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Press Release

SUB-COMMISSION SUSPENDS CONSIDERATION OF SPECIFIC HUMAN RIGHTS ISSUES, AND TAKES UP PREVENTION OF DISCRIMINATION

Sub-Commission on the Promotion
and Protection of Human Rights

18 August 2006

The Sub-Commission on Promotion and Protection of Human Rights this morning suspended its consideration of item 6 on its agenda, namely, Specific human rights issues, and took up item 5, Prevention of discrimination, under which item two reports were presented and discussed by Experts. The agenda item on Specific human rights issues was not closed, as it will be taken up later in the session, when further reports will be presented.

Gudmundur Alfredsson, presenting the report of the Working Group on Minorities, said some of the standing Working Groups could be considered more valuable than the Sub-Commission itself, as they were the foundation of the work, and were the situation in which the Experts came in touch with reality to the greatest extent. The Working Group had adopted by consensus recommendations which reflected what took place during the session on, among other things, the desire of the Working Group to maintain such a group with both participation of Experts and easy access and participation for minorities after the reforms had concluded.

Yozo Yokota, presenting the report of the Working Group on Indigenous Populations, said a number of important issues related to the human rights of indigenous peoples had been dealt with, and a new agenda item was included on the future of the Working Group, and substantive work had been done on this issue, with the aim of recommending to the different mechanisms and procedures the continuance of the important work of the Group. The only way to correctly reflect the view of indigenous peoples and communities was to have a representative of those groups in the process of standard-setting.

Sub-Commission Experts taking the floor this morning were Gaspar Biró, Antoanella-Iulia Motoc, Halima Embarek Warzazi, Jose Bengoa, Soli Jehangir Sorabjee, Miguel Alfonso Martinez, El-Hadji Guissé, Christy Ezim Mbonu, and Florizelle O'Connor.

Speaking under item 6 were the representatives of the Russian Federation and Iran. Also speaking were the representatives of International Educational Development, Inc., European Union of Public Relations, Worldwide Organisation for Women, Commission to Study the Organization of Peace, Association of World Citizens, and *Association tunisienne des droits de l'enfant*.

Speaking under item 5 was the representative of Pakistan, on behalf of the Organization of the Islamic Conference.

The next plenary meeting of the Sub-Commission will be at 3 p.m. on Friday 18 August, when it will continue consideration of agenda item 5.

Statements on Specific Human Rights Issues

KAREN PARKER of International Educational Development, said the situation of children kidnapped by a parent and hidden out of reach in slavery-like conditions in Saudi Arabia had caused reform of family law in several other countries, including Morocco. This should go a long way to reduce slavery-like practices related to child custody. This illustrated the serendipitous facts that went a long way towards justifying the work of the Working Group on Slavery-like Practices, and this body should be retained in the future.

LUDOVICA VERZEGNASSI of the European Union for Public Relations, said that many human rights organizations had been warning that if the regressive evolution of Pakistan was not checked, the violence emanating from its soil would impact on lives across the globe. No war on terror, no counter terrorism strategy, no carrot and stick approach had worked or could work until the root cause of contemporary terrorism was addressed. Addressing that cause meant a combined effort by the international community to address the situation of Pakistan. Religion was falsely blamed for terrorism. The ordinary citizens of Pakistan were not terrorists by inclination. Pakistan's tragedy had been the stranglehold that its armed forces had exercised over its policy.

AFTON BEUTLER of Worldwide Organization for Women, said bioethics was one of the new and emerging issues, and it needed to be dealt with from a human rights perspective. The benefits of scientific progress and its application were defined as a human right. Rapid developments in science and technology had been increasing challenges in the ability to understand

new and unknown aspects of life and the power such knowledge could bring, and this resulted in a strong demand for a global response to the ethical implications. An awareness of what bioethics implied needed to be raised and the ever-mushrooming issues dealt with, and there should be reflection on the ethical and legal issues raised by research. Public education was also necessary in this process, and there was a need to raise awareness of the issues.

RAMESH KUMAR JOSHI of the Commission to Study the Organization of Peace, said South Asia was used to cross-border terrorism as result of lack of a coherent strategy against terrorism. Terrorists had been bombing civilians, and a number of people had been victims of terrorist acts. A system of assistance to the victims of terrorism and to enable them to re-integrate into society was essential. The madrassas were the sources for the recruitment of terrorists as had been the case with the Taliban, who had recruited the terrorists from such Islamic schools. The acts committed by the terrorists were the act of genocide. The struggle for freedom did not include blind terrorist acts as it was in the case of some south Asian regions.

GENEVIEVE JOURDAN of Association of World Citizens, said there was concern for refugees and people who did not have the status of refugees but were none the less displaced persons. Terrorism had emerged as a global phenomenon with the ideology of promoting hatred and discrimination, and was used to advance a political objective causing pain and suffering for thousands of people. Under the label of terrorism there was an increasing number of displaced and refugees. Women should be integrated into peacekeeping and security forces.

BEHHADI IMEN of Association Tunisienne des Droits de l'Enfant, said that that her country had been the most advanced society in the Arab world. The rights of women in Tunisia had been consolidated through the adoption of laws advocating for gender equality. The Tunisian Parliament had also passed modern laws with regard to the rights of children born out of wedlock and against their discrimination. Other laws also been put in place to protect the rights of women and protect them from any form of discrimination. The rights of married women had also been strengthened, giving them the right to equal participation in the household. The challenges of development in Tunisia had also empowered women by affirming their equal places in the society. The Government had also taken measures to strengthen gender equality in all spheres of life in Tunisia.

ALEXEY O. GOTTYAEV of the Russian Federation, said in the current world, there was an increasing number of events that were taking place that led to more and more violations of human rights and also called into question current international conventions. One of the main threats was clearly terrorism, which knew no boundaries, no race, nationality or religion. The

Russian Federation had, on a number of occasions, indicated that terrorism was a threat to all aspects of life, and this was particularly true with regards to the defence and enforcement of the law. In that regard, the role of the Sub-Commission, which was an intellectual forum made up of Experts who were studying new threats to human rights including terrorism, was prepared to make a contribution.

The activities of the Working Group on terrorism were praised, as was the work done by Ms. Koufa. The ongoing attention of the Sub-Commission on the issue was appreciated, and work should continue in this area in the format of the new United Nations body. It was important to strike a balance between the observance of human rights during counter-terrorism operations, and the protection of the victims of terrorism. This was particularly important with regards to the responsibility of terrorists and terrorist groups in the context of the violation of human rights standards.

FOROUZANDEH VADIATI (Iran) said that United Nations counter-terrorism mechanisms were the embodiment of joint forces, under the umbrella of the United Nations, to eradicate the menace of terrorism, and thus far had had commendable achievements. Yet the international community's efforts to eradicate terrorism had been facing some hurdles along the way that needed to be addressed appropriately. Moreover, while the decisive stage in the war against terrorism was to capture the minds and hearts of peoples, the abuse of the fight against terrorism by some demagogues to spread hatred and bigotry among various cultures and religions and their efforts to demonise and defame certain religions and cultures by unfairly and unfoundedly attributing terrorism to them, could in fact prove to be no less serious than terrorism itself.

Referring to a statement made by UN Watch, the organization had raised unworthy allegations, and its statement was a smokescreen for those who attempted to uphold the political agenda of the occupying power and evade responsibility for the perpetration of crimes against humanity and genocide in Lebanon and Palestine. This was part and parcel of an elaborate scheme to deflect attention from the root cause of all tensions in the Middle East, which was occupation, State terrorism and its fallouts, including the illegal detentions of thousands of Arabs and the violations of their rights.

Introduction of the report of the Working Group on Minorities

GUDMUNDUR ALFREDSSON, Sub-Commission Expert, presenting his report on the session of the Working Group on Minorities, said some of the standing Working Groups could be considered more valuable than the Sub-Commission itself, as they were the foundation of the work, and were the situation in which the Experts came in touch with reality to the greatest extent. Statements were heard in the session from minority groups,

Governments, academics and NGOs on minority situations, and possible solutions to the problems facing them, and on the possible future of the Working Group itself. The reduced meeting time available had proved to be a serious handicap on the dialogue.

On the other hand, the Working Group had significantly benefited from the presence and active participation of the Independent Expert on Minorities of the Human Rights Council, who had described her mandate and ongoing activities. The Working Group had adopted by consensus recommendations which reflected what took place during the session on, among other things, the desire of the Working Group to maintain such a group with both participation of Experts and easy access and participation for minorities after the reforms had concluded. These recommendations would reappear in part in a resolution that would be before the Sub-Commission next week. The report also contained four annexes, and these were worthy of attention.

Report of the Working Group on Minorities

A report (A/HRC/Sub.1/58/19) entitled "Report of the Working Group on Minorities on its twelfth session" says that at the session, general and specific situations concerning minorities from different regions of the world were raised, and a number of Governments provided information on best practices for addressing them. Various documents were presented and discussed, including the Minority Profile and Matrix, a workshop report on minorities and conflict prevention and resolution, the working paper offering guidance on "integration with diversity in policing, security and criminal justice" and the OSCE High Commissioner for National Minorities' recommendations on policing in multiethnic societies. Information on the new mandate of the Independent Expert on minority issues was presented by the mandate holder. Particular attention was focussed on the future activities of the Working Group on Minorities and cooperation with the Independent Expert on Minority Issues. The report also contains recommendations adopted at the session, including a proposed two-year programme of work drawn up jointly by the Working Group and the Independent Expert, which would encompass the organization of a series of regional seminars on the application of integration with diversity in policing, security and criminal justice.

Introduction of the report of the Working Group on Indigenous Populations

YOZO YOKOTA, Sub-Commission Expert, presenting his report on the work of the Working Group on Indigenous Populations, said the commitment of the attending Experts to the cause of indigenous rights was very strong. The Working Group was also attended by 33 Member States, as well as United Nations organizations, and the representatives of indigenous peoples and

NGOs strongly interested in the work of the Group. 583 participants were accredited, but de facto participation could be even larger. The issue had recently come up in the context of the United Nations, and some indigenous communities were not actually formally given consultative status by ECOSOC, but the Working Group had felt it was important to welcome all who were interested in participating.

The Working Groups had all suffered from the loss of one day from their session, the parallel occurrence of two Working Groups, and the uncertainty of the future of the Working Group itself and of the Sub-Commission. This last had been discussed with the aim of recommending to the different mechanisms and procedures the continuance of the important work of the Group. The time for in-depth discussion had been very limited, and the most difficult job for the Chair was to allow everyone to speak to the extent of expressing their views, but statements had been interesting and to the point. A number of important issues related to the human rights of indigenous peoples had been dealt with, and a new agenda item was included on the future of the Working Group, and substantive work had been done on this issue. The only way to correctly reflect the view of indigenous peoples and communities was to have a representative of those groups in the process of standard-setting.

Report of the Working Group on Indigenous Populations

A report (A/HRC/Sub.1/58/22) entitled "Report of the Working Group on Indigenous Populations on its twenty-fourth session" says the session was attended by the five members of the Working Group, representatives of States, United Nations bodies and specialised agencies, academics and a large number of NGOs, including participants supported by the United Nations Voluntary Trust Fund for Indigenous Populations. The Working Group reviewed developments pertaining to the promotion and protection of the rights of indigenous peoples, including their human rights and fundamental freedoms, with a focus on the principal theme "Utilisation of indigenous peoples' land by non-indigenous authorities, groups or individuals for military purposes". In the field of standard-setting, it held discussions on: future priorities including a review of the draft principles and guidelines on the protection of the heritage of indigenous peoples; and possible new studies. A new item 8, "The future of the Working Group on Indigenous Populations" was included in the agenda, and under this item a discussion took place on the recommendations of the Working Group with regard to the two documents which the Human Rights Council asked the Sub-Commission on the Promotion and Protection of Human Rights to submit.

Statements on the reports of the Working Groups on Minorities and Indigenous Populations

GASPAR BIRO, Sub-Commission Expert, said the Working Group on

minorities should be accorded five days to carry out its work and should be maintained as a subsidiary body to the Sub-Commission. There were a lot of issues to be addressed with regard to minorities. Respective States did not recognize minorities in many societies. More than the legal framework, the problem of recognition should be dealt with seriously. Some States recognised minorities as nationalities or preferred to give them names. The establishment of institutions for minorities was not enough by itself. The minorities should be able to participate in general public life. There was a need to maintain the Working Group and the extension of its mandate should be supported. The Office of the High Commissioner for Human Rights should also provide all the services the Working Group required.

ANTOANELLA-IULIA MOTOC, Sub-Commission Expert, said the Working Group had always worked fruitfully with minorities, and had been a model on intellectual grounds for the other Sub-Commission Working Groups. There were some conceptual problems with the report, and there were certain needs for clear answers with regards to international law on minorities. One particular issue was the delimitation between indigenous peoples and minorities, as there was no universal definition. In Asia there was a problem in particular with regard to the definition of minorities, and the relationship between the two groups themselves required clarification, as did the development of the notion of minorities in certain continents.

Some rights, such as the interdiction of discrimination, had to be covered by the Framework Convention. To be a minority, there was a need for self-recognition in this regard, and this was particularly important with regard to migrants and refugees. The issue of the Roma people was of great interest within Europe, and there had been several initiatives at the level of the Council of Europe, in order to ensure that they were not only a minority related to a State, but would have the stature of a European minority, and this was particularly interesting as it was a development on traditional identification of minorities. The Working Group should be perpetuated within the new Expert body.

HALIMA EMBAREK WARZAZI, Sub-Commission Expert, speaking on migrant workers, said that they were subjected to discrimination in the hosting countries. They should be treated not like migrants but as human beings. They were not snatching the employment of the citizens of their country of arrival; they were not drug traffickers or terrorists. Their dignity should be respected. Europe, and practically all the States making it up, was barricading itself, by putting in place laws against illegal migrants. However, the problem of illegal migration still remained unsolved. Since migrant workers were permanently residing in the hosting country, they should be considered as minorities and should enjoy all the rights of minorities. Because of the ageing of their populations the hosting countries needed the work force of the migrant workers. However, the migrants were not

guaranteed the right to social security. They were provided with degrading work, whilst contributing to the development of the hosting countries.

The issue of migration should not be considered as untouchable. Illegal migration had become a dangerous undertaking for those who wished to reach the countries of destination. The Prime Minister of Niger, whose country was a victim of famine, once said that no power could stop his countrymen from going to other countries for their survival. The European countries should put an end to their policies of selectivity in matters of migration.

JOSE BENGUA, Sub-Commission Expert, said with regards to minorities, the recommendations of the Working Group contained a main argument that this was the only body on minorities within the United Nations system, and therefore there was a very clear argument for keeping the group or for keeping a similar group. Members of minorities who were present at the session had explained their position, noting that there should be a significant space left for minorities, either a Forum similar to that existing for indigenous peoples, or another place in which they could debate their problems. The most telling argument in the discussion on the reform of the United Nations system was peace- most conflicts that existed in the world today involved participation of minorities in one shape or form, and a Forum in this regard was clearly indispensable. There were challenges facing African descendants throughout the world, in particular with regards to integration and poverty.

GUDMUNDUR ALFREDSSON, Sub-Commission Expert, in conclusion to the consideration of his report, thanked those who expressed themselves in favour of the restoration of the five-day inter-sessional meeting of the working group on minorities. The characteristics of minorities had been identified as linguistic, national, cultural and ethnic. A real definition of minorities might be difficult to determine, as with migrants arriving in some countries identified themselves with the new countries, and States might not be willing to accept the definition if it were extended to the new arrivals. However, the problem should first be tackled with regards to the already existing minorities in a given country. The Council of Europe, whose members were democratic countries, was not able to provide a high standard definition of minorities. Traditionally, indigenous peoples such as the Sami or the Roma were moving from one country to the other, thus making their definition more complicated. The Roma had the right to cross borders because of the historical understanding of their situation. The Working Group would continue to work to find an appropriate definition for minorities.

SOLI JEHANGIR SORABJEE, Sub-Commission Expert, said the question was to make Governments recognise that the existence of a minority did not depend on their recognition of it as such. One of the important characteristics

of a minority was that it was not in a dominant position, and this was very important to be borne in mind. Another important issue was to make attempts, when expounding the Minority Declaration to arrive at some good, workable definition of a minority. The work of Asbjorn Eide on commenting on each article of the definition should be continued.

JOSE BENGUA, Sub-Commission Expert, said that the work undertaken by the working group on indigenous peoples was very important and hoped that the Council would approve the document. The draft document had identified the positive and negative aspects of the issue. Its main strength was that it had established collective rights, such as the right to self-determination. The issue of self-determination had been related to autonomy or local affairs. Other elements such as the issue of indemnity and reparation had also been treated. Those issues were unknown in the past until they were now dealt with. There was also a clear intention in the document to protect the rights of the indigenous peoples. The document required a lengthy effort by the Sub-Commission experts to affirm and protect the rights of indigenous peoples. The Sub-Commission should draft a specific resolution recommending that the General Assembly approve the document.

MIGUEL ALFONSO MARTINEZ, Sub-Commission Expert, said the Working Group was close to finishing twenty-five years of work, and it had never been discontinued. Its future was being examined by the Human Rights Council, and the possible ending of that exercise could be that it could continue its work, trying to make headway and stop the social alienation and discrimination suffered by a vast number of indigenous peoples throughout the world. The report contained a section on its future, as well as a round-up of what it had done up until now. It was important in such a small group to depend upon one person for drafting, and Ms. Hampson had fulfilled this task most effectively.

With regard to the Draft United Nations Declaration on the Rights of Indigenous Peoples, it was drafted at the time to alert all to the fact that this was one of the ways in which indigenous peoples could exercise their right to self-determination, which, like any people, they had the right to do. This right was pre-established by the United Nations Charter. It was up to each people to decide in what manner they would exercise this right, within certain limits. The process of developing the Declaration was at the final stages, and all which was left now was formal approval by the General Assembly, and it was hoped this would be done by consensus. Any recommendation the Sub-Commission made to the General Assembly would not have the strength of the Human Rights Council's decision, and could be seen as an endorsement of the work of the Working Group.

ANTOANELLA-IULIA MOTOC, Sub-Commission Expert, said the working group on indigenous rights should remain part of the Sub-Commission, as its

subsidiary. More than one thousand people attended the group's meetings. The document should be included in the list of achievements of the Working Group. In some countries, indigenous peoples did not accept the legislation of their respective countries concerning their rights. Several countries, however, had primitive laws and official laws with regard to indigenous peoples. Since Ms. Warzazi completed her work on traditional practices affecting women, the issue of women in the Sub-Commission had been marginalized. The Working Group on indigenous rights did not treat the theme of women in depth. The Sub-Commission should know if there were biases in indigenous communities with regard to women.

MASOOD KHAN (Pakistan on behalf of the Organization of the Islamic Conference), said the Sub-Commission was going through a transition, but it was important to reflect on the progress of discrimination over the last year. Incitement to religious and racial hatred was on the rise. The most sacred beliefs of Muslims around the world had been insulted, causing enhanced stereotyping in the Western and Muslim world, and with huge political and financial costs. The United Nations had been groping for an appropriate response, but had failed to find the answer so far. The United Nations Commission on Human Rights had adopted a resolution on the incitement to national, religious, or racial hatred, and the Council would revisit the subject at its next sessions. The tide of Islamophobia was becoming stronger, not weaker.

In the recent past, terrorist attacks or even terrorist plots, had been used as a pretext to demonise Islam and Muslims. Muslims were profiled en bloc as extremists. It was forgotten that Muslim Governments and people around the globe were creating moderate policies and promoting harmony and co-existence. Muslims were being dehumanised, as were Jews during the inter-war period in the last century. The spectre of Islamophobia was haunting Europe. The use of violence as a means to protest against Islamophobia was condemnable. Existing gaps in international law to combat defamation of religions and to promote respect for each others beliefs should be stopped up. There was no tension between respect for religions and freedom of thought, but the right to freedom of expression was not absolute, it did not give the right to insult others or hurt their sensibilities. There was a juridical vacuum on this subject in the United Nations, and there was a need for stout international laws to ensure respect for religions, to create a deterrent against the incitement of hatred, and to deliver justice.

GUDMUNDUR ALFREDSSON, Sub-Commission Expert, said the working group on indigenous peoples was an important group and it was a priority even when reform was continuing in the UN. The Working Group should continue as a forum where indigenous peoples could assemble to express their wishes. With regard to the Declaration on the rights of indigenous peoples, he said he had a reservation with the issue of self-determination

included in the text.

EL-HADJI GUISSÉ, Sub-Commission Expert, said a question had been asked with regards to the concept of self-determination, and this was unclear, in particular in the context of a report on the rights of indigenous peoples. Looking at the history and evolution of the concept since the inception of the United Nations Charter, it had been used every time to allow a people to recover its independence, i.e. its international sovereignty. In the context of the report, another term or concept should perhaps be used, as groups might not wish to leave the State entity in which they found themselves. Indigenous peoples were entities which were part of the make-up of the State in which they found themselves, and minorities based on a personal characteristic or trait were still part of the State in which they existed. There needed to be increased circumspection when using this term, as it could give rise to conflict within States.

Indigenous peoples as minorities, which were an element making up a State, had an obligation to participate in the economic, social and cultural development of the State in which they found themselves. In the Sub-Commission's thinking, it needed to be made clear that independence movements were not covered, and therefore the term "self-determination" should be replaced by something less murky and less likely to result in peoples deciding to declare independence, and more respectful for the integrity of States.

CHRISTY EZIM MBONU, Sub-Commission Expert, said she endorsed the statement made by Mr. Guissé. The issue of the right to self-determination for indigenous peoples should not be intended to dismember the sovereign States that were members of the United Nations. It should be clear that self-determination should be applied in order to allow indigenous peoples to manage their own affairs in their own communities and localities.

FLORIZELLE O'CONNOR, Sub-Commission Expert, said she supported the point made by Ms. Motoc regarding the need to recognise and respect the cultural and traditional rights which existed among the minority populations. This need for recognition was even more critical now as already members of a wide variety of races, indigenous peoples were being robbed in a new way of these rights through use of intellectual property rights where herbs, foods, and traditional methods which had existed in communities for thousands of years were being registered and patented by outsiders. It was very important that in whatever guidelines or decisions were decided, immediate attention be paid to this matter, and assistance provided in encouraging members of the various minority groups to patent their cultural and traditional property before all was entirely despoiled.

YOZO YOKOTA, Sub-Commission Expert, in concluding remarks, said some

speakers had stressed the strength of the draft declaration on the rights to indigenous peoples. The issue of self-determination had been raised in the working group. As soon as the declaration was adopted by the General Assembly, the working group or its successor could compile commentaries on the issue. On the future work of the group, he shared the concerns expressed by some experts. Since the working group was the only body in the United Nations accessible to indigenous peoples, and it was the only forum where they could freely express their desires, the number of participants had increased significantly. An expert had raised the important issue of the practice of traditional customary law of the indigenous peoples and the contrast with national law, and this was a matter which required further attention. Some traditional practices might also affect the rights of women special attention, and further attention should be paid to this issue. The question of the right to self-determination had been one of the controversial issues during the process of drafting the UN Declaration on the Rights of Indigenous Peoples.