and memorials to SS men. It stressed that such practices fuelled contemporary forms of racial discrimination and contributed to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinheads. Further it requested the SR to reflect on this issue and to make relevant recommendations in his report to the CHR at its 61st Session.

From the informal consultations over the draft resolution, Latvia had made clear that they felt that this was a direct attack on them, as there had recently been a statue erected in Latvia, which they felt that this resolution was referring to. The Russian Federation vehemently denied that this resolution was targeted at any particular country.

In the explanation of the vote China had spoken of the relevance of just such a resolution in this 'present world situation', they mentioned that in the Asian context, one had recently witnessed the glorification of former, aggressive regimes. (By implication the visit by the Japanese Prime Minister to the Yasukuni Shrine). They went on to speak of a rise of superiority claims in Japan and their revisionism of history. Bahrain, Qatar, India and Egypt felt that this was not critical of a specific country, in which case Egypt would have voted against it on principle. Pakistan welcomed the improvement in the substance of the revision and felt the sponsors had made an earnest effort to make it acceptable. Congo, on behalf of the African Group, stated that it was an important resolution, as this growing phenomenon affected particularly Africans. Ireland, on behalf of the EU, acknowledged the rise in Neo-Nazism and that it should be combated wherever found. They regretted the Russian Federation and Belarus decision to introduce the resolution, as it was unbalanced and would be better addressed under a different decision. They furthermore questioned the motivation and timing of the decision, and as they did not feel that the draft contributed to the consideration of these issues, they would not support it. Finally, Japan remarked to the Representative of China, that the visit cited had nothing to do with the Government, nor with the subject under discussion.

B. Minorities

i) Reports

- Report of the UNHCHR on the rights of persons belonging to national or ethnic, religious and linguistic minorities. E/CN.2/2004/75.

This report was written to comply with resolution 2003/50 of the Commission which requested a summary of the current mechanisms to promote and protect the rights of minorities, with a view to enhancing their cooperation and effectiveness and to identify possible gaps. The OHCHR noted that the Working Group on Minorities was the only mechanism currently in place with a mandate exclusively dedicated to minority issues, but also examined the work of special rapporteurs, special representatives and treaty monitoring bodies, such as CERD, that often contribute positively to minority issues as part of their mandates.

The report also reviews the proposals made at the Working Group aimed at strengthening or creating mechanisms for the better protection of minority rights, including the establishment of a special rapporteur or a special representative of the Secretary-General, the creation of a voluntary fund, and the proclamation of an international year.

ii) Summary of the debate

For the most part statements under the HLS concentrated on individual country specific situations, rather than generic statements on general rights. Thus **Armenia** spoke of their small minority populations, who enjoyed the government's attention and equal protection under the law. Whilst criticising another state for denying the self-determination of Armenian minorities in **Nagorno Karabakh**. The Organisation of Islamic Countries (**OIC**) mentioned Palestinians, Kashmiris and the Muslim minority rights of Azerbaijanis in Armenia. The **Russian Federation** talked of the discrimination of Russian minorities in Latvia and Estonia, both here and in the general debate. In **Latvia's** HLS statement, they spoke of integration of minorities, the funds given to this and the anti-discrimination policies, pointing out the situation during Soviet rule and the importance of the Latvian language. **Vietnam** mentioned ethnic minorities in the context of their great success in poverty reduction, which includes rural areas of ethnic minorities. **Belarus** claimed that peace between ethnic groups was established in the country. **Romania** spoke at length on the issue of minority rights, that the protection of national minorities was a constant concern and their guarantees of rights of language, religion and culture. They mentioned how minorities were represented in Parliament, used their mother tongue in legal bodies and education, and having their own department. There is also a Romanian National Council of Minorities and an ombudsman. Both **Iran** and **Kazakhstan** spoke of improvements in equality between different minority groups. **Finland** in their analysis of human security, focused on the marginalisation of minorities and indigenous peoples which can affect stability.

In the general debate a number of themes emerged, as well as countries speaking of their specific domestic situation or their concern for minorities elsewhere. **China** spoke of the importance and their support for the **Working Group on Minorities**. **Finland** highly valued the efforts of the WG. **Hungary** sees the WG as a 'unique forum for dialogue and the identification of problems in general'. **Switzerland** felt that a **mechanism** should be established to strengthen the WG; its mandate should be to urge States to respect minority rights and make concrete their realisation. They saw this as a compliment to the prevention of **genocide** mechanism that the SG had announced the day before.

Amongst the '**good solutions**' put forward, **Hungary** named affirmative action, minority self-government and autonomy, giving examples of their domestic situation, where they have 13 national minority communities. **Ukraine** believed in effective mechanisms such as bilateral and intergovernmental treaties with neighbours. **The Russian Federation** believe that it is the universal mechanisms that protect vulnerable groups. On this point **Finland** mentioned the extensive network of legal instruments and inter-governmental mechanisms established by the Council of Europe (COE) and the OSCE.

Hungary said that **dialogue between states and minorities** was needed. **India** pointed out that there was a need for identifying solutions with the minorities. Whereas **Ukraine** was the only state to speak of the promotion of education in **minority languages**, the Federal Union of European Nationalities did air their concerns of the linguistic and religious minorities of Serbia and Montenegro.

As in the HLS, **India** made a reference to the protection of minorities, especially given the immense diversity of languages, cultures and religions in India. They spoke of a heritage that was one of inclusion, that secularism was constitutional in order to safeguard the rights of minorities, who are equal before the law.

Some countries mentioned domestic measures, such as **Ukraine** that has set up a Council of representatives for Minorities, who were participating in drafting legislation. **Croatia** who is implementing the Constitutional Law on the Rights of National Minorities and taking positive measures to promote the participation of minority representatives in local and regional self-government.

China maintained that minorities were the responsibility of the state, and therefore not the concern of others. National governments had to protect the political, economic, social, cultural and educational rights of its minorities. Each state is different, and in their case, **China** practises regional autonomy in 5 areas, with a new type of equal mutual assistance. They have increased investment and reinforced legal protection. They had taken a series of steps to train teachers of ethnic minorities and great effort had gone into preserving traditional cultures, e.g. all the different types of places of worship.

Pakistan referred to their Constitution, that it gave equal status and rights to followers of all religions and prohibited all discrimination. There were institutional arrangements to address minority concerns and minority committees had been established, which included a special fund. Furthermore, 10 seats were reserved for minorities in the National Assembly.

Brief references to minorities were made by **Cyprus** with regard to the Greek Cypriot and Maronite communities in Northern Cyprus.

In a joint statement by **3HO Foundation**, they called upon the French Government to rescind the recent legislation prohibiting religious clothing in schools etc. They feared that this may encourage other states to enact similar legislation restricting the free observance of fundamental tenets of many minority religions.

The **Becket Fund** for Religious Liberty drew the CHR's attention to intensifying persecution of the Christian minority in **Sri Lanka**. They listed a variety of attacks, including NGOs and churches. They criticised the judiciary for its complicity. **International Religious Liberty Association** were concerned about the persecution of Buddhists in Sri Lanka, which in their right of reply **Sri Lanka** firmly rejected, emphasising that they now had a council to promote pluralism.

As the Commission was a number of days behind at this stage, several NGOs that appeared on the Order of the Day were absent, as they were scheduled to speak before Easter and their meeting did not commence until the Tuesday after. The extended Bureau at its briefing of NGOs on the 13th April apologised for this. Several NGOs at the meeting and NGOs, such as AFRE in their intervention, asked for the fixing of item 14 on minorities and other specific groups in the schedule, as has been done with item 15 on indigenous peoples.

➤ Prevention of Conflicts/genocide

Austria looked to the lessons of Rwanda, wondering whether it could have been averted if minority rights had been applied. They stressed that each year there is consensus that minorities contribute to peace and enrich their societies, but what is lacking is implementation of minority rights at national and international level. As 15-20% of the world's population are part of a minority, we have to be action orientated.

They called for the assistance of the HC for a timely look at issues including the **establishment of a special procedure**.

Promotion of minority rights is closely linked to protection against discrimination, which **Finland** believes are an essential element in a democratic society. They did feel that the UN could and should do more to protect minorities, through effective monitoring and by reacting quickly to violations of their human rights. A **special procedure** to monitor the implementation of minority rights merited careful, positive consideration.

Hungary focused on the importance of the protection and promotion of minorities, as they are the 1st victims of genocide. They stressed the importance of institutional participation, democracy as a means to protect minorities and that the rule of law must be upheld. **Sri Lanka** talked of the importance of creating a culture of inclusiveness and strengthening its multi ethnic and multi cultural society. **Switzerland** saw that political participation of minorities in decision-making of government contributed to integration and the prevention and resolution of conflicts.

Baha'i International, on behalf of **IMADR**, **MRG** and **FIDH**, spoke at length of the importance of the **Special Advisor on Prevention of Genocide** (SAPG). They welcomed the announcement and hoped that the SAPG 'will take effective action in the full range of situations where violent conflict threatens the very existence of minorities.' As the key lay in early action, they urged the SADG not to wait until it was too late, but look at a broad range of situations of tension involving minorities. For the past 3 years, the aforementioned NGOs, have lobbied for a Special Representative of the SG on Minorities, as there is a gap in the UN protection of minorities. Such a **mechanism** has been recommended by the **WGM** and is considered in the HCHR report mentioned above, E/CN.4/2004/75.

IHRAAM said that 'the protection of rights of persons belonging to minorities is essential for human dignity, the underlying value of human rights and the stability and prosperity of States and, thus, the prevention of conflicts.' They concluded their intervention by expressing their support for the WGM's proposals for the establishment of a SR of the CHR on Minorities and a Special Representative of the SG on Minorities.

MRAP also supported the mechanisms of a SR on Minorities and the designation of a special representative to the SG for the prevention of the conflicts regarding minorities. They use the examples of the Kurds and the Roms as illustrating the necessity for the creation of these two mandates.

Pax Romana's intervention called for a legally mandated National Commission on Minorities, the continuation of the WGM, a Special Representative of the SG on Minorities and the International Year for Minorities with a Decade to follow. They justified this call with reference to the deterioration of treatment of minorities in all countries, acknowledging that women suffer multiple forms of discrimination, especially in post conflict, and that HR defenders who work on the protection of minorities have been targeted and therefore welcoming Kofi Annan's early warning initiative on Genocide.

➤ **Roma**

Under the HLS, **Croatia** spoke of their National Programme for the Roma Population. To foster the implementation of this plan, a Commission for the monitoring of the Implementation of this National Programme had been set up. Minority Rights were safeguarded in Croatia under the Constitutional Law on the Rights of National Minorities, which provides a basic framework for the protection of minority rights in the country.

In **Romania** they have adopted a 10 year national strategy and a 4 year plan, a process in which Roma themselves are involved.

Slovakia recalled the horrors of the Holocaust which had also claimed the lives of thousands of innocent Roma and how under USSR, Roma had been forcefully assimilated with the subsequent problems that Slovakia is now trying to improve. The situation of the Roma is one of their policy priorities. They are fighting deep-seated prejudice, a multifaceted problem that has both international and national dimensions. There is a new strategic document entitled: "Basic Theses of the Slovak Government Policies for the Integration of Roma Communities." The aim being to co-exist in conditions of equality and mutual enrichment. Along with Roma organisations they are creating legal and financial conditions, as well as affirmative measures to further the process of integration.

Bulgaria went through a list of constitutional and legislative guarantees of equality and non-discrimination, but conceded that this was not always sufficient. The plight of the Roma was among the government's main priorities. It has posed a series of challenges and their main focus for concerted efforts will be targeted mainly on the socio-economic problems of the Roma Community. They have made progress in the implementation of the Framework Programme for the Equal Integration of Roma, and in September 2003 adopted an Action Plan to further implement their programme. Serious progress has also been made in reintegration of Roma children into the mainstream school system. They have organised literacy courses for adults of Roma origin, as well as projects in the field of employment, professional training and health care.

MRAP made extensive reference to the Roma in their intervention, focusing on how large numbers of Roms have had difficulties especially in the newly formed states of the Eastern Block. Roms find themselves in the situation of having no nationality and therefore no rights. MRAP referred specifically to recent explosion of violence in Kosovo against minorities, problems with Rom asylum seekers in France and the general neglect by the EU of the Roma people.

➤ **Dalits**

Nepal, in the context of proactive measures, under the HLS, mentioned the rights of Dalits. They charted out legal reforms, judicial administration, management and institutional strengthening for the promotion of human rights. Resolute steps were being taken to accelerate their mainstreaming process, as well as institutional mechanisms such as the independent commission to promote the well-being of women, Dalits, minority nationalities and the disadvantaged.

No State mentioned Dalits under Item 14, but several NGOs mentioned Dalits in their interventions: **IHRAAM** specifies that the oppression of Dalits in India is 'a vivid example' of deliberately and knowingly encouraging victimisation and discrimination of their minorities. They mentioned the segregation in a whole range of spheres.

Interfaith International concentrated their intervention on the Dalits in India and the **Garo** in Bangladesh. They described the ways in which Dalits were discriminated against, how the anti-caste-based laws were not implemented and the atrocities that are committed daily that go unpunished. They called upon the Indian Government to ensure the rights of the Dalit peoples that are enshrined in the constitution be upheld and enforced by its law enforcement agencies.

➤ **Some other specific minority groups**

Interfaith International specifically mentioned their concern about the encroachment by Bengali settlers into the ancestral homelands of the Garo, and their anger over government plans to construct a giant wall in the forest homelands of the Garo in the North, thus separating Garo villages from their farmland and hunting grounds.

South Asia HR Documentation Centre spoke about the Muslim Uighurs of Xinjiang Uighur Autonomous Region of China. There are 8 million, almost 50% of the region, but are disproportionately poor, illiterate and excluded from real authority in their

regional government. China has labelled them as terrorists, as they don't recognise those expressing peaceful dissent. Arrests and executions have subsequently occurred. The WG is urged to visit this region in their scheduled visit to China this year. It was also drawn to the CHR's attention that some refugees are being detained in India, Nepal and Pakistan, some despite having visas to Sweden. The NGO pointed out that international law prohibits sending refugees to a state where they could face the death penalty after trials not meeting international fair trial standards.

Worldview International Foundation's representative was a young victim of human rights violations of the Palaung ethnic minority from the northern part of Shan State in Burma. She spoke at length of the torture she had faced and how the ethnic minorities were being treated: land confiscations, forced labour, and systematic and widespread rape of ethnic minority women.

iii) Resolutions

- Rights of persons belonging to national or ethnic, religious and linguistic minorities. Resolution 2004/51. This resolution was introduced by Austria and **adopted by consensus**, as orally amended.
In their introduction, Austria affirmed the importance of ensuring equality for 15-20% of the world's population. Minorities enrich the heritage of society and contribute to peace, so the mandate is needed to look at the important challenges in a specialised way.
This resolution welcomes the work of the WGM, and recognised with appreciation its work in promoting regional initiatives to further implementation of the Declaration on the Rights of Persons Belonging to Minorities. The resolution further welcomes the efforts of the WGM to review its activities and notes its recommendation regarding the establishment of a special procedure on minority issues, as well as welcoming the High Commissioner's proposals for strengthening protection of minorities. The resolution also **requests to High Commissioner study options for timely identification of minority issues** by compiling views of States, IGOs and NGOs on the activities of the Working Group and the proposals contained in E/CN.4/2004/75 to avoid duplication.
- Voluntary fund on minority-related activities. Decision 2004/114 adopted by consensus.
The Commission endorsed the recommendation of the Sub-Commission on the Promotion and Protection of Human Rights that such a fund be established to facilitate the participation in the Sub-Commission's Working Group on minorities of minority representatives and experts from developing countries and for the organisation of other activities relating to the implementation of the rights of minorities.
- International Year/Decade on the World's Minorities 2004/115. This was a resolution brought by the UK to replace the Sub-Commission's Draft Decision 13 (E/CN.4/Sub.2/2003/43). It was **adopted by consensus**.
The Commission called for greater cooperation among the specialised agencies and other organisations of the United Nations system in order to contribute to the full realisation of the rights and principles set forth in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

The original Sub-Commission Draft Decision had recommended an international year for the world's minorities, followed by a decade. However, the **UK** argued that it was not the job of the Sub-Commission to establish years or decades, as this was something for the General Assembly. They considered the Draft Decision ill thought out and motivated by the Sub-Commissions wish to have precedence on acquiring decades, therefore the UK proposed the amendment, which was adopted without vote or further comment.

C. Indigenous Peoples

i) Reports

- Special Rapporteur on the situation of Human Rights and fundamental freedoms of indigenous people (Mr. Rodolfo Stavenhagen)

Mr Stavenhagen submitted his report: E/CN.4/2004/80 with add. 1-4, which included analyses of country situations, missions to Mexico and Chile and conclusions and recommendations. In his presentation to the commission he spoke of the treatment of **Indigenous Peoples** in prisons and how armed groups were going into the territory of Indigenous Peoples, with a subsequent rise in the number of complaints. He explained that if his mandate was renewed he would begin to look at education of and about Indigenous Peoples. In both Asia and Latin America, there are large scale development projects which have led to forced displacements, massacres, violations, torture and murders, also of Indigenous **Human Rights Defenders**.

In summing up the mission reports, Mr Stavenhagen mentioned the fragility of the Indigenous People in agrarian areas, discrimination in the judiciary, low index in education and a greater need to involve Indigenous People in expansion of socioeconomic projects. In Chile, since the restoration of democracy, Indigenous Peoples are still marginalised in public life, they suffer economic exclusion and there has been no constitutional reform with regard to their issues, which is greatly needed. He also noted that Chile has not ratified ILO Convention No. 169, which they were urged to do. Finally, Mr Stavenhagen spoke of a recent, not yet published, mission to Colombia. Their constitution was in place, but legal provisions and judiciary was limited. In situations of conflict, Indigenous Peoples have suffered selective murders, displacement, rapes and the conscription of children by armed gangs. He said that the Amazonian region is very threatened, referring to the Secretary-General's initiative on **Genocide**, stating that we are looking at the possibility here.

As concerned countries, Chile highlighted genuine progress made, especially since the 1993 Indigenous People Act and that there was no discrimination based on ethnic origin. There were scholarships for Indigenous Studies and increased public expenditure. Mexico spoke of their National Commission on Indigenous People, they agreed about the major problems and the need to resolve these with a wide range of political actors.

In the interactive dialogue Ireland (EU) asked of the relationship between the Permanent Forum and his mandate and what the main obstacles to Indigenous People's involvement in issues that affects them. He responded by referring to the close link he has with the Permanent Forum, he attends their meetings and co-ordinates activities with them, which does not detract from his responsibility. As for participation of Indigenous Peoples, the Voluntary Fund is always keen to organise events, meetings and seminars with experts to include Indigenous Peoples, the problem is that of resources, as there is a need for broader international support.

Other relevant interventions and documents submitted:

- Report of the HCHR. E/CN.4/2004/79 It is a report on the implementation of the programme of activities for the International Decade of the World's Indigenous People. It provides information relating to the International Decade, and supplements the report of the Secretary-General to the General Assembly (A/58/289).
- Working Group on a draft Declaration on the rights of indigenous peoples. E/CN.4/2004/81 and Addendum 1. Chairperson-Rapporteur, Mr Luis Enrique Chavez, said it was clear that a radical change had taken place in the way that Governments and indigenous peoples approached the process of the draft Declaration. Block dynamics had been removed, and an open scenario had been achieved, but this radical change had not yet been sufficiently intense to bring about the consensus necessary to amend the original text. There was a need for political will.
- United Nations Voluntary Fund for Indigenous Populations. Ahmed Mahiou, a member of the Board of Trustees, reported 547 requests for funding for participation in the next sessions of the Working Group on Indigenous Populations and the Permanent Forum on

Indigenous Issues, the Board had recommended the funding of 106 requests amounting to \$ 460,228.

- Advisory Group of the United Nations Voluntary Fund for the International Decade of the World's Indigenous People. Jose Carlos Morales Morales, Chairperson, informed the CHR that subsidies had been granted to 35 project proposals (out of 160 submitted) in 26 different countries. Those projects would contribute to indigenous human rights through the holding of seminars and the production of publications on indigenous rights issues.

ii) Summary of the debate

During the **HLS**, the issue of Indigenous Peoples was hardly touched upon except by a few. Most notably by the **Canadian** Minister for Foreign Affairs who said of a consensus on the Draft Declaration on Indigenous People: "to fail in this endeavour would be shameful, to achieve it historic." Only **Guatemala** spoke of extending the **International Decade of the World's Indigenous People**. **Bangladesh** mentioned the Chittagong Peace Accord with Tribal Peoples and their policies of affirmative action. **Nepal** likewise mentioned proactive measures. **Finland** spoke of the marginalisation of Indigenous Peoples, as well as minorities, and how this can affect stability. **Venezuela** talked of the education of Indigenous Peoples, how there was an appointed person associated with Indigenous Affairs and how they now have indigenous people in the National Assembly. **Mexico** mentioned their support for the renewal of the mandate of the SR. **Norway** and **Denmark** also mentioned Indigenous Peoples, the latter calling upon the political will to sign the **Draft Declaration** before the end of the decade, paying tribute to the SR and encouraging the **Permanent Forum**.

As in the previous year, the agenda item on indigenous peoples (item 15) was held at a designated slot, to ensure the participation of Indigenous groups. It was notable that the only countries that spoke were Latin American and those from the Western and others' group. In the general debate, most countries adopted a domestic approach and there were therefore few themes to follow. Several mentioned their concern at the lack of progress towards consensus of the **Draft Declaration**. Some believe this to be a lack of flexibility and political will, (**Mexico** and **Cuba**). **Denmark** called on States to attend the next meeting in a spirit of compromise. Some were critical, saying that the WGIP has become stale (**New Zealand**) and the **USA** going as far as calling the same WG a dinosaur, now obsolete and absorbing resources. **Canada** repeated the statement of their Minister, Bill Graham (see above), hoping that States will arrive in September 2004 with political will, flexibility and a broad mandate to negotiate. They proposed an additional formal meeting before the 61st Commission.

Among the demands mentioned on Indigenous People's behalf were self-determination and autonomy (**Mexico**), right to ownership (**Ecuador**), land ownership (**Cuba** and **Colombia**), language (**Ecuador**) and collective rights (**Argentina**), **New Zealand** emphasised that Indigenous Peoples do not seek special rights, just their human rights. **Cuba** warned that some Indigenous Peoples were in danger of becoming extinct.

Mexico mentioned that, along with **Guatemala**, they were sponsoring the draft resolution to extend the mandate of the SR. Support for the SR also came from **Argentina** and **Canada**. **Cuba** called for a 2nd **International Decade**, which was supported by **Ecuador** who believed the good work needs to be continued and **Argentina** said they were considering it.

Only **Argentina** mentioned the **Voluntary fund** and how this has brought about a satisfactory participation of Indigenous Peoples, calling on all States to continue contributing.

Australia called upon the integration of Indigenous People's issues into all areas of the UN, and expressed particular concern about violence against indigenous women. They also stressed that UN bodies needed to be effective; there was a need to rationalise, review and avoid duplication. On the domestic front, they admitted that the Indigenous People of Australia were the most disadvantaged, but that they were working on it.

Denmark, on behalf of the Nordic States, spoke at length on the **Permanent Forum**. They believe it plays a vital interactive role in gathering the views of different parties and acting as a catalyst and advisor for different agencies. Furthermore they feel that in a short period of time

it “has established itself as a key expert forum actively pursuing its broad mandate and thereby raising awareness of indigenous issues throughout the UN system.” They went on to call for indigenous representatives to be incorporated into the work of the UN at different levels, to ensure that their issues are suitably addressed.

UNICEF, under Item 13, Rights of the Child, wished to highlight the important contribution made by the Permanent Forum on Indigenous Issues by providing guidance to the UN system on indigenous issues and the high priority it places on children. UNICEF is promoting the rights of indigenous children in numerous activities, undertaken with the participation of indigenous communities at all levels; building on their traditions, cultural values, attachment to the land and sense of community. UNICEF has recently published a study entitled: ‘Ensuring the rights of indigenous children’, which they hope to broadly disseminate.

Likewise the NGOs did not have a common thread running through them. Some spoke out against the two Northern American States who appear to be blocking their access to the process of drafting a declaration which concerns them. There were individual State cases mentioned: the Mapuche of Chile, the people of the Amazonian Rainforests, Hill Tribes in Bangladesh, (where it was claimed that non-indigenous people are being introduced to make the Indigenous People a minority) and the case of the Saami of Northern Scandinavia, who called upon the relevant states to implement CERD’s recommendations. Three Australian NGOs pooled resources for an extended speech, wherein they accused the government of removing their funding, produced statistics to indicate the discrimination and suffering of the Indigenous Peoples of Australia and refuted myths such as Aboriginal drinking habits. They called for the adoption of the **draft declaration** submitted by the Sub-Commission, should the WG fail to achieve consensus. The first decade having fallen far short of its objectives, they felt a **2nd Decade** could build on the successes that the first did have.

Under Item 18, several NHRI commented on the status of indigenous peoples in their countries. The **New Zealand Human Rights Commission** was involved in National Action Plans and Indigenous Rights through the Treaty of Waitangi which affects the Maoris. They urged the CHR to ‘urgently’ adopt the Declaration on the Rights of Indigenous Peoples. The **Comision Nacional de los Derechos Humanos**, of Mexico, referred to the scourge of abuse and negligence towards indigenous peoples, particularly in labour and social services.

iii) Resolutions

- Working Group on Indigenous Populations of the Sub-Commission. Resolution 2004/57. This resolution was brought by Cuba. It was **adopted** by a roll-call vote of **38 votes in favour** and 15 opposed, (Western Group, Ukraine, Japan and ROK). The Commission reiterated the recommendation made to the Economic and Social Council in Commission resolution 2003/55 that the Council take duly into account the contents of that resolution when holding its review of all existing mechanisms, procedures and programmes within the United Nations concerning indigenous issues; and recommended also that the Council take duly into account the contents of the present resolution when carrying out the review at its substantive session of 2004.

Australia, in a general comment, said it was regrettable that the text contained language that pre-empted the review by the Economic and Social Council (ECOSOC). Consideration of these issues should be deferred to the upcoming session of ECOSOC, as it was inappropriate for the CHR to endorse the continuation of the WG. Australia therefore wished for a vote and would vote against the draft resolution.

- WG on Indigenous Populations of the Sub-Commission, and the International Decade of the World’s Indigenous People. Resolution 2004/58 This resolution was brought by Cuba. It was **adopted** by a roll-call vote of **38 votes in favour**, 2 opposed (USA and Australia) and 13 abstentions (EU, Nigeria, Japan and ROK). The Commission emphasized the affirmation by the General Assembly that a major objective of the Decade was the adoption of a declaration on the rights of indigenous people and called for the early conclusion of the drafting of that most important document;

and encouraged Governments to continue giving support, as appropriate, to the Fund for the Development of Indigenous Peoples of Latin America and the Caribbean.

In the explanations of vote, the USA spoke of the WG as being obsolete and a waste of resources, as the Permanent Forum is working on this, they would therefore call for a vote and vote against. Both Russia and China felt that the WG played an important role. Ireland, (on behalf of the EU), remained committed to upholding the rights of indigenous peoples, but were dissatisfied with the text, as it did not comply with decisions already taken, and prejudices mandate of 2000/22. They felt it would be more appropriate to await the examination by ECOSOC in 2004.

- WG of the Commission on HR to elaborate a draft declaration in accordance with paragraph 5 of GA resolution 49/214 of 23.12.1994. **Resolution 2004/59.**

This resolution was brought by Canada and **adopted by consensus.**

The Commission recommended that the Working Group meet for 10 working days prior to the sixty-first session of the Commission; and invited the Chairperson/Rapporteur of the Working Group to undertake inquiries with the Office of the High Commissioner for Human Rights to determine the possibility of convening additional meetings with a view to facilitating progress in drafting a declaration on the rights of indigenous people.

In a general comment, Cuba expressed their continued concern over the low level of progress made in the negotiations and the possibility of coming up with texts that would reflect the aspirations of indigenous peoples and the needs of the State in terms of upholding their sovereignty.

- Human Rights and Indigenous Issues. **Resolution 2004/62.**

This resolution was brought by Mexico and Guatemala, and **adopted by consensus.**

The Commission decided to extend the mandate of the Special Rapporteur, to request, receive and exchange information on violations of the human rights of indigenous people, wherever they may occur, and to respond effectively to such information; in carrying out his task, the SR is to take into account all the recommendations of the Permanent Forum on Indigenous Issues and of the Working Group on Indigenous Populations of the Sub-Commission relevant to his mandate. The CHR took note of the intention of the OHCHR to organize, making use of voluntary contributions, a seminar on indigenous education.

In their introduction, Mexico spoke of the vulnerability of Indigenous Peoples. They also urged States to co-operate with the SR's requests for visits. Having had the resolution delayed, the USA now supported the draft resolution, as they appreciated that the norms and standards referred to in paragraph 3 were not applicable to them, as it referred to the norms and standards of 'that country', rather than universal norms and standards.

D. Trafficking in Human Persons

i) Reports

- Report of the SR on the human rights of migrants. (Ms G.R. Pizarro)

Section D2 of Ms Pizarro's report (E/CN.4/2004/76) is entitled 'Illegal recruitment, trafficking, servitude and forced labour'. In which the SR calls for greater supervision of recruiting agencies, as many women who migrate as domestic workers run a high risk of being the victims of trafficking. Whilst sex work can be a voluntary choice of employment, there are many cases where women are trafficked for prostitution purposes under the false pretence of transporting them for other jobs, above all domestic work. Not all trafficking is for sexual purposes and this needs to be accounted for in criminal legislation, which sometimes only defines trafficking restrictively as confined to sexual exploitation. The SR is also concerned with the number of cases where the person being trafficked is not only bereft of protection but often treated as a criminal.

In her list of recommendations, the SR recommends the ratification of the Palermo Protocol to Prevent, Suppress and Punish trafficking in persons, especially women and children, supplementing the UN Convention against Transnational Organised Crime (UNTOC), and urges States to amend their national legislation so as to ensure that the definition of trafficking is compatible with that given in article 3 of the Protocol. She also recommends that efforts be made to deal with traffickers, and that their crimes should not remain unpunished, but that the victims should not be punished and protection programmes should be established.

ii) Summary of the debate

As mentioned in the introduction, this was one of the burning topics of the 60th Session, especially under the HLS. The ball was set rolling by the Acting HC, Mr. Bertrand Ramcharan who made an impassioned speech stating that the 'gravity of the problem has not fully registered in the conscience of the international community' and spoke of the hundreds and thousands of young women who are trafficked into prostitution, slavery or slavery-like practices. About a third of the Ministers mentioned the situation, some briefly, and some at length. **Italy** and the **Philippines** talked of a **SR on Trafficking**, the later emphasised the role an SR would have on ensuring continental surveillance. Many spoke of its criminalisation in their domestic legislation or of their regional efforts. **Estonia** mentioned the North Baltic States Task Force and **Lithuania** added that there was an OSCE Action Plan and COE Convention being prepared. **Australia** has been strongly involved in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. Australia has committed funds to combat crime, recover and reintegrate and is soon to ratify the Protocol relating to trafficking. **Timor-Leste** acknowledged the high rates of trafficking in South East Asia and put this down to an absence of strong immigration procedures.

On the domestic front, **Croatia, the Philippines, Belarus, Bosnia and Herzegovina and Moldova**, all mentioned new legislative initiatives. Croatia has formed a National Committee and Moldova felt that the resources needed had to be comparable to those of the Traffickers. Belarus focused on international corporations and the need to eliminate the need for live goods in the land of destination.

Switzerland welcomed the Protocol on Trafficking and **Finland** declared that a concerted effort was needed from the international community, calling for the implementation of relevant international instruments and effective national counter measures without delay. **Sudan** pronounced that they had made progress on abductions and **Nigeria** were concerned about the gaining of momentum of trafficking, with young and innocent persons lured away and that the 'impunity with which it is carried out by the perpetrators of this heinous crime constitutes a great affront to humanity'. Nigeria was also amongst a couple of countries that referred to the UNTOC, having been one of the first to ratify it.

In the general debate under Item 14, **Ireland** (on behalf of the EU and many other aligned European groups) dedicated their speaking time solely to the issue of Contemporary Forms of

Slavery. They listed the statistics and went through the EU legislation that is tackling it. Ireland spoke of regional and international cooperation, urging other countries to sign and ratify the Protocol on Trafficking, as well as the CRC and its two protocols. They called for more action at the national level, effective mechanisms to ensure the implementation of national legislation and welcomed the **OSCE Action Plan**. Ireland also mentioned these mechanisms under Item 12 when speaking of trafficking as being a significant problem in Europe, and being 'incompatible with the dignity and worth of the human person'.

Lithuania, on behalf of the Baltic and Nordic States, focused entirely on trafficking in their intervention under Item 12. They appealed to all to ratify and fully implement the **UNTOC**. Lithuania mentioned the new **COE** initiative which is a supplement to the **Palermo Protocol**, which has a comprehensive legal framework, involving witness protection, defining trafficking as a Human Rights issue and setting up an independent monitoring mechanism. They spoke of the regional cooperation, particularly the Council of the Baltic Sea States, which met in Vilnius in order to identify the challenges, weaknesses and contradictions of the national legal frameworks. The Task Force on Organised Crime in the Baltic Sea Region and its Operative Committee is a core expert group for gathering, analysing and exchanging of relevant data, whilst the Nordic Baltic Task Force Against Trafficking in Human Beings increases awareness and finds practical measures to fight against trafficking across the region. Lithuania was positive about the cooperation between States and NGOs in the region, NGOs are part of extensive projects underway and play a key role in the implementation of human rights-based anti-trafficking strategies.

Romania, under Item 14, focused their attention on Trafficking and their role as Coordinator of the Task Force for countering trafficking in human beings at the relevant Regional Centre for Combating Trans-Border Crime. On the domestic front they have dismantled 40 criminal networks, coupled with juridical success in prosecutions.

In a separate HLS address, the Deputy Minister of Foreign Affairs of **Bulgaria**, brought the CHR up to speed on the **OSCE Action Plan to Combat Trafficking**, adopted in Maastricht in December 2003, under their chairmanship. The Deputy Minister stressed that combating this problem was a joint effort and that all had a shared responsibility, whether as a country of origin, transit or destination. This can be done, as in Europe, through intergovernmental agreements for police cooperation.

In his introduction of the report on the sale of children, child prostitution and pornography, the SR, Mr Petit, was very positive of a new post of **SR on Trafficking**. The SR sees trafficking as a scourge that must be addressed, he would ensure that there would be no duplication and would undertake to cooperate with such a mandate. In the interactive dialogue, the Swiss delegate asked if there would be a joint report on trafficking with the SR on Violence Against Women, but Mr Petit stressed that solidarity was important, but that each SR is limited in their mandate.

Under Item 12, **Sri Lanka**, who are co-sponsors of the resolution, were amongst several States that called for a SR on trafficking, e.g. **Qatar and Poland**. A few States referred to trafficking as part of their National Action Plans (NAP) for Women's issues, e.g. **Armenia, Indonesia** and **Bangladesh** (under Item 13, Rights of the Child). **Indonesia** also mentioned the NAP under Item 13, saying that the plan called for the eradication of trafficking by 2007, they explained that their National Task Force, which cooperated with NGOs, women's organisations, media and the private sector, was focusing on prevention, protection, recovery and reintegration. The government has also launched a campaign to ensure that tourist destinations are free from sexual exploitation of children. Indonesia also emphasised the importance of regional cooperation and in May 2003, in Bali, hosted the 6th East Asia and Pacific Ministerial Consultation on Children, at which the Bali Consensus was declared, which focuses on 4 aspects of child welfare, including Trafficking. The World Tourism Organisation also held a meeting at Bali in June 2003, at which the Bali Proposal for Action was adopted; this underlines the responsibility of the tourist industry in preventing the sexual exploitation of children in tourist resorts.

In the intervention under Item 12 (on Women), **Japan**, referred to trafficking as an 'unfortunate outcome of globalisation' and stated their readiness to engage in further international cooperation to combat this crime. Under Item 13, the Japanese delegation expanded their views on trafficking by making reference to the funds they had allocated to UNICEF in their projects on Girls Education, raising awareness and protection of girl trafficking in Lao DPR and Burma (Myanmar).

The **Dominican Republic**, under Agenda Item 12, mentioned their domestic measures, including expert seminars, training staff in prevention of trafficking and support for returnees. **Ukraine** likewise mentioned their special unit in the Ministry of International Affairs. They welcomed the level of cooperation between different UN bodies and steps to see that trafficking is a regional and global problem. **Poland** described themselves as a place of origin, place of transit and final destination of trafficked women. They mentioned how the OHCHR recommendations have made a major contribution to basic principles of common framework and prevention programmes. Following their call for a SR, Poland justified this with reference to the need for a credible authoritative voice, a coordinator who could make an independent analysis based on information shared. The **UN Population Fund** (UNFPA) produced statistics indicating that between 700.000 and 4 million girls and women are being trafficked each year. 'This atrocious crime has become one of the fastest growing and most profitable trades in the world.' The UNFPA declared this as both an issue of globalisation and human rights, and one of the causes is the 'terrible problem' of poverty.

Several States mentioned Trafficking in statements relating to Migrants, under Item 14, in that those suffering from conditions of extreme poverty and high unemployment were often vulnerable to trafficking in migrant workers (**Ethiopia, Ghana, Nepal, Armenia, the Holy See** and the **ILO**). **Cuba** accused the **USA** of not taking strong and systematic action against traffickers in persons.

Trafficking was also debated under Item 13, Rights of the Child. **Canada**, on behalf of **Australia** and **New Zealand**, welcomed the coming into force of the UNTOC and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as well as the Optional Protocol to the CRC and Sale of Children, Child Pornography and Child Prostitution.

Under Item 12, several NGOs covered the issue of trafficking. Notably **Human Rights Advocates** (HRA) and **UN Watch** (UNW), in a joint statement, raised two issues regarding trafficking, that of poverty and the role of military forces in the demand side of trafficking. Crucial in the fight against this modern form of slavery is confronting the demand for women and girls, and they maintained that the first place to start is the military. The UN and Governments need to control their own personnel, the American servicemen in Korea and French NATO peacekeepers in Bosnia were singled out. HRA and UNW applauded the push by Norway and the USA to coordinate a NATO wide policy to combat trafficking, the kind of mandate that they would like to see at the global level. They concluded with a call for the UN specialised agencies to study the connections between global financial and development policies and trafficking, and urging support to local women's groups that provide microcredit and job training programmes.

Relatively few NGOs spoke of trafficking in their interventions on Item 14. **Franciscans International** concentrated on the ILO Conventions 29, 105 and 182, calling on all States to fully implement these conventions related to forced labour and the worst forms of child labour. They called it 'both shocking and shameful' that the international community still has not secured the most fundamental and non-derogable right, the freedom from slavery. The others, **Jubilee Campaign, International Helsinki Federation** and **A Woman's Voice International**, all spoke about the situation of women fleeing or being displaced by the DPRK. These women have then been caught by traffickers in China, then by the authorities and upon their return, having forced abortions from pregnancies caused by prostitution and forced marriages to Chinese men. In their right of reply the **DPRK** declared these as groundless accusations and fabrications that do not warrant a right of reply.

Under Item 18, the **National Human Rights Commission of India** spoke of their cooperation with the NHRC of Nepal, in the 'Project for Combating Cross-Border-Trafficking. Amongst

other things the HNRCI had produced a manual for the Judiciary. The **Human Rights and Equal Opportunity Commission**, of Australia, welcomed the attention trafficking received in the HLS and supported the government's decision to ratify the UN Protocol on Trafficking as well as the UN Convention on Transnational Organisational Crime. They urged states not to deport victims, which compounds their suffering and means that they will lose potential witnesses in court cases against traffickers.

iii) Resolutions

- Trafficking in women and girls Resolution 2004/45. This biannual resolution was introduced by the Philippines. It was **adopted by consensus** and without comment.

The Commission called upon Governments to strive to ensure that trafficked persons were protected from further exploitation and harm and had access to adequate physical and psychological care; encouraged Governments to intensify collaboration to reintegrate into society victims of trafficking and to provide shelter and help lines for victims; invited Governments to take steps to offer victims of trafficking the possibility of obtaining compensation for damage suffered; invited Governments to consider preventing victims of trafficking from being prosecuted for their illegal entry or residence, bearing in mind that they were victims of exploitation; urged Governments to address the root factors that encouraged trafficking in persons, especially women and children; called upon Governments to criminalize trafficking in persons, especially women and children; invited Governments to encourage Internet service providers to strengthen self-regulatory measures to eliminate the trafficking in persons; urged Governments to combat use of the Internet to facilitate trafficking in persons; and encouraged the business sector, in particular the tourism industry and Internet providers, to develop codes of conduct to prevent trafficking in persons.

- Special Rapporteur on trafficking in persons, especially in women and children. Decision 2004/110. This decision was introduced by Germany, with Costa Rica being named as co-sponsor. It was **adopted by consensus**.

The Commission decided to appoint for a period of three years a Special Rapporteur whose mandate would focus on the human rights aspects of trafficking in persons, especially in women and children; to request the Special Rapporteur to prepare an annual report, commencing with the sixty-first session of the Commission, together with recommendations, on measures required to uphold and protect the human rights of the victims; and to determine that the Special Rapporteur might, as appropriate, and in line with the current practice, respond effectively to reliable information on possible human rights violations with a view to protecting the human rights of actual or potential victims of trafficking.

Whilst **India** would not put this to the vote and were committed to the issue, they did express concern at the proliferation of mandates. They argued that the Human Rights aspects of trafficking are already covered in OP1 and OP7 of resolution 2004/45, so the SR is only for the 'gaps' that the CHR needed to address.

E. Migrants

i) Reports

- Special Rapporteur on the rights of migrants (Gabriela Rodriguez Pizarro)

Ms Pizarro submitted her report: E/CN.4/2004/76 with Addenda 1-4. She observes that migrant domestic workers are becoming indispensable in developed countries to enable women to advance in employment and in society. Among her recommendations, she urges States of origin and destination of large-scale flows of migrant domestic workers to take a series of actions to ensure the protection of such workers' rights, and to eliminate factors that make them vulnerable at all stages of migration. She also says that all countries of origin should launch campaigns against illegal migration by domestic employees, warning of the risks and providing information about legal migration channels, and that the country of destination should conduct campaigns to create awareness of the important contributions made by migrant domestic workers to encourage respect for their rights and combat discrimination.

The first Addendum to the report contains correspondence with Australia, Belgium, Canada, China, Costa Rica, Cuba, Denmark, Ecuador, Egypt, France, Greece, Indonesia, Israel, Lebanon, Sri Lanka, Malaysia, Mexico, Morocco, Russian Federation, Tajikistan, Saudi Arabia, Spain, Switzerland, Thailand, United Arab Emirates and the United States.

The second Addendum to the report concerns the SR's visit to **Spain** during which she had been able to appreciate the difficulties encountered by that country with the new dimension of migration and in compliance with its commitments to the EU. Spain should take measures including, among others, to ratify the **International Convention on the Rights of Migrant Workers and Members of their Families**; to train officials responsible for enforcing legislation on migration and to ensure that migrants enjoy the rights to legal assistance and interpretation.

The third Addendum concerns her visit to **Morocco** and states that one of the most serious problems identified by the SR was the situation with regard to the rights of Moroccan irregular migrants and of persons from **sub-Saharan Africa** in Morocco. She encourages the EU to continue to seek to counter irregular migration through technical assistance and co-development programmes. She recommends programmes to protect the right of irregular migrants to deal with the sick and injured and to ensure physical and psychological rehabilitation; there must be recognition of the problem of prostitution and exploitation of female migrants from sub-Saharan Africa; and strengthening of mechanisms for internal monitoring of officials involved with migration management and the adoption of anti-corruption measures.

The fourth Addendum to the report contains a preliminary note on the SR's visit to **Iran**, the full report on which will be submitted to the 61st session of the Commission.

Other relevant documents submitted:

- Note by the SG on violence against women migrant workers. E/CN.4/2004/071. The SG points to the report on violence against women migrant workers (A/58/161) and the SR report above, that has an analysis of the situation of women migrant workers.
- Report of the SG on the status of the International Convention on the Protection of the Rights of All Migrant Workers and members of Their Families and efforts made by the Secretariat to promote the Convention. E/CN.4/2004/73. This states that the Convention entered into force on 1 July 2003, following the deposit of the twentieth instrument of ratification on 14/3/03. As of 15 December 2003, the Convention has been ratified or acceded to by 24 States

ii) Summary of the debate

In presenting her report, Ms Pizarro, the SR on Migrants encouraged States to provide special documents and papers to ensure legal status for all workers and to take all necessary measures to ensure that the rights of migrants were protected. Ms Pizarro highlighted aspects from her report such as the situation of labour exploitation which in some cases were analogous to slavery, calling upon all States to ratify all relevant international mechanisms. Worldwide, millions of migrants had provided information on acts of violence and ill treatment. Among the concerns raised in her report were cases of illegal detention and the lack of access to lawyers by migrants.

Ms Pizarro also spoke of her visits to Spain, Morocco and Iran. Highlighting that **Spanish** administrative offices dealing with immigration were overrun with delays in dealing with the cases of migrant workers. She was also concerned about border issues between Spain and Morocco. And she spoke of the situation in **Morocco**, where migrants were very vulnerable, focusing especially on the situation of unaccompanied minors, recommending enforcement of legislation to address their needs. With regards to the visit to **Iran**, the administrative irregularities concerning Afghanis and Iraqis in the country were mentioned.

The concerned countries gave their comments: **Iran** confirmed that the full report would be presented at the next session, so only mentioned the efforts of the government to accommodate the SR's visit; **Morocco** focused on the establishment of a Ministerial Department responsible for Moroccans abroad (more than 2.5 million), and the need for coordinated international action, as part of the problem of migration was that illegal and mafia-directed movements were involved. **Spain** appreciated the SR's report, but noted that she had failed to include the significant efforts made by the government with regards to migratory flows, which continued to be a high priority in Spain.

In the inter-active dialogue Ireland (EU), Canada, Mexico and Cuba posed a variety of questions to the SR including: were information and sensitisation campaigns effective and what was her opinion on the current status of ratification of the Convention? In Ms Pizarro's response she mentioned the importance of the contract process being more carefully controlled; regional and national education campaigns; control of recruitment agencies; that without respect for human rights in origin countries, migrants remained vulnerable to human rights abuses in destination countries and finally that the Convention is one of many in the field of the protection and promotion of human rights and should be ratified with all due haste.

In the general debate, the issue of Migrants was touched upon by many States, often in general terms rather than country specific. **Mexico** was one of the few States that addressed the issue of Migrants under the HLS as well as under Item 14, they are particularly concerned with the rights of female domestic workers and the need for minimum guarantees for migrant workers, which is why they supported the draft resolutions on Migrants and the call for universal ratification of the Rights of Migrants. **Argentina** (on behalf of GRULAC) spoke of the recognition of migrants as contributors to the States where they are, calling for bilateral and regional agreements to protect migrants (also Senegal) and the need for educational measures to mobilise against discrimination.

The issue of recognition was also taken up by **Nepal**, when the delegate explained that migration was widely accepted as an essential and beneficial part of the economic and social life to many countries. Migrants contribute to all spheres of host countries and a study of their enormous contributions would perhaps foster a better perspective.

A number of countries spoke of the high priority of the rights of migrant workers and subsequently the importance of the ratification of the Convention, e.g. **El Salvador**, **Colombia**, **Ghana**, **Senegal** and **Ecuador**. The call to sign up to the Convention also came from a number of NGOs, e.g. the **Marangopoulos Foundation for Human Rights** which was critical of exploited migrants in European labour markets.

Ethiopia mentioned that migrants were benefiting from greater advantages as well as negative impacts. They were subject to various forms of abusive treatment and violations of their basic rights as workers, e.g. adequate compensation for injuries, equal pay etc. The

level of violence against female migrant workers, which includes sexual assaults by employers and recruiters, was also of concern. This last point was reiterated by **Sri Lanka**, who declared that the 10% of the country's population that migrated were women, making them vulnerable to such abuses.

The **ILO** claimed that 86 million of the world's 175 million migrants were economically active, but that despite the existence of international standards for protecting migrants, their rights as workers were too often undermined. There was a need to make migration a choice rather than a necessity. This could be done by ensuring decent work for all in countries of origin; ensuring a standards-based approach by implementing relevant international norms; enacting a plan of action against discrimination and to engage in regional and international dialogue on labour migration matters. A few States touched upon the causes of the migration push. The **Holy See** claimed that the root was found in the extreme poverty and alluring appeal of possible jobs, and a freer and more humane life in other countries.

The **IOM** stated that all shared a common humanity and the right to expect decent and humane treatment, regardless of their national origin, race, creed and legal status. And that there needs to be a managed migration system ensuring migrants' rights.

In **Ghana**, migrant workers are an important source of inward flow of capital for the well being of families, yet they are concerned at the discrimination abroad that they face, that they are often compelled to accept high-risk, low-paid jobs and that they are sometimes treated as common criminals. They mentioned that International migration is a natural consequence of globalisation; migrants should not be seen as a burden in host countries.

Singapore said that the welfare of migrants was important to all States, that they were themselves an immigrant society, but there was a line to draw between 'legal' and 'illegal' migrants. An 'illegal' migrant had violated immigration laws and as such posed a serious threat to the safety and security of any country. On the topic of revising their immigration policies, the delegate noted that Singapore had reservations about such developments; they had the sovereign right to tailor their immigration policy to suit their specific conditions, as had all States.

There were a number of NGO statements on this topic, notably the **Friends World Committee for Consultation**, in a joint statement with amongst others **Amnesty International**, were very concerned about the number of undocumented migrants and stateless persons which made these individuals particularly vulnerable to discrimination and other serious violations of their human rights. **Migrants Rights International** (MRI) focused on the report of the SR on Migrants, urging all to strongly support her report. They examined the factors that made migrant domestic workers extremely vulnerable, e.g. the lack of host country legislation, lack of contracts and in some countries domestic work is not covered by labour legislation as it is not recognised as work. Also in countries of origin, migrant domestic workers incur heavy debts which result in a form of bonded labour. MRI concludes with a list of recommendations including ratification of the relevant Conventions and Treaties; legislation to ensure migrant rights, the requirement of written contracts in a language understood by the migrants and the establishment of registers for migrant domestic workers in the host country, where the consulates and embassies can play an active role in monitoring and protecting their rights.

A number of NGOs were critical of individual States, notably **Transnational Radical Party** who were critical of China and the statistics on the deaths of migrant workers; **Asia Pacific Forum on Women, Law and Development** who spoke out against a number of Asian States and were specific about 5 domestic migrant workers in Singapore condemned to death for killing abusive employers, and **Asian Forum for Human Rights and Development** who called on many Asian states to protect women migrant workers, making specific reference to Malaysia. Both **Singapore** and **Malaysia** responded in their right of reply.

iii) Resolutions

- The Human Rights of Migrants **Resolution 2004/53**. This resolution was introduced by Mexico. It was **adopted by consensus**, as orally amended.

The Commission strongly condemned the manifestations and acts of racism and related intolerance against migrants and the stereotypes often applied to them and urged States to eradicate impunity for those who committed such acts; strongly condemned all forms of racial and other discrimination in access to employment, vocational training, housing, schooling, health services and social services, as well as services intended for use by the public; requested all States firmly to prosecute violations of labour law with regard to migrant workers' conditions of work; urged all States to adopt effective measures to put an end to the arbitrary arrest and detention of migrants; encouraged States to combat international trafficking and smuggling of migrants; called upon States to protect all human rights of migrant children; requested States to prevent the violation of the human rights of migrants while in transit; called upon States to facilitate family reunification in an expeditious and effective manner; and requested all Governments to cooperate fully with the Special Rapporteur on the human rights of migrants.

In their introduction, **Mexico** stated that there was an addition in the form of the decision of the regional court's re: ICJ ruling on the cases of the Mexicans that did not have diplomatic representation when in prison in the USA. In a general comment, **USA** joined the consensus but raised concern about the ICJ being more relevant to the CHR than regional courts.

- Violence against women migrant workers **Resolution 2004/49**. This resolution was introduced by The Philippines. It was **adopted by consensus**.

The Commission called upon concerned Governments, in particular those of countries of origin and destination, to put in place penal actions to punish traffickers and perpetrators of violence against women migrant workers, and, to the extent possible, to provide victims with the full range of immediate assistance; and encouraged States to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention against Transnational Organized Crime and two protocols, as well as the Slavery Convention of 1926.

- International Convention on the Protection of the Rights of All Migrant Workers and members of Their Families. **Resolution 2004/56**. This resolution was introduced by Mexico. It was **adopted by consensus** as orally amended.

The Commission acknowledged with appreciation the entry into force of the Convention; called upon all States that had not done so to consider urgently signing and ratifying or acceding to the Convention; and requested the Secretary-General to continue providing the facilities and assistance for the effective functioning of the 10 Independent Experts of the new Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

There were some general comments relating to the circulated PBI (Potential Budgetary Implications), both the USA and Japan had the understanding that there was no PBI. Mexico said that their delegation understood that this draft resolution had no financial implications outside of those already approved by the General Assembly's Fifth Committee (Administrative and Budgetary). Australia noted that OP 4 and 5 were only directly relevant to those who are States party to the Convention.

F. Human Rights Education (HRE)

i) Reports

- Report of the High Commissioner on the achievements and shortcomings of the Decade and on future United Nations activities in this area. (E/CN.4/2004/93)

The report presents the findings of consultations with Member States undertaken by OHCHR and UNESCO. It noted that most responding Governments (29 in total) have reported on their increased HRE activities, and most mention that HRE will remain a high priority in their countries. It also states that the majority of responding Governments support the proclamation of a **second Decade for HRE (2005-2014)**, as well as the establishment of a **voluntary fund for HRE**.

ii) Summary of the debate

The issue of HRE was mentioned under a wide variety of Items, but more specifically under Agenda Item 17, Promotion and Protection of Human Rights, and the HLS. As with Trafficking, the ball was set rolling by the acting HC, Mr **Bertrand Ramcharan**. He called for a major mobilisation and to reflect on the idea of an **International Convention on HRE** to clarify what governments need to do and provide educational materials, in local languages. The HC also made reference to the Qatar Conference on HRE.

Many countries under the HLS mentioned HRE in part or in greater depth. **Austria** stressed the high priority HRE had in the human rights policy of Austria; it was only through knowing your rights that you can remove injustice and discrimination. The Minister had initiated a manual on human rights, inviting governments and NGOs to put it to practical use. As the main thrust of her speech was women's rights, the Minister elaborated on the training of men and women about women's rights, for military and civilian personnel, such as Police officers. The delegate concluded that they would support a **Convention on HRE**. **Uzbekistan** likewise supported a Convention on HRE and outlined their National Action Plan for HRE in schools.

Norway said: "It takes time to build what the HCHR calls National Protection Systems, a true culture of human rights. At its most profound level, human rights work is about changing mentalities, both of the governed and the governing. Therefore, HRE, the active engagement of civil society and the creation of independent national institutions are important". The Minister went on to say that this should include not only government actors, but International corporations and organisations that all influence the human right situation.

In **UNESCO's** speech under the HLS, it was emphasised that HRE implies the practice as well as the learning of human rights, including the content of the curriculum and also the educational processes, pedagogical methods and the environment within which education takes place. "UNESCO is working towards the promotion of a new educational language based on principles of human rights, in order to make it accessible, relevant and applicable to the human experience in daily life. It is aimed at the creation of a culture of human rights". Together with the OHCHR, UNESCO is organising an **International Conference** to mark the end of the **Decade**, it will reflect on the achievements and shortcomings of the Decade, on lessons learned and to promote regional and national action to consolidate and advance the results of the Decade. **UNESCO** also spoke on the issue of HRE under Item 17c; here they addressed the issue of HRE as an integral part of the Right to Education, which is one of the priorities of the Millennium Declaration, and should be an integral part of formal, non-formal and informal education. Their Member States have all recognised HRE as one of the strategic priorities for UNESCO's action, where they pursue a holistic perspective. UNESCO list a number of areas of activity: monitoring HRE in Member States; mainstreaming HRE into national educational systems; integration of HRE in Education for All (EFA) National Plans of action and assisting the preparation and implementation of NAPs for HRE.

Thailand referred to the proposed International Conference, as it would give the opportunity to review the success of the Decade. Their Minister explained that Human Rights should be inculcated; especially through the education of children and that human rights are part of the school curriculum.

The **Inter Parliamentary Union** (IPU) stated that HRE runs like a red thread through all their discussions. There is a need to ensure that all education programmes have a clear human rights focus.

In the general debate under Item 17, The **Dominican Republic** explained their National Action Plan in the field of human rights, this involved formal education in human rights at all levels, including government, institutions, armed forces and the police. They would accomplish their objectives with the help of social organisations and religious leaders.

Very few individual NGOs spoke on HRE, but **Soka Gakkai International**, on behalf of 17 other NGOs, including IMADR, made a joint statement solely on HRE. They support a **second Decade** on HRE with a new action plan, which is necessary to fulfil the shortcomings for those nations that have not had the opportunity to implement the Plan of Action for the 1st Decade, this is a view shared by the Sub-Commission on Human Rights according to the unanimous adoption of Resolution 2003/5. They maintain that one result of the regional and national conflicts that have occurred in most regions is that people have not been able to benefit from the current Decade. With the increase in numbers of migrants and refugees, societies are becoming more multicultural and HRE becomes a "sustainable approach for preventing climates of mutual aggression". However, the NGOs maintain that there needs to be better coordination for HRE activities as well as proper monitoring of these activities, it needs to be properly structured and the coordinating role of the OHCHR needs to be strengthened. The NGOs also put the case for the voluntary fund in order for the OHCHR to fulfil its role. All Member States are urged to demonstrate their commitment to effective implementation of HRE, and invite all actors to participate in drawing-up the new action plan.

iii) Resolutions

- Follow-up to the United Nations Decade for Human Rights Education **Resolution 2004/71**. This resolution was introduced by Costa Rica. It was **adopted by consensus**.

In their introduction, Costa Rica spoke of launching a 2nd Decade to build on achievements of the last Decade. They noted that whilst there was some resistance in form, the support for HRE is unambiguous.

The Commission took note of the view expressed in relevant reports concerning the need to continue a global framework for human rights education beyond the Decade; recommended to the Economic and Social Council that it proclaim a world programme for such education to begin on 1 January 2005, structured in consecutive phases; and requested the Office of the High Commissioner for Human Rights to prepare and submit for consideration and adoption by the General Assembly a plan of action for the first phase (2005-2007) of the proposed world programme, focusing on the primary and secondary school systems.

- UN Decade for Human Rights Education, 1995-2004 **Decision 2004/121**. **Adopted by consensus** as amended by Costa Rica, to replace "a second Decade" with "a world programme".

The Commission decided to recommend to the Economic and Social Council that it recommends to the General Assembly the proclamation of a **world programme for Human Rights Education** to begin on 1 January 2005.

G. Human Rights Defenders (HRD) and NGOs

i) Reports

- Report of the Special Representative of the SG on the situation of human rights defenders, Hina Jilani.

Ms Jilani submitted a report with 3 Addenda (E/CN.2/2004/94 + Add 1-3). In her introduction of the report to the Commission, Ms Jilani refers to the 235 communications that she had received over the past year about cases concerning 565 individual HRD. This number has increased since last year, which Ms Jilani puts down to the greater visibility of her mandate. The report describes Ms Jilani's increasing collaboration with UN bodies and the many conferences and workshops that she has contributed to in the past year. In section II there is an analysis of trends and patterns in the cases of concern, whilst in section III the report analyses the responses sent by Governments. She concludes that the number and type of violations being committed against HRD "reflect severe challenges to the actual implementation and legal applicability of international human rights standards." The report recommends that States consider adopting and publishing their policy on HRD with regards to the Declaration on HRD. Addendum 1 and 2 pertain to country visits to Macedonia and Thailand, the 3rd being responses from Governments.

The concerned countries **Macedonia** and **Thailand** both responded with clarifications. Macedonia emphasised that they were a new country and that many improvements have taken place since her visit. They questioned Ms Jilani's objectivity, stating that she only used NGOs as sources and that there were no positive comments about the government's steps. Thailand spoke of their having invited the Representative out of good faith. Human rights were a part of their constitution and community rights were also very important.

In the inter-active dialogue **Ireland**, (on behalf of the EU), asked if female HRD are a particular category? And **Switzerland** asked what can be done for better implementation of the declaration? Ms Jilani responded that women were discriminated against, but she does not regard them as a separate category, however they do need certain protection when setting up strategies of protection for HRD. She explained the importance of freedom of information and institutions that safeguard HRD, so that they can do their monitoring, it is not just a case of creating laws.

ii) Summary of the Debate

Under the HLS, human rights defenders did get some brief mentions. **Ireland** paid tribute to the role they had played in strengthening the rights in the EU, and both **Denmark** and **Norway** attached great importance to the work of HRD and spoke about protecting their rights. Norway was presenting a resolution on HRD again this year, as it is 'necessary not only to tolerate the activities of HRD, but also to create an environment that will enable their work to thrive.'

It was under the HLS that NGOs in general were mentioned. In the opening comments **Pakistan** and **China** were quite chastising, pointing out that NGOs should behave appropriately and should follow the rules. However, the Ministerial statements were on the whole far more positive. **Yemen, Sri Lanka, Afghanistan, Moldova** and **Angola** felt the NGOs had an important role and spoke of their involvement and support. **Timor-Leste** in praise of NGOs said: "the whole UN system will be poorer and less meaningful if NGOs are curtailed in their rights and duties to report to the international community the state of human rights in the world from their perspective. They might not always be right, they might be wrong or biased, but governments (including my own) might not always be right either." **Senegal** emphasised some of the positive aspects of NGO work, but suggested a code of conduct, as one bad NGO can bring the rest into disrepute.

In the general debate under Item 17, quite a number of States spoke about the rights and protection of HRD. **Ireland**, on behalf of the EU, declared the work of HRD as essential in their protection of victims. That the HRD often criticise governments is a legitimate task according to the 1998 Declaration, but they should also be seen as allies who assist

governments in drafting legislation etc. Ireland mentioned the work of Aung San Suu Kye and Shirin Ebadi, which resulted in Nobel Peace Prizes for their HRD work. The EU supports the work of the Special Representative and her report, which highlights the many dangers that HRD face. As in the inter-active dialogue, Ireland focused on the persecution of women HRD in particular, but also expressed concern with regards to persecution on the grounds of an individual's sexual orientation. Ireland pointed out that violations against HRD are often a leading indicator of systematic and flagrant disregard of human rights, as they occur in States whose human rights record is most deficient.

Norway, who were sponsors of the HRD Resolution, also used their time under Item 17 to express their support for Ms Jilani and their concern for her findings, referring to all of the dangers that HRD are facing around the world. Norway emphasised the role that HRD play in enhancing international peace and security and combating terrorism at its very root. They were also concerned about reports that certain States were eroding their commitment to upholding human rights, abusing security concerns to target defenders. **Sri Lanka** claimed that all humans with a conscience are human rights defenders. These were protected in Sri Lanka and they commended Ms Jilani and Norway for their work in this field.

Under Item 18 the **Russian Federation** mentioned that whilst they welcome dialogue with NGOs, they see unfortunate trends such as competitiveness, presentation of alternative reports etc.

iii) Resolutions

- Human Rights Defenders Resolution 2004/68. This resolution was introduced by Norway. It was **adopted by consensus**.

In their introduction, Norway welcomed Ms Jilani's report and recalled the non-derogability of certain human rights. They urged prompt investigation and timely action to prevent human rights violations of HRD.

The Commission called upon all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms; urged States to ensure that any measures to combat terrorism and preserve national security did not hinder the work and safety of such persons; emphasized the importance of combating impunity for violations committed against HRD; and encouraged all Governments promptly to investigate urgent appeals and allegations brought to their attention by the Special Representative of the Secretary-General on human rights defenders, and to take timely action to prevent violations of the rights of such persons.

H. Internally Displaced Persons (IDPs)

i) Reports

- Report of the Representative of the SG on internally displaced persons. (Mr. F. Deng)

Mr. Francis Deng submitted his report, E/CN.4/2004/77 with Addenda 1-4. Mr. Deng pointed out that although remarkable progress had been made with the global challenge of IDPs, the numbers remain extremely high at 25 million last year. 3 million were returning to their areas of origin, but as many were being newly displaced, mostly in **Africa**, but also in **Colombia**, **Myanmar** and the **Aceh** region of **Indonesia**. Mr. Deng's report relates the challenge to affected States, the international community and the mandate of the Representative, which is to combat pessimism and complacency. The international community has come a long way in developing the international response to the global crisis of IDPs, from initially shying away from the issue as too sensitive on the grounds of national sovereignty, to developing normative and institutional responses, to engaging constructively on the principles and strategies for protecting and assisting IDPs, and now to facing the challenge of making these achievements more effective and comprehensive.

The Add.1 concerns Mr. Deng's visit to **Uganda**. Of particular concern, is the Government's duty to ensure the physical protection of the displaced hosted in camps, who remain vulnerable to rebel attacks and abductions, as well as to provide adequate protection and assistance to the so-called "night-commuters", approximately 25,000 persons, mostly children, who came to sleep in the urban centres in the north out of fear of attacks and abduction by armed rebel groups. The 2nd Addendum concerns the **Russian Federation**. The 3rd Addendum concerns plans for a visit to the **Democratic Republic of Congo**. Whilst the 4th Addendum concerns the Conference on Internal Displacement in the Inter-Governmental Authority on Development (IGAD) Sub-region - Experts Meeting on Internal Displacement and explores the role that IGAD might play in promoting strengthened national and regional responses to the problem of displacement.

In his statement to the CHR, Mr. Deng remained optimistic, but at the same time realistic. He referred to his visits, particularly commenting upon the 'night-commuters' in Uganda and the situation in **Ingushetia and Chechnya**. Mr. Deng pointed out that there was also a need to ensure the protection of the returnees in Chechnya and of the human rights and humanitarian workers seeking to assist them.

As concerned countries, the **Russian Federation** took note of the conclusions and recommendations, which would be taken into consideration by the Government. The **Ugandan** delegate stated that they were ready to continue the dialogue which had started with Dr. Deng through visits or exchange of information on the unfortunate situation of IDPs, but that the problem lay with the Lord's Resistance Army, who had not replied to initiatives.

In the inter-active dialogue, **Ireland**, on behalf of the EU, asked what gaps remained and what concrete steps should be taken to achieve an effective international response to the crisis of IDPs? And what steps could be taken to make the displaced persons aware of their rights? **Canada** asked whether the work of the United Nations was improving the protection of this group? Whilst **Switzerland** asked about what steps could be taken to cover the follow-up of the recommendations of the Representative? In response, **Mr. Deng** said that the major gap identified had to do with protection of the internally displaced, as this is a particularly sensitive issue and people had been loath to engage Governments in a discussion of the phenomenon. On follow-up recommendations made on country visits, there should be close cooperation with regional coordinators, country teams and follow-up visits to countries.

ii) Summary of the Debate

Only a small number of States mentioned IDPs in their HLS statements. Amongst them, **Norway** spoke of the need to offer IDPs stronger protection and assistance, emphasizing the importance of involving the displaced populations in the political processes that affect them. **Sudan** talked of the reconciliation of the displaced and the amnesty to all who bore arms, whilst **Sri Lanka** noted that ½ of the internally displaced had now been sorted out.

Under Item 14, there were some more detailed references made to the issue of IDPs, most of which were related to domestic situations. **Ukraine** had fixed a \$10 million budget for IDPs, to help solve land loss issues of the formerly displaced. **Iraq** was concerned with the domestic situation of IDPs, both from the former regime's wars and the current situation. With the help of the **ICRC** many IDPs were beginning to return, they called for the immediate intervention by the UN system to meet the humanitarian needs of the Iraqi people. **Colombia** mentioned that their Government had put into place development programmes for the prevention and protection of IDPs, as well as mechanisms for the safe return of IDPs to their places of origin. These programmes had been supported by the World Bank.

Serbia and Montenegro concentrated on the situation in **Kosovo**, highlighting the assistance they had given to the 235,000 IDPs, the majority of who cannot return as the conditions are not yet conducive for a safe return. **Azerbaijan** conceded that IDPs were the responsibility of the State, but that the international community had to take into account the scale of the issue and the capacity of the government to deal with it when allotting humanitarian aid. They were concerned that there had been a reduction in aid because of the lack of progress in resolving the conflict that had led to the displacement, yet without considering the scale of the problem faced.

Norway, on behalf of the Nordic countries, expressed their appreciation of Mr. Deng's work. However, despite greater awareness, progress on the ground is still limited. Norway mentioned the workshop hosted by Canada, which explored the ways for improving the 'collaborative approach', a process that had the full support of the Nordic countries.

Austria was amongst the States that raised the issue of the growing crisis in **Darfur**. This crisis was not touched upon by **Sudan**, although they did use their allotted time solely on the IDP issue, stating that they were a country most severely affected by this problem. They too made reference to the IGAD Conference in 2003 and concluded by calling upon the international community to support their efforts in fulfilling their policy of: containing the phenomena; spreading a culture of peace and national solidarity; encouraging voluntary returns and resettlement.

A few NGOs made statements with regard to IDPs, most notably the **Norwegian Refugee Council** who focused on the situation in **Uganda**. They expressed their concern over the massacres occurring in unprotected camps, calling for major donors to consider making further support conditional upon effective protection of IDPs by the government.

iii) Resolutions

- Internally displaced persons. 2004/77. This resolution was introduced by Austria. It was **adopted by consensus**.

While calling attention to the high numbers of internally displaced persons, this resolution stresses the need to further strengthen inter-agency arrangements and the capacities of United Nations agencies and other relevant actors to meet the immense humanitarian challenge of internally displaced persons. The CHR also requested the Secretary General to **establish a new mechanism that will enhance existing initiatives in the field of IDP protection**. This mechanism should work for strengthening international responses, engage in advocacy for improved protection of IDPs and should be given all necessary resources (within existing resources). However the resolution also encourages States and other organisations to make voluntary contributions to this mechanism. **The new mechanism's performance will be reviewed** by the Secretary General within two years of its **inception and a report will be submitted back to the Commission**.

In general comments **India** pointed out that the primary responsibility for IDPs rested with the States concerned, so the issue belonged to the humanitarian arm of the UN. **USA** was not convinced that a stand alone mechanism would do anything. The **Russian Federation** said that the nature of the relationship between the new mechanism and existing ones also required clarification, and its work required a wide consensus so that it would be facilitated. However all three would join the consensus.

I. National Human Rights Institutions (NHRI)

i) Reports

- Report of the SG on regional arrangements for the promotion and protection of human rights in the Asian and Pacific region (E/CN.4/2004/89)

This report covers the conclusions of the twelfth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian-Pacific Region, held in Doha from 2 to 4 March 2004 and the report of the eighth annual meeting of the Asia-Pacific Forum of National Human Rights Institutions.

- Report of the SG on national institutions for the promotion and protection of human rights (E/CN.4/2004/101)

This report contains information on the activities undertaken by the OHCHR to establish and strengthen national institutions, the measures taken by Governments and national institutions in this regard and cooperation between national institutions and international mechanisms to promote and protect human rights. Information regarding the work of national institutions in respect of specific thematic issues is also included and additional information on assistance provided to national institutions can be found in the reports on activities of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights (E/CN.4/2004/53 and Add.1 and E/CN.4/2004/99).

ii) Summary of the Debate

Under the HLS, **Australia**, who sponsored the resolution on NHRI, emphasised that effective and independent NHRI have a direct impact on people's lives 'by translating international commitments into practical outcomes.' In conjunction with national institutions from India, Indonesia and New Zealand, Australia's independent NHRI founded the Asia Pacific Forum of National Human Rights Institutions. Through being a major donor, they are encouraging the spread of sound NHRI in the region.

Under the general debate under Item 18, **Estonia** (on behalf of the Baltic and Nordic Countries), expressed their strong belief that the work of NHRI can greatly contribute to the implementation of human rights. The analysis of existing NHRI in different countries gives states an opportunity to identify gaps and deficiencies in their own national protection systems. Also explaining how the ombudsmen of the Baltic Sea region meet annually in order to exchange information and experience.

The **International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (CIC)** informed the CHR that 80 Institutions have now aligned themselves with the Paris Principles, 50 of which are accredited by the CIC. The CIC listed the institutions that met in Johannesburg in February 2004, congratulating the African Secretariat for their work in relation to this. They also stressed the role of education, from a young age, to promote human rights, respect for tolerance, justice and solidarity. The CIC felt that this is the best way to counter the effects of extremism in the cultures of some countries.

The **Coordinating Committee of African NHRI** summarized their findings at a meeting in Kampala in 2002, urging governments to find peaceful resolutions to conflicts, an early warning system to detect signs of genocide and ratifying various treaties including the Ottawa treaty on eliminating illegal possession of small weapons. They stressed the importance of inculcating a culture of tolerance through education, concluding that they have requested the OHCHR and UNESCO to spearhead efforts to create a Convention on the Right to Peace.

The **Asia Pacific Forum of NHRI (APF)** spoke of the increase of NHRI in the region, and how they make a very important contribution in Asia Pacific. There has been a rapid growth in members to 14, ranging from Afghanistan and Mongolia to Sri Lanka and New Zealand. Several others are looking at membership, e.g. Japan, a 3 day visit by members had been organised by IMADR, the condition being that they must have an independent NHRI to gain membership. If a country has none, they can be associate members, but Paris principles must

be upheld. The APF believes that this promotes regional co-operation, explaining how they have designed and implemented technical support. They have six members to look at IDPs, and have also looked at issues of disability (looking at proposed International convention on the rights of persons with disabilities) as well as other initiatives. Their main objective here was to talk about the status of NHRI:

'What we respectfully request is that we move beyond this informal opportunity to speak and that the UN now provide NHRI with the right – not as governments or as NGOs – to both participate in relevant UN fora with 'national institutions' status and to formally express their respective opinions with respect to the agenda for HR issues.'

In relation to this they welcomed the Sub-commission allowing accredited NHRI to speak in their own right.

The **Human Rights and Equal Opportunity Commission (Australia)** likewise sought ECOSOC accreditation to enhance the role of NHRI. NHRIs are responsible for translating human rights norms at the national level. According to the Paris Principles they are independent, and if accredited could give independent reports or identified contributions to state party reports to treaty bodies and have a strengthened role in the CHR. The **Danish Institute for Human Rights**, also examined the key role of NHRI in producing shadow reports to treaty bodies (TB) and the ability to follow up the recommendations given by the TB. The **Commission Nationale Consultative des droits de l'homme** (France) also focused on the role that NHRI could play at national and international level, if they had accreditation at the CHR, as they were neither state representatives or NGOs. They went on to explain their consultative role of making a yearly report to the French Prime Minister, which this year was on the topic of Anti-Semitism and Islamophobia, the role of religion in French society and secularism.

The **European Coordinating Committee of National Institutions** mentioned that they have a liaison office with the Council of Europe. In 2004 they will cover trafficking and counter-terrorism, the dignity of the disabled, also the combatting of racism and xenophobia. They will also look at gender issues, particularly in the work place. They mentioned the collaboration between the Council of Europe and ECCNI in combating Racism and Intolerance, and that they were looking at the implementation the Durban Programme of Action.

A range of NHRI spoke of their involvement in domestic issues such as indigenous peoples, national action plans (NAP) and HRE plans. **Human Rights and Equal Opportunity Commission (Australia)** lobbied for greater Indigenous participation in decision making, native title and their right to development. NHRC of **Republic of Korea** and the **CHR of the Philippines**, were working on the NAP in a joint effort with government bodies, as well as a 5-year plan for HRE, which they considered the best way to counter human rights violations. They both concluded their intervention with a call for another Decade on HRE. The **HRC of Uganda** focussed on HRE in Uganda for peace education and **Conseil Consultatif des droits de l'homme (Morocco)** referred to a programme on citizen rights and promotion of a human rights culture.

The **Canadian HRC** spoke at length on the Paris Principles and their independence. Because of these they have increasing influence and societal impact when producing reports of great social importance. One such special report is on the situation of Aboriginal Innu People of Labrador. The report focuses on the discriminatory impact of some federal correctional policies and programmes, particularly on Aboriginal women.

iii) Resolutions

- National institutions for the promotion and protection of human rights **Resolution75**. This resolution was introduced by Australia and was **adopted by consensus**.

The CHR reaffirmed the importance of effective, independent, and pluralistic national institutions; reiterated the continued importance of the Paris Principles for such institutions; welcomed the decisions of a growing number of States to establish national institutions consistent with the Paris Principles; and took note with satisfaction of those States that had provided their national institutions with more autonomy and independence.

J. Disabled Persons

i) Reports

- Report of the OHCHR on progress in the implementation of the recommendations contained in the study on the human rights of persons with disabilities (E/CN.4/2004/74)

The report provides several examples of the progress made by different stakeholders in implementing the recommendations addressed to them by the study entitled: "Human Rights and Disability: the current use and future potential of United Nations human rights instruments in the context of disability". However, the report also notes that the study was published only in November 2002, and stakeholders are just now becoming familiar with the analysis and recommendations it contains. Any evaluation of the extent to which States have translated its recommendations into practice can only be preliminary and an assessment of the actual impact of the study on the work carried out by treaty bodies will only become possible in years to come.

ii) Summary of the Debate

Ms. al-Thani, the Special Rapporteur on disability of the Commission for Social Development, said that the past ten years had seen steady progress in dealing with disability as a human rights issue. The Standard Rules on the Equalization of Opportunities for Persons with Disabilities – adopted by the General Assembly in 1993 – had served as an authoritative guide for Member States in implementing disability programming and developing national plans and policies to ensure that persons with disabilities were brought from the margins of society into the mainstream of the economic, social, cultural, civil and political lives of their communities.

The General Assembly had, in 2001, she noted, initiated a process of discussing the adoption of a Convention on the rights and dignity of persons with disabilities. The former Special Rapporteur had affirmed that the development of a new treaty should not overshadow the need to mainstream disability into the monitoring activities of existing human rights bodies and mechanisms, as called for by the Commission on Human Rights in resolution 2000/51. The elaboration of a new convention and the integration of disability into the work of existing human rights mechanisms should be seen as complementary approaches. Together with continued efforts to address the social development dimension of the problems faced by persons with disabilities, this constituted the so-called multi-track approach, which had received broad support in the international community.

Under the HLS, a few countries spoke concerning people with disabilities, amongst them Sweden and Mexico who were sponsoring the resolution. But by and large the debate was centered around Item 14, where a number of States used their allotted time to discuss the issue. **Mexico** mentioned the broad acknowledgement that the CHR needed to work to make an instrument on the disabled workable and applauded the acting HC for having a dialogue on the convention. **Chile** explained that this year was the year of the Disabled in IberoAmerica, which focused on civic rights e.g. to vote, to transport etc. **Argentina** pointed out that of the 600 million people in the world that were disabled, representing 10% of the world's population, 80% of these live in developing countries.

New Zealand was delighted at the progress made in January by the WG preparing a draft Convention on the rights and dignity of persons with disabilities. However, they felt that the disabled should be included under article 2 of both International Covenants and that too often rights of the disabled had not been protected. The disabled did not want special privileges, merely the opportunity to make the sorts of choices about their everyday lives that most people take for granted, quoting the slogan: 'nothing about us, without us'.

The **WHO** focused mainly on the mentally disabled, of which there are 450 million, with limited access to the few services that are available. WHO explained the work they do in terms of supporting countries' development and implementation of mental health policies, services and legislation and their Service Guidance Package giving governments up-to-date information.

There was very limited NGO focus on this issue. One of the few interventions was from the **World Blind Union**, who maintained that there should be no exceptions of discrimination in the Convention and that a treaty should be able to be implemented at national and international level to help the 600 million people affected.

iii) Resolutions

- Human rights of persons with disabilities **Resolution 2004/52**. Introduced by Mexico and Sweden. This resolution was **adopted by consensus**.

The CHR urged Governments to take active measures to ensure the full and equal enjoyment by persons with disabilities of all human rights and fundamental freedoms; to prevent and prohibit all forms of discrimination against persons with disabilities; to ensure equal opportunities for their full participation in all spheres of life; called upon the OHCHR to report to the CHR at its 61st session on progress in the implementation of the recommendations contained in the study on human rights and disability presented at the fifty-eighth session of the Commission and on the achievement of the objectives set forth in the programme of work of the Office in relation to the human rights of persons with disabilities; encouraged Member States and observers to participate actively in the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities in order to present to the General Assembly, as a matter of priority, a draft text of a convention; urged Member States, observers, civil society and the private sector to continue to contribute to the voluntary fund established by the General Assembly to support the participation of non-governmental organizations and experts from developing countries, in particular from the least developed countries, in the work of the Ad Hoc Committee; and urged Governments to address fully the question of the human rights of persons with disabilities in complying with their reporting obligations under the relevant UN human rights instruments, and welcomed the efforts of those Governments who have begun to do so.

List of Abbreviations

ADU	Anti-Discrimination Unit
AFRE	All For Reparations and Emancipation
APF	Asia Pacific Forum of NHRI
CERD	Committee on the Elimination of Racial Discrimination
CHR	Commission on Human Rights
CIC	International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights
COE	Council of Europe
DDPA	Durban Declaration and Programme of Action
EU	European Union
FIDH	International Federation for Human Rights
GRULAC	Group of Latin American and Caribbean States
HC	High Commissioner
HLS	High Level Segment
HRA	Human Rights Advocates
HRD	Human Rights Defenders
HRE	Human Rights Education
IAAT	International Association against Torture
ICJ	International Court of Justice
IDPs	Internally Displaced Persons
IE	Independent Expert
IGAD	Conference on Internal Displacement in the Inter- Governmental Authority on Development
IHRAAM	International Human Rights Association of American Minorities
ILO	International Labour Organisation
IOM	International Organisation of Migration
IMADR	International Movement Against All Forms of Discrimination and Racism
IPU	Inter Parliamentary Union
MDG	Millennium Development Goals
MRAP	Mouvement contre le Racisme et pour l'Amitié entre les Peuples
MRG	Minority Rights Group International
MRI	Migrants Rights International
NAP	National Action Plans
NATO	North Atlantic Treaty Organisation
NGO	Non-Government Organisation

NHRCI	National Human Rights Commission of India
NHRI	National Human Rights Institutions
OHCHR	Office of the High Commissioner for Human Rights
OP	Optional Protocol
OIC	Organisation of Islamic Conference
OSCE	Organisation for Security and Co-operation in Europe
PBI	Potential Budgetary Implications
SAPG	Special Advisor on Prevention of Genocide
SG	Secretary-General
SR	Special Rapporteurs
TB	Treaty Bodies
WG	Working Group
WGDDPA	Working Group on the effective implementation of the Durban Declaration and Programme of Action
WGM	Working Group on Minorities
WGPAD	Working Group on People of African Descent
UNFPA	UN Population Fund
UNHCHR	United Nations High Commissioner for Human Rights
UNTOC	UN Convention against Transnational Organised Crime
UNW	United Nations Watch

Resolution	Title	Voting (Yes/No/Abst)	Developments of interest
2004/1	Grave Situation in the Occupied Palestinian Territory	(34/3/14)	
2004/2	Strengthening of the OHCHR	(51/2/0)	
2004/3	Situation in Occupied Palestine	(51/1/0)	
2004/4	Question of Western Sahara	Consensus	
2004/5	The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination	(36/14/3)	
2004/7	The right to development	(49/3/0)	<p>The resolution welcomes the convening of a high level seminar on the rights to development, looks forward to the consideration at the 61st session of the Sub Commission's concept document on the options for the implementation of the right to development, endorses the agreed conclusions and recommendations of the Working Group on the Right to Development, decides to <i>consider</i> the renewal of the mandate of the independent expert on the right to development at the next Session, requests the High Commissioner to strengthen the global partnership for development between member States.</p> <p>The resolution also renews the mandate of the Working Group on the Right to Development for one year and decides that five days of the working group's next session should be dedicated to the high level taskforce.</p>
2004/8	Human rights in the Occupied Syrian Golan	(31/1/21)	
2004/9	Israeli settlements in the occupied Arab territories	(27/2/24)	
2004/10	Question of the violation of human rights in Occupied Arab territories, including Palestine	(31/7/15)	
2004/11	Situation of human rights in Cuba	(22/21/10)	
2004/12	Situation of human rights in Turkmenistan	(25/11/17)	
2004/13	Situation of human rights in the Democratic People's Republic of Korea	(29/8/16)	
2004/14	Situation of human rights in Belarus	(23/13/17)	
2004/15	Cooperation with representatives of United Nations human rights bodies	Consensus	
2004/16	Inadmissibility of certain practices that contribute to fuelling contemporary	(36/13/4)	<p>In this new Russian-sponsored resolution, seen by many as a thinly veiled attack at Latvia, the Commission expressed deep concern over the glorification of former Nazi Waffen SS members.</p>

	forms of racism, racial discrimination, xenophobia and related intolerance		
2004/17	Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights	(38/13/2)	Extends the mandate of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights for a further three years.
2004/18	Effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights	(29/14/10)	Among other things, this resolution requests that the independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights draft general guidelines to be followed by States and financial institutions to ensure that compliance with debt obligations do not undermine economic, social and cultural rights. A preliminary report is to be prepared on these guidelines and presented at the 61 st Session of the Commission.
2004/19	The right to food	(51/1/1)	
2004/20	Promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities	(38/1/14)	The resolution envisages the creation of a thematic procedure to implement the resolution and recognises the importance of consultation with stakeholders in this regard. The resolution also underlines that that this procedure would be to develop voluntary guidelines, rather than to act as a monitoring mechanism.
2004/21	Adequate housing as a component of the right to an adequate standard of living	Consensus	
2004/22	Human rights and unilateral coercive measures	(36/14/3)	
2004/23	Human rights and extreme poverty	Consensus	The mandate of the independent expert on extreme poverty is extended for two years , requesting they pay particular attention to, among other things: the impact of discrimination on extreme poverty and an assessment of the internationally agreed Millennium Development Goals.
2004/24	Globalization and its impact on the full enjoyment of all human rights	(38/15/0)	The resolution requests the High Commissioner to study and clarify the fundamental principle of participation and its application at the global level, with a view to recommending measures for its integration and effective implementation in the debate on the process of globalization, and to submit this report at the next Session.
2004/25	The right to education	Consensus	Among other things, this resolution extends the mandate of the Special Rapporteur on the right to education for three years.
2004/26	Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria	Consensus	
2004/27	The right of everyone to the enjoyment of the highest attainable standard of physical and mental health	(52/1/0)	This resolution calls upon states to protect and promote sexual and reproductive health as integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2004/28	Prohibition of forced evictions	(45/1/7)	
2004/29	Question of the realization in all countries of the	(48/0/5)	In this much debated resolution, the Commission extends the mandate of the open ended Working Group on an Optional Protocol to the ICESCR for two years.

	ESCR contained in the UDHR and in the ICESCR, and study of special problems which the developing countries face in their efforts to achieve these human rights		<p>The working group is authorised to meet for ten working days prior to the Commission's 61st Session, invites a representative of the Committee on Social, Cultural and Economic Rights to attend these meetings, and asks the Chairperson-Rapporteur of the working group to identify representatives of regional human rights mechanisms that might be invited to attend the meeting as 'experts'.</p> <p>The resolution also requests the Secretary General to submit to the working group a summary of existing communication and inquiry procedures.</p>
2004/30	Enhancing the role of regional, sub-regional and other organizations and arrangements in promoting and consolidating democracy	(45/0/8)	
2004/31	Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy	(28/14/11)	
2004/32	Integrity of the judicial system	Consensus	
2004/33	Independence and impartiality of the judiciary, jurors and assessors	Consensus	
2004/34	The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms	Consensus	<p>The resolution requests the Chairperson-Rapporteur of the consultative meetings to prepare a revised version of the "Basic principles and guidelines on the right to a remedy and reparation for victims of violation of international human rights and humanitarian law".</p> <p>The resolution also requests the High Commissioner to hold a third consultative meeting for all interested Members states and NGOs with ECOSOC consultative status to finalise the above guidelines and to consider options for their adoption.</p>
2004/35	Conscientious objection to military service	Consensus	
2004/36	Elimination of all forms of religious intolerance	Consensus	This resolution was of note for the inclusion, for the first time, of 'Christianophobia' at the behest of Argentina (on behalf of GRULAC).
2004/37	Extrajudicial, summary or arbitrary executions	(39/0/12)	
2004/38	The incompatibility between democracy and racism	Consensus	
2004/39	Arbitrary detention	Consensus	
2004/40	Enforced or involuntary disappearances	Consensus	
2004/41	Torture and other cruel, inhuman or degrading treatment or punishment	Consensus	
2004/42	The right to freedom of opinion	Consensus	

	and expression		
2004/43	Human rights in the administration of justice, in particular juvenile justice	Consensus	
2004/44	Human rights and terrorism	(31/14/8)	
2004/45	Trafficking in women and girls	Consensus	
2004/46	Elimination of violence against women	Consensus	<p>Among other things, this resolution calls on the Special Rapporteur to elaborate on proposals for indicators on violence against women and on measures taken by States to eliminate violence against women.</p> <p>A US-proposed amendment, seeking to remove language that may have been interpreted as endorsing a right to abortion, was unsuccessful.</p>
2004/47	Abduction of children in Africa	Consensus	
2004/48	Rights of the child	(52/1/0)	
2004/49	Violence against women migrant workers	Consensus	
2004/50	Missing Persons	(52/0/1)	
2004/51	Rights of persons belonging to national or ethnic, religious and linguistic minorities	Consensus	<p>This resolution welcomed the work of the Working Group on Minorities, and recognised with appreciation its work in promoting regional initiatives to further implementation of the Declaration on the Rights of Persons Belonging to Minorities.</p> <p>The resolution further welcomes the efforts of the working group to review its activities and notes its recommendation regarding the establishment of a special procedure on minority issues, as well as welcoming the High Commissioner's proposals for strengthening protection of minorities.</p> <p>The resolution also requests the High Commissioner study options for timely identification of minority issues by compiling views of States, IGOs and NGOs on the activities of the Working Group and the proposals contained in E/CN.4/2004/75 to avoid duplication.</p>
2004/52	Human rights of persons with disabilities	Consensus	
2004/53	Human rights of migrants	Consensus	
2004/54	Tolerance and pluralism as indivisible elements in the promotion and protection of human rights	Consensus	
2004/55	Internally Displaced Persons	Consensus	<p>While calling attention to the high numbers of internally displaced persons, this resolution stresses the need to further strengthen inter-agency arrangements and the capacities of United Nations agencies and other relevant actors to meet the immense humanitarian challenge of internally displaced persons.</p> <p>The resolution also requests the Secretary General to establish a new mechanism that will enhance existing initiatives in the field of IDP protection. This mechanism should work for strengthening international responses, engage in advocacy for improved protection of IDPs and should be given all necessary resources (within existing resources). However the resolution also encourages States and other organisations to make voluntary contributions to this mechanism.</p> <p>The new mechanism's performance will be reviewed by the Secretary General within two years of its inception and a report will be submitted back to the Commission.</p>
2004/56	International Convention on the Protection of the Rights of All	Consensus	

	Migrant Workers and Members of Their Families		
2004/57	Working Group on Indigenous Populations of the Sub-Commission	(38/15/0)	<p>This resolution, sponsored by Cuba, was intended to counter the climate of hostility by some member states towards the Working Group on Indigenous Populations, which many see as being superseded by the Permanent Forum and Special Rapporteur. This is especially relevant in light of ECOSOC's upcoming review of UN mechanisms for protecting indigenous peoples.</p> <p>Among other things, this resolution reaffirms the important role of all existing mechanisms within the UN system mandated to review indigenous issues, and considers the continuing need for the Working Group on account of its present mandate being distinct from those of the Permanent Forums and Special Rapporteur.</p> <p>The resolution also seeks to strengthen means of promoting cooperation among existing mechanisms and asks ECOSOC to take the Commission's resolution 2003/55 into account when conducting its review.</p>
2004/58	Working Group on Indigenous Populations of the Sub-Commission, and the International Decade of the World's Indigenous People	(38/2/13)	<p>In light of the debate surrounding the relevancy of the Working Group, this resolution welcomes its efforts and the focus at its 22nd session it will focus on "Indigenous Peoples and Conflict Resolution". States, IGOs and NGOs are invited to submit information and data on this theme for the upcoming session.</p> <p>The resolution also requests the High Commissioner submit a report reviewing the activities and outcomes of the UN during the Decade of the World's Indigenous People and recalls the Durban recommendation that the Secretary General evaluate the success of the Decade and how best to mark its conclusion.</p>
2004/59	Working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994	Consensus	<p>It seems increasingly unlikely that a Declaration on the Rights of Indigenous People will achieve consensus before the end of the Decade of the World's Indigenous People.</p> <p>In an attempt to reverse this position, this resolution invites the Chairperson-Rapporteur of the Working group to determine the possibility of convening additional meetings, within existing resources, so as to facilitate progress on the draft declaration.</p> <p>The resolution also recommends that ECOSOC authorise the Working Group to meet for ten days prior to the Commission's 61st Session.</p>
2004/60	The work of the Sub-Commission on the Promotion and Protection of Human Rights	Consensus	<p>In light of allegations that the Sub-Commission too often examined issues outside its mandate, this resolution recognises the Sub-Commission's valuable contribution to the Commission's work, but also seeks to focus and streamline its efforts.</p> <p>Among other things, the resolution reaffirms the Sub-Commission's roles as a think-tank, and <i>not</i> as a monitoring body, and encourages the Sub-Commission to focus on its role as an advisory body, specifically when the Commission seeks its advice.</p>
2004/61	Situation of human rights in Myanmar	Consensus	<p>Among other things, this resolution extends the mandate of the Special Rapporteur on the situation of human rights in Myanmar for a further year and requests the Special Rapporteur to submit an interim report to the GA and to report to the Commission at its 61st Session.</p>
2004/62	Human rights and indigenous issues	Consensus	<p>This resolution takes note of the intention of the High Commissioner for Human Rights to organise, making use of voluntary contributions, a seminar on indigenous education. The Office of the High Commissioner will also participate with indigenous, governmental and non-governmental experts to assist the Special Rapporteur in the examination of this 2005 report to the Commission.</p>
2004/63	Enhancement of international cooperation in the field of human rights	Consensus	
2004/64	Promotion of a democratic and equitable international order	(31/15/7)	
2004/65	Promotion of peace as a vital requirement for the full enjoyment of all human rights by all	(32/15/6)	

2004/66	Human rights and international solidarity	(37/15/1)	
2004/67	The Question of the death penalty	(29/19/5)	
2004/68	Human rights defenders	Consensus	
2004/69	Status of the International Covenants on Human Rights	Consensus	
2004/70	The role of good governance in the promotion of human rights	Consensus	
2004/71	Follow-up to the United Nations Decade for Human Rights Education	Consensus	<p>Among other things, this resolution recommended that ECOSOC recommend to the General Assembly that it proclaim at its 59th Session a World Programme for Human Rights Education to begin on January 1, 2005, and requests the Office of the High Commissioner to prepare a plan of action for the first phase (2005-2007), focussing on primary and secondary schools.</p> <p>The resolution also requests the Office of the High Commissioner to keep in mind that the plan must be formulated in realistic terms, shall be funded by voluntary contributions and shall be evaluated by the Office.</p>
2004/72	Impunity	Consensus	<p>A resolution calling on States to end impunity for crimes such as genocide was especially relevant in light of the commemoration ceremonies marking the tenth anniversary of the genocide in Rwanda.</p> <p>This resolution welcomes the Stockholm International Forum 2004 on the prevention of genocide and the Secretary General's decision to create a new post of Special Advisor on the Prevention of Genocide.</p> <p>It also recognises that States much prosecute or extradite perpetrators of international crimes such as genocide and requests the Secretary General to appoint an independent expert, for a period of one year, to update the Set of Principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/Sub.2/1997/20/Rev.1, annex II).</p>
2004/73	Composition of the staff of the Office of the UN High Commissioner for Human Rights	(35/14/4)	
2004/74	Regional cooperation for the promotion and protection of human rights in the Asian Pacific Region	Consensus	
2004/75	National institutions for the promotion and protection of human rights	Consensus	
2004/76	Human Rights and special procedures	(35/0/18)	
2004/77	Protection of United Nations personnel	Consensus	
2004/78	Effective implementation of international instruments on human rights, including reporting obligations under	Consensus	

	international instruments on human rights		
2004/79	Technical cooperation and advisory services in Cambodia	Consensus	
2004/80	Assistance to Somalia in the field of human rights	Consensus	Among other things, this resolution extends, for one year, the independent expert on the situation of human rights in Somalia.
2004/81	Advisory services and technical cooperation in the field of human rights	Consensus	
2004/82	Advisory services and technical assistance in Burundi	Consensus	In this resolution, the Commission thanks the efforts of the departing Special Rapporteur, and appoints an independent expert to provide expertise and support to the Government of Burundi in its efforts to improve the human rights situation.
2004/83	Technical cooperation and advisory services in Liberia	Consensus	
2004/84	Technical cooperation and advisory services in the Democratic Republic of Congo	Consensus	This resolution appoints an independent expert to provide expertise and support to the Government of Burundi in the promotion and protection of human rights and to request the independent expert to submit a progress report.
2004/85	Technical cooperation and advisory services in Chad	Consensus	This resolution appoints an independent expert to facilitate cooperation between the government of Chad and the Office of the High Commissioner for an initial period of one year. The expert's report will be submitted for consideration at the 61st Session.
2004/86	Assistance to Sierra Leone in the field of human rights	Consensus	
2004/87	Protection of human rights and fundamental freedoms while countering terrorism	Consensus	This Mexico-sponsored resolution requests the High Commissioner to continue making recommendation concerning the obligation of states to promote and protect human rights while countering terrorism, to complete a GA requested study concerning the extent to which special procedures and treaty-monitoring bodies are able to address the compatibility of counter-terrorism initiatives with regard to international human rights instruments. In order to assist the High Commissioner in these areas, the resolution also appoints an independent expert for one year who will work with the High Commissioner and submit a report to the 61st Session on ways and means of strengthening human rights while countering terrorism.
2004/88	WCAR and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action	(38/1/14)	
	Chairperson's statement: The situation of human rights in Haiti		The statement welcomes the deployment of an interim multinational force with a mandate that includes the protection of human rights, thanks the independent expert for his report (E/CN.4/2004/108) and requests him to continue work within the framework of his mandate.
	Chairperson's statement: Human rights assistance to Nepal		Among other things, this statement welcomes the commitment of the Nepalese government and the work of the Office of the High Commissioner aimed at developing technical assistance and advisory, as well as the signing of a Memorandum of Understanding with National Human Rights Commission to develop its institutional capacity. The statement also welcomes the Government's extending of invitation to the Special Rapporteur of the Commission to visit Nepal and requests the Office of the High

			Commissioner to present a report on its activities in Nepal to the 61st Session of the Commission.
	Chairperson's statement: Technical cooperation in the field of human rights in Afghanistan		Of note is this statement's welcoming of the Secretary-General's recent appointment of an independent expert on human rights in Afghanistan, and its request that the Secretary-General extend the mandate of the expert for a further year.
	Chairperson's statement: Technical cooperation and advisory services in Timor-Leste		
	Chairperson's statement: Situation of human rights in Colombia		
Decisions			
2004/101	Organization of work	Consensus	
2004/102	Special sitting of the Commission on Human Rights during its sixtieth session	34/3/14	
2004/103	Decision relating to Paraguay under the procedure established in accordance with Economic and Social Council resolutions 1503 (XLVIII)		
2004/104	Extension of the time limit in decision 2003/118	Consensus	
2004/105	Postponement of consideration of draft resolution E/CN.4/2004/L.9	Consensus	
2004/106	Decision: corruption and its impact on the full enjoyment of human rights	Consensus	Approval of the Sub Commission's endorsement of the appointment of Ms Christy Mbonu as Special Rapporteur on Corruption and its impact on the full enjoyment of human rights.
2004/107	Globalization and its impact on the full enjoyment of human rights	(38/15/0)	
2004/108	Integrating the human rights of women throughout the United Nations system	Consensus	
2004/109	Terrorism and human rights	(38/15/0)	
2004/110	Special Rapporteur on trafficking in persons, especially in women and children	Consensus	A number of States took up the Acting High Commissioner's call at the start of the 60 th session, and worked hard for the consensus adoption of this resolution, which appoints a Special Rapporteur on trafficking in persons, especially in women and children for three years.

	children		The Special Rapporteur is requested to submit an annual report and is to coordinate their efforts with existing special procedures that have investigated the situation of trafficking in persons.
2004/111	Harmful traditional practices affecting the health of women and the girl child	Consensus	
2004/112	Decision: the rights of non-citizens	(33/10/10)	The Commission amended a draft Sub Commission decision and instead chose not to recommend David Weissbrodt as a Special Rapporteur on the rights of non-citizens , as he is no longer a member of the Sub-Commission. Several States, such as China, praised Mr Weissbrodt's expertise and argued that there was precedent for continuing the mandate of a Special Rapporteur who was no longer a member of the Commission. However these arguments were ineffective.
2004/113	Publishing the report of the Special Rapporteur on the rights of non-citizens	Consensus	
2004/114	Decision: Voluntary fund on minority-related activities	Consensus	The Commission endorsed the Sub Commission's recommendation that a voluntary fund on minority-related activities be established to facilitate the attendance of representatives of minority groups from developing countries at the Working Group on minorities.
2004/115	Decision: International year/decade for the world's minorities	Consensus	Insisting that it was not the role of the Sub-Commission to suggest or recommend the adoption of an international year or decade for minorities (as it did in Sub Commission resolution 2003/13), this UK-sponsored amendment takes note of Sub Commission's resolution but rather than calling for an international year or decade, the resolution now merely calls for greater cooperation among the specialized agencies of the UN to protect the rights of minorities.
2004/116	Decision: Responsibilities of transnational corporations and related business enterprises with regard to human rights	Consensus	The Sub Commission recently submitted a series of draft norms on the responsibilities of transnational corporations with respect to human rights (see document E/CN.4/Sub.2/2003/12/Rev.2). This decision of the Commission takes note of this report and recommends that ECOSOC: 1) Confirm the importance of such responsibilities; 2) request the Office of the High Commissioner to compile a report setting out the scope and legal status of existing initiatives and standards in this area and to identify options for strengthening such standards and responsibilities ; and 3) affirm that the Sub Commission's draft norms <i>have no legal standing</i> .
2004/117	Decision: Human rights and human responsibilities	(26/25/2)	In a very close vote, the Commission decided to support the Chinese-sponsored (on behalf of the Like Minded Group) decision to request the Office of the High Commissioner to circulate a pre-draft version of the controversial Declaration on human social responsibilities (E/CN.4/2003/105, annex I) among States, IGOs and NGOs to seek their views on it. The Office of the High Commissioner will summarise the replies and present them to the Commission for consideration at its next session.
2004/118	Fundamental standards of humanity	Consensus	
2004/119	Science and environment	Consensus	
2004/120	Decision: Human rights and bioethics	(50/2/1)	The Commission, taking note of the relevant Sub-Commission's resolution, approves the appointment of Ms Julia-Antoanella Motoc as Special Rapporteur to undertake a study on human rights and human the human genome.
2004/121	United Nations Decade for Human Rights Education, 1995-2004	Consensus	
2004/122	Decision: Human rights implications, particularly for indigenous people,	Consensus	In this unusual decision, the United Kingdom and Ireland-sponsored decision calls upon the Sub-Commission to urgently prepare a report on the legal implications of the disappearance of States for environmental reasons .

	of the disappearance of States for environmental reasons		This decision appears directed largely towards reports that the small Pacific nation of Tuvalu will soon disappear under rising sea levels due to global warming.
2004/123	Decision: The universal implementation of international human rights treaties	Consensus	In keeping with the Sub-Commission's recommendation, the Commission approved the decision to appoint Emmanuel Decaux as Special Rapporteur to conduct a detailed study of the universal implementation of international human rights treaties.
2004/124	The prevention of human rights violations caused by the availability and misuse of small arms and light weapons	(50/2/1)	
2004/125	Dates of the sixty-first session of the Commission on Human Rights	Consensus	
2004/126	Question of human rights in Cyprus		
2004/127	Organization of work of the sixty-first session of the Commission on Human Rights	Consensus	
2004/128	Decision: Situation of human rights in Sudan	(50/1/2)	<p>The gross human rights violations in Sudan were a recurring theme throughout the 60th Session. At the time of voting on the last day, there were two options before the Commission. The first was an EU-sponsored draft resolution under Item 9 condemning a catalogue of human rights abuses and appointing a Special Rapporteur to investigate the situation.</p> <p>The second option was a draft decision favoured by many African nations and developing countries who claimed that a resolution should not pre-empt the investigations of the OHCHR team that had just arrived in Sudan to investigate allegations of ethnic cleansing. It contained far more moderate language and appointed an independent expert for a period of one year to prepare a report for the 61st Session on the situation of human rights in Sudan.</p> <p>After much heated and emotional debate, the second option was successful, although many Western states complained that they were only supporting the 'soft' decision to ensure that the issue was not deadlocked.</p>
	Question of arbitrary detentions in the area of the United States naval base in Guantánamo	Withdrawn	<p>Tabled in response to the adoption of the Item 9 resolution condemning the human rights situation in Cuba, this Cuban-sponsored employs surprisingly moderate language and calls on the US to clarify the legal status of Guantánamo detainees and for a number of Special Rapporteurs to investigate the situation at the prison.</p> <p>When it became clear, however, that Germany would challenge the resolution on technical grounds—it had been tabled under Item 17, rather than the more appropriate Item 9—and that this challenge would be successful, Cuba withdrew the resolution.</p>

**Membership of the UN Commission on Human Rights 2002-2004
by Region**

	60th CHR 2004	
African States (15)	Burkina Faso	Sierra Leone
	Congo	South Africa
	Ethiopia	Sudan
	Egypt	Swaziland
	Gabon	Togo
	Eritrea	Uganda
	Mauritania	Zimbabwe
	Nigeria	
Asian States (12)	Bahrain	Rep. Korea
	China	Saudi Arabia
	India	Sri Lanka
	Japan	Nepal
	Indonesia	Qatar
	Pakistan	Bhutan
Central and Eastern European States (5)	Armenia	Russian Fed.
	Croatia	Ukraine
	Hungary	
Latin American and Caribbean States (11)	Argentina	Mexico
	Brazil	Paraguay
	Chile	Peru
	Costa Rica	Honduras
	Cuba	Dominican Rep.
	Guatemala	
West European and Other States (10)	Australia	Germany
	Austria	Ireland
	Italy	Sweden
	Netherlands	U.K.
	France	U.S.A.

Reports by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Doudou Diène

E/CN.4/2004/18: report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Doudou Diène

I. Activities of the SR

In his choice of missions, the SR placed special emphasis on the region of the Americas and the Caribbean.

For 2004, the SR would like to concentrate on the countries which, in Europe, the Middle East, Asia and Africa have been most affected by racism, discrimination and xenophobia, related more especially to immigration, anti-Semitism, Islamophobia and the caste problem. Another subject dealt with in priority will be racism in sport.

II. Contemporary manifestations of racism, racial discrimination, xenophobia and intolerance

The most frequent manifestations of racism, racial discrimination, xenophobia and intolerance include the following attitudes and facts:

Isolationism and the rejection of ethnic and cultural diversity: the SR underlines that in the history of nation States, the rejection or the failure to recognise difference has led to the development of a national identity founded on a particular ethnic group, race, culture or religion. Throughout history, this ideology has provided an intellectual prop for all imperial ventures.

The globalisation, through its encouragement of uniformity, further accentuates confinement and isolationism. But paradoxically, the multicultural dynamic provides a common factor for imperial expansion, slavery, immigration. A dilemma arises then, asking the question of whether to preserve an ethnic-centred identity or to recognise the reality of cultural and inter-religious pluralism. Some extreme right wing parties seek political gain from that identity crisis, playing on a culture of fear.

The SR mentions the case of France and the debate on secularity taking place in France. Whatever the intentions, it has been seen as essentially aimed at the Islamic headscarf.

Racial profiling: in a number of countries, certain racial or ethnic minorities are associated in the minds of the authorities with certain types of crimes. By this way of thinking, the law enforcement agencies, often supported by the media, undertake to criminalise and stigmatise the members of groups and communities.

Another point is the excesses committed in the name of combating terrorism. They generate new forms of racism and discrimination and generally, exclusion and repression. Racial and religious profiling appears as an alarming indicator of the rise of a racist, discriminatory culture and mentality in many societies. This practice should be recognised and measures to ban and punish it should be adopted in all national programmes for combating racism.

Racial discrimination against the Roma/Gypsies/Sinti/Travellers: these groups have been recognised as vulnerable by the World Conference against Racism. The last report of the European Roma Rights Centre received by the SR shows that these groups remain exposed to several forms of racial discrimination in a number of Eastern and Western European countries. Many communities are regularly subjected to police violence. The SR feels particularly concerned by the educational policies practised in some countries, which consist of segregating Roma children in special schools for "backward" children. Some efforts have been made in this respect by Bulgaria.

Expressions of racism related to anti-Semitism and Islamophobia: the SR, in his report E/CN.4/2004/19 examined Islamophobia in the context of a study on the situation of Muslim and Arab peoples in the aftermath of the events of 11th September 2001.

As for anti-Semitism, according to reports received from several NGOs (particularly Jewish) and from the State of Israel, there has recently been an alarming resurgence of anti-Semitism. Most of the 311 serious anti-Semitic incidents reported to have happened in 2002 and the beginning of 2003 by the World Jewish Congress, took place in Western Europe, North America and the Russian Federation. In the opinion of the SR, the concern expressed by participant States at the Durban Conference concerning the rise of anti-Semitism is justified. Therefore the issue should be the subject of an in-depth study, as was the case for Islamophobia.

The measures taken by the governments of the United States of America and France have been addressed. Since the 1990s, the debate has taken place in the United States on whether or not to maintain the policy of affirmative action introduced in the 1960s, as a means of assisting the integration of ethnic, racial and female minorities. The United States Supreme Court in two of its decisions gave full support to that policy, considering that the practice could still be used for another 25 years.

In France, the government informed the SR that several legislative amendments had been adopted to help combat racial discrimination. These amendments will allow the introduction of aggravating circumstances related to racism, xenophobia and anti-Semitism, whose effects are to increase the applicable penalty. Also a particular reference has been made in French law to the offence of grave desecration. The SR welcomes these stiffer penalties.

III. Allegations examined by the SR

Individual cases were submitted by seven countries: Belgium, Brazil, Egypt, Greece, Slovakia, Sudan and Ukraine. Only the government of Greece sent a response to the SR, for a case concerning Roma.

IV. Conclusions and recommendations

The SR wishes to focus on the following issues (among others):

- a) the preparing by national governments of programmes to combat new contemporary forms of racism, discrimination and xenophobia
- b) the promotion of pluralism
- c) for France: it would be desirable for the legislative preparation and examination procedure to be accompanied by clear statements by the French government and by legislative, judicial and administrative measures condemning all possible discriminatory side-effects
- d) the rise of racism in sport should be recognised and dealt with by all countries
- e) an appeal should be made to the member States concerned for open and constructive cooperation with the SR for the recognition and treatment of the question of castes

E/CN.4/2004/18/Add.1: Mission to Guyana and Trinidad and Tobago

The SR went to Guyana and to Trinidad and Tobago from 14th to 25th July 2003.

I. In **Guyana**, the SR noted the existence of a strong ethnic polarisation among Guyanese of African, Hindu, and Amerindian descent. This polarisation is most starkly reflected in the composition of political parties on an ethnic point of view and has had deep economic, social and cultural consequences.

However, the SR noted that this polarisation did not result in feelings of hatred between communities, but rather in a culture of fear and mistrust.

The power to change the situation lies in the hands of Guyana's political leaders. They have used the race factor as an argument in political fight for years. The only goal is the conquest and retention of power.

The SR found that all levels of Guyanese society are permeated by a profound moral, emotional and political fatigue because of polarisation. But there is hope: on 6th May 2003, a joint communiqué signed by the President and the opposition leader showed the political will to make a break with this destructive cycle.

Therefore, the SR encourages the launching without delay of a formal dialogue on the question of inclusive governance, as envisaged in the communiqué. In order to devise a national programme of action to eradicate ethnic polarisation and combat racism, a national commission should be established to implement the Durban Declaration and Programme of Action.

II. Concerning his visit to **Trinidad and Tobago**, the SR considers that despite its inheritance of a similar multi-ethnic population, it is facing less ethnic polarisation. Inter-religious dialogue is at the heart of this society and the country enjoys a particular multicultural vitality in individual contacts and religious practices. A recent initiative from the President called for the establishment of several committees on interracial relations and an ethnic studies centre.

The SR's recommendations contain proposals classified in three categories: political commitment and democratic consensus, intercultural strategy and legal and judicial strategies to combat all forms of discrimination.

E/CN.4/2004/18/Add.2: Mission to Canada

The SR visited Canada from 5 to 26 September 2003. The SR's programme was aimed at understanding the dynamic complexity of the multicultural situation prevailing in Canada.

The policy of biculturalism known at the outset (European influence through English and French immigrants) evolved towards a policy of multiculturalism, adopted in 1971, due to the change in pattern of immigration during the twentieth century.

Also special programmes for Aboriginal populations were set up by federal and provincial governments since then and are briefly presented in the SR's report.

However, the Canadian society is not free from racial discrimination, as shown by the declarations of the members of the groups the SR interviewed, presented in the second part of the reports. Aboriginal populations are still facing problems in the recognition of their land rights, communities of African Descent continue to be discriminated against in terms of employment and decision-making processes etc.

The SR underlines the fact that, because of its history, Canadian society carries a heavy legacy of racial discrimination. Also, there are two different factors that generate discrimination. On the one hand, a geographical factor, Canada being the neighbour of the United States, a country profoundly and lastingly affected by discrimination. On the other hand, an ideological factor, partly due to intellectual consequences of this proximity and also due to the excesses of the fight against terrorism, in the aftermath of the events of 11th September.

The SR also identified three issues that are sources of delays and blockages for the progress of multiculturalism. The first point is the question of the recognition of racial discrimination. In the opinion of the SR, the results are mixed, some departments at the federal level show reluctance to admit the reality of racial discrimination. Secondly, the successes and failures of the legal and political strategy. The SR points out the insufficiency or lack of resources available for the realistic implementation of the strategy. Also the legal strategy suffers from a lack of vigilance, creativeness, flexibility, and adaptability. Thirdly, the lack of an intellectual strategy to combat racism.

Conclusions and recommendations (among others)

- a) The SR recommends particularly that a national programme against racism be launched. This national programme should be structured around a two-pronged legal and intellectual strategy.
- b) An intellectual strategy is urgently needed as a support for the legal strategy
- c) In order to develop this national programme, a national commission to combat discrimination and promote multiculturalism should be created
- d) The situation of the aboriginal communities requires urgent, overall review
- e) The government should conduct an overall assessment of the situation of the Afro-Canadian community in the areas of employment, habitat, health and education

E/CN.4/2004/18/Add.3: Mission to Colombia

The SR visited Colombia from 27th September to 11th October 2003. The aim of this visit was the evaluation of the progress and implementation of policies and measures to improve the situation of Afro-Colombians and indigenous communities in the context of the renewed political violence in the country.

The second part of the report deals with the situation of the concerned communities, the third presentation concerns the Roma. The Roma faced a process of assimilation which they resisted at their arrival in Colombia between 1880 and 1920 and they have known intolerance and discrimination since then. In 1998 Colombia began a process of recognising the Roma by accepting the ILO convention 169. The government promotes programmes to improve their living conditions.

Despite the adoption of laws and the establishment of institutions, the SR considered that this progress is jeopardised by the persistent and increasing violence of all, by all the actors of the political conflict in Colombia. The presence of Afro-Colombians and indigenous communities in regions with growing economic and strategic importance that coincide with the conflict zones makes them highly vulnerable to socio-political violence.

Conclusions and recommendations (among others)

The SR found that the situation of indigenous communities, Afro-Colombians and Roma is still precarious. Therefore he made the following recommendations:

- a) the government and all persons active in political life should devote themselves to the building of a society based on solidarity through the recognition of the deep-rooted legacy of racism discrimination and the preparation of a national programme to combat racism, discrimination and xenophobia
- b) a national commission on displaced populations should be established
- c) the adoption of a general act prohibiting racial discrimination and the establishment of a national commission to combat racism and discrimination
- d) the government of Colombia should make a declaration on art.14 of the International Convention on the Elimination of All Forms of Racial Discrimination
- e) the government should launch an intellectual and ethical strategy against the deep-rooted racist and discriminatory culture and attitudes
- f) the government should involve the communities concerned in the preparation of development projects and in decisions that concern them, and also ensure their effective participation in institutions responsible for community affairs