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SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 22 March 2007, at 10 a.m.

President: Mr. DE ALBA (Mexico)

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The meeting was called to order at 10.05 a.m.

IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF
15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL” (agenda item 2) (continued)

Report of the Working Group on Enforced or Involuntary Disappearances (continued)
(A/HRC/4/41 and Add.1-3; A/HRC/4/NGO/71 and 121)

1. Mr. JAZAÏRY (Algeria) said that the statement in the report of the Working Group on Enforced or Involuntary Disappearances that there had been 31 newly reported cases of disappearance in Algeria (A/HRC/4/41, para. 51) could give the false impression that lawlessness still prevailed in that country. However, all the new information related to alleged disappearances during the 1990s. He took note of the concerns expressed in the report regarding the recent legislation, erroneously referred to as “amnesty laws”, that had been adopted on the basis of the Charter for Peace and National Reconciliation. During the 1990s tens of thousands of individuals had disappeared into the hands of terrorist groups that had successfully passed themselves off as innocent victims of human rights violations by State agents. While the report continued to depict State agents as the villains, the recently adopted International Convention for the Protection of All Persons from Enforced Disappearance, which had been signed by Algeria, recognized the role of non-State actors.
2. There had been no amnesty in Algeria, since the law would be brought to bear on anyone found guilty of rape, bombing in public places or assassination. It was the considered judgement of most Algerians that the Charter was the only way to heal the wounds inflicted by terrorist attacks. They had no wish to vilify the soldiers and police who had prevented Algeria from becoming a failed State and who were now being targeted by politically motivated insinuations.
3. Not all situations of civil strife were similar; there were at least two broad categories. In one category, exemplified by certain bygone dictatorships in Latin America and apartheid South Africa, violence had erupted in response to State oppression of the people. In the other category, countries under attack from terrorist groups might see a small minority of State agents commit individual rather than system-based abuses while defending their country. To focus on such marginal cases while disregarding terrorist rampages would have ominous consequences.
4. He wished to point out that Algeria’s Charter for Peace and Reconciliation had introduced pioneering measures concerning reparations for victims even before the International Convention for the Protection of All Persons from Enforced Disappearance had been adopted.
5. Ms. ZOLOTOVA (Russian Federation) said that the Russian Federation actively cooperated with the Working Group on Enforced or Involuntary Disappearances. Its law enforcement agencies took steps to shed light on the fate and whereabouts of missing persons; nevertheless it was not always possible for various objective reasons to obtain the information sought.

6. The process of political and socio-economic normalization in the North Caucasus had led to a significant decline in the number of cases of disappearances. While the Working Group had transmitted 147 queries to the Russian Government in 2000, it had transmitted only 5 in 2005. She wished to assure the Working Group that the Government would finalize the dates for its visit to the Russian Federation in due course.

7. Although the media regularly reported disappearances and the discovery of mass burial sites in Iraq and Afghanistan, not a single case of enforced disappearance concerning either of those countries had been transmitted to the Working Group. She wondered whether the lack of information was due to the absence of civil society and thus of non-governmental organizations (NGOs) and similar bodies in those countries. If the difficult circumstances prevailing in the two countries meant that no human rights monitoring was possible, she wondered whether the Working Group could suggest any means of remedying the situation.

8. Mr. AL-SALAH (Observer for Yemen) said that the Government of Yemen had worked seriously and transparently with the Working Group on Enforced and Involuntary Disappearances to find ways of clarifying outstanding cases in Yemen and had arranged meetings with government officials and the families of victims. A national fact-finding committee had scrutinized each case, pursuing all leads in order to reach a satisfactory outcome. The Government had regularly transmitted all findings to the Working Group and would continue to offer it every assistance in pursuit of its humanitarian mandate.

9. Mr. PAUDYAL (Observer for Nepal) said that his country regularly sent progress reports to the Working Group concerning the implementation of its recommendations. However, the cases referred to in the report had occurred largely in the context of the armed insurgency before the political change in Nepal in April 2006; there had been no cases of disappearances since then. He regretted that the improvement had not been duly reflected in the report.

10. His Government was seriously working to clarify the status of those who had disappeared in the past. In the Comprehensive Peace Agreement it had signed with the Communist Party of Nepal (Maoist) in November 2006 both sides had expressed a strong commitment to make public the status of arrested persons and the whereabouts of those who had disappeared. The Government had replied to the Working Group's queries regarding most cases and would report on those under investigation in due course. A task force established by the Supreme Court was investigating some alleged cases and was expected to deliver its report shortly. A large number of reported disappearances seemed to be the result of improper recording of releases and detentions and should not be construed as involving physical elimination.

11. Systematic efforts had been made to inculcate human rights and humanitarian values in security personnel. Every military and security training course now included a human rights component. Human rights cells had been established in the security forces and those found guilty of abuses were punished.

12. Mr. SERVIGOV (Philippines) suggested that the Working Group should identify best practices in addressing the phenomenon of disappearance and circulate them among States. He welcomed the Working Group's statement that it condemned disappearances irrespective of who

the perpetrators might be. Although States were primarily responsible for protecting the human rights of their citizens, they often had to contend with complex situations in which a variety of perpetrators were responsible for disappearances.

13. The Philippine Government was doing its utmost to ascertain the fate and whereabouts of the persons listed in the Working Group's report and was currently seeking advice from the International Committee of the Red Cross (ICRC). It would give priority to recent reports, since the chances of tracing a person's whereabouts were greater while the information was still fresh. However, most of the cases reported to the Working Group had occurred in the 1970s and 1980s, so that the investigations were subject to severe constraints. He had taken note of the possible approaches to such cases outlined in the Working Group's reports and would welcome exchanges of views with similarly placed countries and the Working Group itself.

14. The Philippines supported the comparative study being undertaken by the Working Group on the treatment in criminal law of enforced or involuntary disappearances in different States. It would furnish the Working Group with information on the bills in the Philippine Congress on disappearance as soon as it became available.

15. Mr. GUEVARA (Mexico) praised the Working Group's humanitarian assistance to the families of victims of enforced disappearance since 1980. The clarification of 2,791 cases in recent years reflected the continued importance of its role, both for families and for Governments. Mexico urged States to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance so that it would enter into force as soon as possible. He wished to know whether the Working Group had any views on how it should coordinate its mandate with that of the Convention monitoring body once it began to operate, presumably within three or four years.

16. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) said it was regrettable that his country's positions and concerns had not been fully reflected in the Working Group's report. The Democratic People's Republic of Korea had done its utmost to fulfil its obligations under the Pyongyang Declaration issued jointly with Japan, which had resolved the Japanese abduction case. Yet the report still described the case as outstanding, the reason being that Japan was using the case to further its political agenda of hostility to his country. He strongly hoped that the Working Group would see through the political motives underlying the Japanese claim and reject it.

17. Ms. LEVASSEUR (Canada) said that perpetrators of disappearances should not enjoy impunity. In 2005 the Working Group had adopted a general comment dealing with the circumstances in which amnesty laws violated the Declaration on the Protection of All Persons from Enforced Disappearance. The Working Group had expressed concern in its last two reports about post-conflict situations leading to the adoption of amnesty laws and the application of other measures that were conducive to impunity. She asked the Group to elaborate on those concerns.

18. She understood that the Working Group had not yet received a reply to its request to visit the Sudan. She hoped that the response would be positive.

19. According to the report, 5,749 cases had been pending in Sri Lanka at the end of the period under review and no case had been clarified. The report also expressed serious concern at the recent increase in reported cases of enforced disappearance, especially in the north-eastern part of the country in the context of the renewed hostilities. She asked how the international community could help the Sri Lankan Government prevent enforced disappearances, investigate cases and bring the perpetrators to justice. What kind of support could it offer to the National Commission of Inquiry over and above that provided by the International Independent Group of Eminent Persons?

20. Mr. DUMONT (Argentina) said that Argentina had signed the International Convention for the Protection of All Persons from Enforced Disappearance. It cooperated at all times with the Working Group and reiterated its invitation to the Group to hold its regular session in Buenos Aires in 2008 prior to its country visit. He welcomed the Working Group's contribution to the discussion of the right to the truth, a subject that he hoped would be addressed by the Council at its fifth session.

21. The Working Group referred in its report to the case of the witness Jorge Julio López and other cases of alleged intimidation of human rights defenders. The Chairperson-Rapporteur had also expressed concern the previous day about reports of intimidation of, reprisals against and disappearances of defenders and witnesses in Argentina. In the case of Mr. López, the police were undertaking systematic searches, and a Joint Coordinating Committee had been set up to assist them. Photographs and posters of Mr. López had been circulated and displayed in public places. A special telephone number had been established at the Register of Disappeared Persons in Buenos Aires Province to receive information on the case, and a reward of 400,000 pesos had been offered for information concerning his whereabouts. Admissions to morgues, hospitals and mental health centres were being monitored, contacts and information meetings were being held between intelligence agencies and a number of judicial and administrative proceedings had been instituted, although no one had been charged to date.

22. The Governor of Buenos Aires Province had approved Decree No. 2475/06, which contained a programme to protect witnesses at risk. The Decree would be implemented by means of an agreement concluded between the Province and the Ministry of the Interior.

23. A national plan to assist plaintiffs and witnesses who had been victims of State terrorism had been drawn up by the Ministry of Justice and Human Rights and had entered into force in October 2006. Its main objectives were to prevent witnesses from suffering mental and physical harm through intimidation; to prevent illicit acts aimed at ensuring impunity from having any effect on evidence against the perpetrators; and to support efforts to combat impunity, in keeping with the Government's policies.

24. Mr. ZEVALLOS AGUILAR (Peru) said that Peru was still suffering the consequences, including disappearances, of the internal conflict that had raged in the country for almost 20 years. However, following the restoration of democracy, Peru had decided to confront its past by setting up a National Truth and Reconciliation Commission composed of eminent representatives of civil society. By means of thousands of interviews and visits to the heart of the

country, the Commission had developed a broad picture of what had occurred. It had compiled lists setting out the names of the missing and the circumstances in which they had disappeared in order to prosecute the perpetrators and obtain compensation for their families. No amnesty law in Peru could be invoked by those seeking impunity. Many were being prosecuted and some had been convicted.

25. Peru had recently enacted a law whereby a declaration of absence could be obtained in cases of enforced disappearance through a simple administrative procedure at the Ombudsman's Office. The country was also endeavouring to respond to its pending communications with the Working Group and intended to continue its collaboration with that body.

26. Mr. CHARNBHUMIDOL (Observer for Thailand) assured the Working Group that every case of suspected disappearance reported to the Thai authorities had been investigated promptly, in accordance with the rule of law and the principle of transparency. With regard to allegations that relatives of disappeared persons had been intimidated, he said that the authorities concerned stood ready to offer any assistance required, including the provision of special protection on request to ensure their safety during legal proceedings.

27. Mr. FATTORINI (Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP)), speaking also on behalf of the Asian Indigenous and Tribal Peoples Network, the Asian Forum for Human Rights and Development (FORUM-ASIA), the Society for Threatened Peoples, the International Fellowship of Reconciliation, Interfaith International, France Libertés - Fondation Danielle Mitterand, Pax Romana, International Educational Development, the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and other Minorities, the Transnational Radical Party, Nonviolence International, Women's International League for Peace and Freedom (WILPF), Femmes Africa Solidarité and Commission africaine des promoteurs de la santé et des droits de l'homme, noted that, according to the Working Group's report, the crime of enforced disappearance was a continuous crime until the fate or whereabouts of the disappeared person became known (A/HRC/4/41, para. 10). The enforced disappearance since 1995 of Gedhun Choekyi Nyima, the eleventh Panchen Lama of Tibet, was thus a continuous crime. Tibetans and followers of Tibetan Buddhism were deeply concerned about his fate and whereabouts, and wished to know why the Working Group had failed to consider the possibility of a renewed urgent intervention, especially since it had publicly stated in May 2006 that its first session that year coincided with the seventeenth birthday of the Panchen Lama.

28. Ms. KARIMA (International Commission of Jurists), speaking also on behalf of Human Rights Watch and the Colombian Commission of Jurists, welcomed the efforts made by the Government of Sri Lanka in the 1990s to resolve many of the thousands of cases that had been reported to the Working Group but noted that there had been very few prosecutions. In 2006, the national Human Rights Commission had documented over 1,000 cases of abductions and disappearances, and it had already recorded over 100 cases in 2007. She urged Sri Lanka to invite the Working Group to visit the country.

29. In Thailand there were continued allegations of disappearances in the country's three southern border provinces, where emergency and martial laws applied, as well as in the north and north-east. She welcomed the establishment of a committee within the National Legislative Assembly to examine human rights violations in the southern border provinces, but again noted that there had been no prosecutions as yet.
30. Nepal had been the source of the largest number of urgent action cases transmitted by the Working Group in 2004, with the whereabouts of people involved in 645 of cases still unknown. While the Interim Constitution did contain a provision acknowledging past enforced disappearances and requesting relief for the families of victims, the Government must ensure that justice was available to those affected, and she urged the Working Group to undertake a follow-up visit.
31. Despite the judgement of the Colombian Constitutional Court regarding the Justice and Peace Act, the Government had issued a decree hindering its application and further reducing very short sentences for perpetrators of enforced disappearances and other crimes. She urged the Colombian Government to comply with the recommendations made by the Working Group following its visit to the country in July 2005.
32. She strongly encouraged all States Members of the United Nations to ratify and implement the International Convention for the Protection of All Persons from Enforced Disappearance.
33. Mr. SPLINTER (Amnesty International), commenting on the large number of unresolved cases of disappearance that the Working Group had raised with the Government of Sri Lanka and the limited capacity of the recently appointed Commission of Inquiry to address the problem, asked what could be done to protect the Sri Lankan population from disappearances and to investigate the disappearances and other human rights abuses that continued to take place. He welcomed the willingness of the Sri Lankan Government to receive a visit by the Working Group but hoped that it would take place much sooner than scheduled. He understood that the Government felt unable to accommodate the visit owing to pending visits by other special procedures mandate-holders. He therefore encouraged the Working Group and other special procedures to engage in consultations with a view to prioritizing visits.
34. According to the Working Group, some Governments needed to do more to clarify past cases of disappearance and to ensure that the rule of law prevailed so that people were free to pursue justice and truth. He asked the Working Group to provide examples of measures that Governments could take to guarantee justice and the right to truth.
35. He asked the Council what measures it could take to deal effectively with the cases of intimidation and reprisals against human rights defenders, witnesses, legal counsel and relatives of disappeared persons identified by the Working Group and other special procedures.
36. Mr. KIRVAPAHARAN (Interfaith International) drew attention to the large number of cases that had been transmitted to the Government of Sri Lanka and remained outstanding at the beginning of the period under review, including 41 cases under urgent action procedures. He regretted that the Government of Sri Lanka had not acceded to the Working Group's request in October 2006 to visit the country in early 2007. The former Minister for Foreign Affairs, who had been dismissed by the President in February 2007, had one month previously cited reports

by local and international human rights organizations that a person was abducted in Sri Lanka every five hours. The Minister had added that kidnapping, abductions and killings had become commonplace and that the Government bore responsibility for them, no matter who the perpetrators were. He asked what remedies the Working Group was pursuing in Sri Lanka to stop the ongoing abductions and disappearances.

Debate on thematic issues

37. The PRESIDENT invited Council members and observers to address any of the thematic issues that had been raised at the 14th to 18th meetings.

38. Mr. HUTH (Germany), speaking on behalf of the European Union, called on the Sri Lankan Government to accede to the requests made by the Working Group on Enforced or Involuntary Disappearances and the Representative of the Secretary-General on human rights of internally displaced persons (IDPs) to visit the country, and to cooperate fully with those mechanisms.

39. The European Union was gravely concerned over the situation of the Baha'i in the Islamic Republic of Iran, who were reportedly subject to systematic monitoring and identification. The European Union reiterated its strong condemnation of the practice of so-called "honour killings" and the mitigating clauses often contained in legislation pertaining to such acts. It called on all countries concerned to take expeditious action to combat that practice, including the adoption of adequate legislation.

40. The treatment of women's rights activists in the Islamic Republic of Iran was another source of concern. The European Union strongly condemned the arrest on 4 and 8 March 2007 of peaceful women demonstrators who had been exercising their right to freedom of peaceful assembly and their right to freedom of opinion as enunciated in international instruments ratified by that country. The Islamic Republic of Iran should fulfil its obligations under international human rights treaties, especially with regard to the prohibition of gender-based discrimination and respect for the above-mentioned rights.

41. Ms. de GROOT (Netherlands) said that her Government remained concerned about the continuous discrimination and violence against women in Afghanistan and the persistence of traditional practices such as early and forced marriage and the bartering of young girls in local feuds. The Afghan Government should do more to improve the situation, especially by implementing the recommendations contained in the report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Afghanistan (E/CN.4/2006/61/Add.5).

42. Persisting intolerance based on sexual orientation or gender identity was another source of concern. Human rights violations against the gay, lesbian, bisexual and transgender community included violations of the right to life and of the prohibition of torture. In Nigeria, legislation criminalizing homosexuality was in the process of being adopted. Consistent with the principles of universality and non-discrimination, the Council must accord due attention to such violations.

43. Mr. KEISALO (Finland), speaking on behalf of the Nordic countries, said that the Council's adoption of the United Nations Declaration on the Rights of Indigenous Peoples at its first session had been a significant step and should mark a turning point in the recognition of indigenous peoples' rights. The Declaration was the result of more than 10 years of negotiations between Governments and indigenous representatives, and the deferral of consideration of the text by the General Assembly had been deeply disappointing. The Assembly must honour its commitment to take action on the Declaration before the end of its sixty-first session.

44. By enhancing the visibility of indigenous peoples and facilitating dialogue among indigenous representatives, Governments and international organizations, both the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Office of the United Nations High Commissioner for Human Rights (OHCHR) had contributed to improving the situation of those communities. As the human rights situation of indigenous peoples affected society as a whole, the question should remain on the United Nations human rights agenda, and efforts should be made to ensure the effective participation of indigenous representatives in the work of the Council.

45. Mr. GUEVARA (Mexico) drew attention to a project launched in cooperation with the OHCHR country office in Mexico to implement the recommendations of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples. Information collected from relevant governmental and non-governmental institutions to evaluate the state of implementation had been officially presented to civil society in January 2007 with a view to establishing a dialogue between the Government and civil society actors on ways to enhance implementation.

46. The OHCHR country office had also prepared a study on indigenous peoples' access to justice in the state of Oaxaca, in cooperation with the National Commission for the Development of Indigenous Peoples, local Government institutions, the National Human Rights Commission and indigenous representatives. The findings had been submitted to the federal judiciary on 28 February 2007. The study provided information on measures taken to improve indigenous peoples' access to justice and addressed questions relating to indigenous administration of justice, safeguards to ensure respect for indigenous law, customs and traditions, alternative sentences to imprisonment, adequate defence, including the right to an interpreter, and the rights of indigenous women.

47. Given the paramount importance of the human rights of migrants and their families, Mexico welcomed the efforts of the United Nations system to support action taken at the domestic level to ensure respect for those rights. Mexico had submitted its initial report under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in November 2006 and was currently considering how to follow up the recommendations of the Committee on Migrant Workers. States that had not already done so should accede to the Convention, while those that had should fulfil their reporting obligations.

48. Mr. NEYRA SÁNCHEZ (Peru) endorsed the statements made by the representatives of Finland and Mexico. While the United Nations Declaration on the Rights of Indigenous Peoples was already an important reference framework, its early adoption by the General Assembly

would bring meaningful closure to the lengthy, complex negotiations. Indigenous issues should remain high on the Council's agenda, and the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people should be renewed.

49. Archbishop TOMASI (Observer for the Holy See) said that he was pleased to note that the growing interest in the impact of religion on the lives of individuals and societies throughout the world found an echo in the Council. Abuse and violence against believers, the imposition of undue restrictions by States, and public defamation of religion called for remedy. Respect for religious beliefs and the right to religious freedom were not incompatible or mutually exclusive, but complementary and mutually dependent.

50. Although religious fanaticism had often had tragic social results, religions, along with science, had contributed significantly to the progress of humanity. However, there was a worrying trend towards anti-religious fanaticism that denigrated religion or believers by holding them responsible for violent acts committed by some members of a particular religion. Legitimate criticism of such acts should not lead to insult, defamation or offensive mockery of a religion's revered persons, practices, rites or symbols. The right to freedom of expression and opinion should be limited by respect for the rights and dignity of others. Respect for religion implied respect for persons who practised their religion freely and peacefully.

51. Ensuring respect for freedom of expression while safeguarding the right to freedom of religion required the development of human rights-consistent mechanisms and instruments that protected religious communities from manipulation. True democracies valued religious freedom and created conditions that enabled their citizens to live and act freely. Religion should not be tolerated merely on the basis of a set of cultural, ethnic and political circumstances that could change at any time, but should instead be recognized as a fundamental human right.

52. Ms. PICTET-ALTHANN (Observer for the Sovereign Order of Malta) commended the Special Rapporteur on violence against women for her analysis of the intersection between culture and gender-based violence, which helped identify the specificities of such violence. Poverty affected women disproportionately, and the Order of Malta had placed poverty eradication at the core of its humanitarian work.

53. The widespread sexual violence against women and girls that occurred in situations of armed conflict was cause for grave concern. In addition to the physical and psychological consequences of such violence, victims were often subject to social stigmatization and rejected by their husbands, families and communities. The Order of Malta had launched several health projects for victims of sexual violence to address the problem. In the Democratic Republic of the Congo, for example, 2,900 cases of sexual violence had been treated in 2006. Urgent action was also required in respect of the ongoing assaults on civilians, especially women and children, in Darfur.

54. However, no humanitarian assistance could ever undo the damage caused by sexual violence. The use of rape as a weapon of war was entirely unacceptable, and legislation criminalizing such acts must be rigorously enforced. She urged the Special Rapporteur on violence against women to take advantage of country visits to draw the attention of Governments to those pressing issues.

55. She thanked the Special Rapporteur for addressing the issue of Palestinian women giving birth at Israeli checkpoints (E/CN.4/2005/72/Add.4, para. 23). The Holy Family Hospital operated by the Order of Malta in Bethlehem provided high-quality maternity care, but the restrictions on the freedom of movement of civilians, roadblocks and checkpoints impeded free access to the hospital and thus seriously endangered the health of patients. The Council should maintain the annual reporting cycle on that issue.

56. Ms. MALACELA (Observer for the United Republic of Tanzania) said that paragraph 39 of the report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples (A/HRC/4/32) misrepresented the situation in her country. The Tanzanian Government vehemently rejected claims that it plundered ancestral lands in areas such as the Ngorongoro Conservation Area. Government intervention in the area served to ensure a balance between the rights and activities of inhabitants and conservation needs. Uncontrolled human activity in the reserve posed a serious threat to wildlife and natural resources.

57. The rights of minorities were protected in relevant law and policies. Legislation governing land tenure was based on the recognition of customary land rights, the rights of disadvantaged groups, the participation of minorities in decisions pertaining to land management, fair and prompt compensation for expropriated land and the adjudication of land disputes in special tribunals.

58. Her Government was pleased that the Special Rapporteur had recognized the efforts it had made thus far. Additional measures included the establishment of social services in nomadic areas; affirmative action measures to promote access to education for children belonging to minority groups; the introduction of income-generating activities for minorities living in protected areas; and the establishment of a commission for human rights and good governance, which was competent to investigate allegations of gross human rights violations and provide redress.

59. Ms. VERDUGO (Observer for Chile) drew attention to the conclusions and recommendations contained in the report of the Secretary-General on the implementation of resolution 2005/42, integrating the human rights of women throughout the United Nations system (A/HRC/4/104, para. 50). Integrating the human rights of women throughout the United Nations system remained a key priority, and a gender perspective should also be incorporated in the work of the Human Rights Council. Her delegation would shortly present a draft resolution on the matter and hoped for broad support from other delegations, United Nations institutions and representatives of civil society.

60. Ms. RICE (Observer for Australia) welcomed the acknowledgement by the Representative of the Secretary-General on human rights of internally displaced persons in his report (A/HRC/4/38) that ending internal displacement was a complex process that usually did not end at a specific moment. Given the policy and operational implications of that situation for the relevant mandate-holders in their engagement with IDPs, the benchmarks provided in the report were helpful.

61. The assessment by the Special Rapporteur on the sale of children, child prostitution and child pornography of international and regional instruments, norms and strategies to combat the exploitation and abuse of children would help broaden and strengthen States' efforts to prevent child abuse. Australia had ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in January 2007.

62. Australia welcomed the positive development cited by the Special Rapporteur in the effort to combat child sex tourism. Experience had shown that strong national legislation and provisions for the prosecution of nationals who engaged in such practices abroad were crucial to combating the phenomenon. Her delegation would be interested to learn of the Special Rapporteur's assessment of existing legislation and mechanisms to address child sex tourism and whether he saw any possible protection gaps, and it encouraged him to continue to use his mandate to focus on the issue.

63. Mr. JOLLE (Observer for Norway), speaking on behalf of the Nordic countries, expressed firm support for the recommendations contained in the Secretary-General's Study on Violence against Children, which had inspired the Nordic countries to strengthen their efforts to prevent and respond to such violence, in partnership with civil society. He welcomed the continued support of the High Commissioner for the follow-up strategy of the study and urged the United Nations Children's Fund (UNICEF) and the World Health Organization (WHO) to extend support as well.

64. The human rights system must continue to play a key role in efforts to protect children in conflict situations. OHCHR and the relevant special procedures could provide valuable support for follow-up to Security Council resolution 1612 (2005). The Human Rights Council should seek to promote increased advocacy and accountability and engage in close partnership with the Special Representative of the Secretary-General for Children in Armed Conflict, the High Commissioner and UNICEF.

65. There was growing awareness of the need for the Council to examine how it addressed the rights of the child: a more holistic approach to promoting and protecting those rights was required. Procedures pertaining to children's rights must be strengthened in order to close protection gaps affecting children. In addition, children's rights should be made a core concern of the universal periodic review mechanism. The Nordic countries supported calls for meaningful child participation in the work of the Council, on the basis of the experience gained in the preparation of the Secretary-General's Study on Violence against Children. Such an approach would require commitment among Member States and continued support from OHCHR.

66. Mr. MNATSAKIAN (Observer for Armenia) said that protecting the rights of minorities was an important element of preventing crimes of a massive scale. For Armenians, the protection of minority rights was far more than a political and legal issue; it was intrinsically linked to security and identity. Armenia had acceded without reservation to the Council of Europe Framework Convention for the Protection of National Minorities even before becoming a member of the Council of Europe in 2001. Kurds, Assyrians, Greeks, Russians and Ukrainians were recognized minorities in Armenia and enjoyed all the rights and benefits derived from that status.

67. The prominent Armenian-Turkish journalist Hrant Dink, who had been murdered in Istanbul recently, had been a voice of reconciliation and dialogue between Turkey and Armenia. His death represented an opportunity for reconciliation that should not have been missed. Armenians had been moved by the compassion and support shown by the Turkish population. The swift action taken by the Turkish Government to arrest the perpetrators was commendable. The same prompt and effective action should be taken to promote dialogue and confront the intolerance and hatred that were at the root of the tragedy. The feeling of insecurity among Armenians living in Turkey should also be addressed, and their community institutions, leaders and intellectuals should be protected. Armenia remained committed to genuine dialogue on all contentious issues in order to promote normal neighbourly relations between the two countries.

68. Ms. FERNANDEZ BULNES (Observer for Spain) said that her Government was fully aware of the complexity of the issue of migration, which had important repercussions for legislation, education, budgets, and intercultural dialogue. Spain was home to approximately 4 million migrants, who accounted for 10 per cent of its total population. It has thus gone from being a country of origin to being a country of transit and destination. That unprecedented situation required a joint effort on the part of Spanish society and immigrants, and the Government welcomed the numerous initiatives taken by civil society to promote integration.

69. For its part, the Government had to make the necessary adjustments to equip the public health and education systems to deal with the new needs arising from increased immigration. Spain had become a full member of the International Organization for Migration in June 2006, in the hope of learning from existing good practices and contributing its own experiences.

70. As an active supporter of the open-ended inter-sessional Working Group on the draft United Nations Declaration on the Rights of Indigenous Peoples, Spain hoped for early adoption of that instrument by the General Assembly. Spain welcomed the recent adoption of the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of All Persons from Enforced Disappearance. Together with the above-mentioned Declaration, the two instruments would complement the international human rights system.

71. Mr. CONCHA (Observer for Colombia) said, with reference to the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/HRC/4/42), that he wished to draw the Council's attention to the recent establishment of the National Commission for the Search for Disappeared Persons, which investigated the circumstances surrounding disappearances. Standards had been adopted to regulate urgent search operations, and training programmes had been set up for law enforcement officials, staff of the public prosecutor's office, the armed forces and civil society. Funds had been made available under the national budget to establish a register covering the whole country, coordinated by the National Institute of Forensic Medicine and Science. One of the Commission's principal activities was the introduction of a search-and-locate plan, involving State institutions, to determine who had disappeared and their possible whereabouts, and, where necessary, identify the victims' bodies.

72. Mr. BESSEDIK (Algeria) said that there was a serious discrepancy between the English and the French texts of the report of the Representative of the Secretary-General on human rights of internally displaced persons (A/HRC/4/38): the French text referred only to "displaced persons", without specifying that such persons were displaced internally. The distinction was

important, since the Office of the United Nations High Commissioner for Refugees (UNHCR) was concerned only with refugees. His delegation was also concerned about the statement in paragraph 68 of the report that the Representative supported an expanded role for UNHCR in internal displacement situations. He wondered what situations might be considered suitable for UNHCR intervention. Similarly, in paragraph 85 (d), the Representative called on UNHCR to strengthen its work as cluster lead for the protection of IDPs in complex emergencies. He asked what such complex emergencies might consist of. Moreover, there was by no means unanimous agreement on whether UNHCR should engage in such activities. A review of the question would be held by the end of 2007. Work with IDPs might hinder UNHCR in its primary activity of dealing with refugees.

73. Mr. SMITH (Cairo Institute of Human Rights Studies), speaking also on behalf of Al Haq, the Asia Pacific Forum on Women, Law and Development, the Canadian Council of Churches, the Centre for Women's Global Leadership, Conectas Direitos Humanos, Forum-Asia, Human Rights Watch, International Women's Rights Action Watch, Asia Pacific, the International Movement against All Forms of Discrimination and Racism, and Minority Global Rights Initiative, said that, even as the Special Rapporteur on violence against women had been introducing her report, thousands of women in Darfur had faced sexual violence. The organizations on whose behalf he spoke, welcomed the report of the High-Level Mission on the situation of human rights in Darfur, which drew attention to the plight of over 2 million IDPs and the ongoing violence against women. The world was watching the Council as it took up the issue, and the Council should therefore adopt a strong resolution taking note of the report and acting on the recommendations it contained. That would be a small but much needed step towards addressing the serious human rights abuses taking place in Darfur and the failure of the Government of the Sudan to protect its citizens. Failure to adopt such a resolution would cast serious doubts on the Council's credibility.

74. Mr. LE BLANC (Dominicans for Justice and Peace), speaking also on behalf of Franciscans International, the Dominican Leadership Conference, Pax Christi International, the International Catholic Peace Movement, Congregations of St. Joseph and Sisters of Mercy of the Americas, expressed deep concern for the Iraqi IDPs and refugees. There were about 1.8 million of the former, while an estimated 100,000 Iraqis left their country every month, including many of the country's best-educated professionals. Approximately 2 million had fled since the invasion in 2003. The humanitarian needs of the people were extreme and urgent. Assistance for refugees and IDPs was currently underfunded. The international community, acting through the United Nations, should provide basic services, including food and medical and educational services, to Iraqi refugees. Western countries, especially members of the coalition in Iraq, should open their doors to Iraqis seeking safety and security for their families. The international community should take seriously its responsibility for the reconstruction of Iraq, which had been devastated by long-term sanctions and by war.

75. Mr. ANTHONY (Asian Legal Resource Centre), speaking also on behalf of the Asian Forum for Human Rights and Development, International NGO Forum on Indonesian Development, Asian Federation Against Involuntary Disappearances and Pax Romana, said that Asia was the scene of many of the world's forced disappearances. Of the 229 actions taken in 2006 by the Working Group on Enforced or Involuntary Disappearances, only 78 had received

a response from Governments, with 75 of those coming from a single country, Nepal. In fact, several of the leading violators were Asian States represented on the Council. Governments failed to disclose the whereabouts of victims or to conduct credible or impartial investigations. There were no laws criminalizing disappearance, perpetrators were seldom successfully prosecuted and victims received no reparation.

76. In Pakistan alone, over 5,000 people had reportedly disappeared as a result of military operations between 2001 and 2005, with over 600 new cases reported in 2006. In Sri Lanka disappearances were again on the rise, yet a Government representative at the current session of the Council had publicly rebutted reliable information concerning hundreds of recent disappearances. In Indonesia, those responsible for large-scale disappearances in West Papua and Aceh in 1997 and 1998 enjoyed impunity, thanks to the Attorney-General's failure to launch an investigation and Parliament's reluctance to establish an ad hoc court to take up cases of disappearance. In the Philippines, over 200 disappearances attributable to the State had been reported since 2001; they occurred in parallel with the wave of politically motivated killings in the country and should be considered part of the same phenomenon.

77. Pakistan, Sri Lanka, Indonesia and the Philippines, all members of the Council, should accept their responsibility to investigate and prosecute all perpetrators and ensure adequate reparation for victims and their families. They must ensure that forced disappearance was criminalized under national law and should ratify and implement the International Convention for the Protection of All Persons from Enforced Disappearance. Lastly, they should issue standing invitations to all the relevant special procedures. The Council, meanwhile, should review its membership and remove the gross human rights violators from amongst its ranks.

78. Ms. TAMAS (Baha'i International Community) said that in April 2006 an Egyptian administrative court had adopted a landmark ruling in favour of Baha'i plaintiffs, upholding their right to obtain identity cards that did not misrepresent their religious affiliation. It had ordered the issue of new documents identifying them as Baha'is, citing precedent and Islamic jurisprudence that allowed non-Muslims to live in Muslim lands without being forced to change their beliefs. In December 2006, however, the Supreme Administrative Court had upheld the Government's position, largely on the basis of the theology of the Baha'i faith. The point at issue was not whether a Government was willing to recognize the Baha'i faith as a religion but how members of the Baha'i minority could obtain the necessary identity cards and other official documents without being falsely identified. The application form for Egyptian identity cards made misrepresentation of a person's religion a punishable offence, yet Government officials forced Baha'is to declare themselves Muslim, Christian or Jewish. Meanwhile, other Baha'is had had their citizenship rights denied, making them unable to obtain birth certificates for their children; some had been dismissed from their jobs and others could not complete their studies. She urged the Egyptian Government to allow Baha'is to lead the same life as any other Egyptian citizen.

79. Mr. GOGINENI (World Population Foundation), speaking also on behalf of the International Humanist and Ethical Union, the Association for World Education and the Association of World Citizens, said that the practice of child marriage was still all too prevalent in certain parts of the world, even though girls aged 10 to 14 were five times more likely to die in pregnancy or childbirth than women aged 20 to 24. Young girls could suffer complications such as obstructed labour or obstetric fistula, and they were at greater risk from HIV/AIDS infection.

They were also more likely to be subjected to domestic violence and suffer psychological damage than girls who married later. Even if the practice was sanctioned by culture or religious belief, the fact remained that thousands of girls were suffering and dying as a result of it. Child marriage was a form of non-consensual sex and an abuse of human rights. Although it was prohibited under a number of international conventions, more than 100 million girls were likely to be married before the age of 18 within the next 10 years. He therefore called on States to implement all the relevant human rights conventions; close the legislative loopholes applying to religious, customary and civil marriage; raise the legal age of marriage to 18; raise public awareness of the negative impact of child marriage; and promote gender equality and the right of girls and young women to education. The Convention on the Rights of the Child should be seen not as an ideal to which States should aspire but as a minimum set of standards.

80. Ms. BUNCH (Center for Women's Global Leadership) commended the way in which the report of the Special Rapporteur on violence against women, its causes and consequences (A/HRC/4/34 and Add.1-4) showed that all cultures contained factors that reinforced sexual discrimination and violence against women, including the "gun culture" in the United States of America. Yet even though considerable progress had been made over the past decade in recognizing the phenomenon of sexual violence in war, no decisive action had been taken to protect the women who were currently being subjected to just such violence in Darfur. The Council should demand swift United Nations action there.

81. Culture and violence also reinforced men's control over women's sexuality, thus fuelling the deadly toll of HIV/AIDS among women. To address that problem, a coalition of women's organizations had launched an international campaign entitled "Women won't Wait", which looked at the intersection of HIV and violence against women. Women's rights defenders who sought to change aspects of their cultures that were oppressive to women often met with abusive responses. That applied especially to women who challenged norms of femininity and were persecuted because they were or were perceived to be lesbians. She asked the Special Rapporteur for more information concerning that form of violence against women's rights defenders.

82. Lastly, she noted that the Secretary-General's in-depth study on all forms of violence against women (A/61/122/Add.1 and Corr.1) clearly required the Council to integrate gender into all its work.

83. Ms. KIM (Indian Movement "Tupaj Amaru") drew the Council's attention to the outcome of an earlier report by the previous Special Rapporteur on violence against women, its causes and consequences on the mission to the Democratic People's Republic of Korea, the Republic of Korea and Japan on the issue of military sexual slavery in wartime (E/CN.4/1996/53/Add.1). Despite the recommendations contained in that report, the Japanese Government still had not acknowledged its responsibility for violating its obligations under international law or paid victims the compensation it owed them as a consequence of that responsibility, although it had provided consolation payment from a civilian fund. It had also failed to make full disclosure of the relevant documents and materials in its possession or make a public apology in writing to individual women victims of Japanese military sexual slavery. It had only sent a letter expressing "feelings of apology" to some victims, while still denying that it was legally liable to make compensation. Moreover, far from amending educational curricula to reflect historical realities,

Japan had deleted the facts of the system of sexual slavery from Japanese history textbooks. Lastly, the Government had failed to identify and punish, to the extent possible, perpetrators involved in the recruitment and institutionalization of comfort stations during the Second World War.

84. In October 2002 the legislature of Taiwan Province of China had passed a resolution calling for legislation to resolve the issue of victims of sexual slavery in wartime. The Diet of the Republic of Korea and a committee of the Philippine House of Representatives had adopted similar resolutions in 2002 and 2004, respectively. The Human Rights Council should adopt a resolution urging the Japanese Government to implement the recommendations contained in the Special Rapporteur's report.

85. Mr. BARNES (Indigenous Peoples and Nations Coalition and Alaska Inter-Tribal Council) said that a well known native Canadian elder had recently died of complications from pneumonia following her arrest for protesting for her people's rights. Canada should honour agreements with its native people rather than using the Council to evade its obligations. The same applied to the attitude taken by the United States of America to Alaska, where the law of discovery title still applied, notwithstanding the rights of Alaska's indigenous peoples. Lastly, he commended the report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, who had observed in his study on best practices for implementing his recommendations (A/HRC/4/32/Add.4) that "best practices" often amounted to no more than "good intentions".

86. Ms. URIBE (Franciscans International) said that among the 3 million IDPs in Colombia were hundreds of people whose status was unrecognized because the Government denied the existence of the armed conflict, insisting that paramilitary activity was a thing of the past and that law enforcement bodies were not causing displacements. The Colombian authorities did not acknowledge displacements caused by military activity or the aerial spraying carried out by law enforcement or paramilitary groups. There were mechanisms to prevent displacement in such cases, but risk reports were never upgraded to early warnings, which would make it possible to avoid violations of human rights and humanitarian law. Priority was always given to military intervention. The Representative of the Secretary-General on human rights of internally displaced persons had noted in paragraph 8 of his report (A/HRC/4/38) that where IDPs were concerned there was "a significant gap between the law and its actual implementation, resulting in a widespread neglect of the specific protection needs of the displaced". The Constitutional Court had responded to the authorities' repeated failures and delays in providing IDPs with adequate protection by declaring an "unconstitutional state of affairs", adding that there had been no evidence that the situation would be rectified. Not only did displacement occur and IDPs go unprotected, but IDPs were also denied their right to truth and justice, reparation and restitution of their property. Against that background, she wondered how the Representative's recommendations could be followed up and whether the Council could adopt mechanisms to tackle one of the world's most serious displacement situations.

87. Mr. GILLIOZ (Human Rights Watch) recalled the link that the Special Rapporteur on violence against women had made between cultural paradigms and violence against women and said that culture was often used disingenuously to justify inadequate Government policies and

legislation. Yet it was not cultural expression but discrimination, practised through laws and policies, that fuelled gender-based violence and its consequences for the enjoyment of human rights by all women.

88. The worsening human rights situation in the Islamic Republic of Iran was of particular concern. Recently, 34 prominent women's rights activists had been arrested following a peaceful demonstration, and many had been held for several weeks. Rather than contemplate discontinuing consideration of the human rights situation in that country, the Council should consider how to intensify its efforts to address it.

89. The 2005 World Summit Outcome included a number of goals relating to gender equality, while the United Nations system-wide action plan to implement Security Council resolution 1325 (2000) on women, peace and security included many references to the mainstreaming of a gender perspective in the work of the United Nations system. Action to that end had been already taken by the Economic and Social Council and OHCHR, and the Human Rights Council must be part of that process.

90. Ms. DALANG (Netherlands Centre for Indigenous Peoples), speaking also on behalf of the Cordillera Peoples' Alliance Initiatives for Peace in Mindanao and the National Federation of Indigenous Peoples in the Philippines, said that in view of the fact that the Special Rapporteur on extrajudicial, summary or arbitrary executions had received an official invitation from the Philippine Government, the Government's failure to issue an invitation to the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people was a clear display of discrimination against indigenous peoples. The latter was to be commended for paying a follow-up visit to the Philippines despite the absence of an official invitation.

91. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism had been correct in stating that the Philippine Human Security Act 2007 would further undermine the human rights of political dissenters, including indigenous peoples. The Council should establish a country rapporteur for the Philippines to ensure that the recommendations by special rapporteurs relevant to the indigenous peoples of that country were followed up. The Council should also review the Philippines' membership of the Council, in view of its human rights record.

92. Mr. MALEZER (Foundation for Aboriginal and Islander Research Action) said that serious breaches of indigenous peoples' human rights were still occurring even though the United Nations had been considering that issue for more than two decades. It was unfortunate that no resolution on the subject had been adopted by the General Assembly at its sixty-first session, that no written report had been submitted to the Assembly on the progress of the Second International Decade of the World's Indigenous People and that the recommendations of the United Nations Permanent Forum on Indigenous Issues had not been taken up by the Economic and Social Council before the most recent Assembly session.

93. It was to be hoped that States which, because of their own political interests, opposed the draft United Nations Declaration on the Rights of Indigenous Peoples, would take note of the opinion of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples that the draft Declaration should be adopted as soon as possible.

94. The Human Rights Council must emphasize the need to address abuses of indigenous peoples' human rights by continuing the mandate of both the Special Rapporteur and the Working Group on Indigenous Populations, by ensuring that indigenous experts were appointed to positions within the United Nations and that States' relationships with indigenous peoples were examined under the peer review system, and by calling on all States to cooperate with and participate in United Nations mechanisms concerned with indigenous peoples' rights.

95. Ms. SHAH (International Human Rights Association of American Minorities) said that Indian soldiers had been engaging in a reign of terror to suppress the basic rights of the Kashmiri people. The Indian security forces were taking advantage of their wide powers under the Terrorist and Disruptive Activities (Prevention) Act and the Public Security Act to arbitrarily detain innocent civilians for prolonged periods. Numerous instances of disappearances in Kashmir had been brought to light and investigated by major human rights organizations. Such repeated human rights violations by Indian security forces had caused irreparable loss to the families of thousands of Kashmiris. She therefore urged the Government of India to cease such inhuman and barbaric practices and to comply with the norms of international human rights law, especially in view of India's signature of the International Convention for the Protection of All Persons from Enforced Disappearance.

96. Mr. WICKRAMARATNE (International Buddhist Foundation) said that in Sri Lanka almost all IDPs, who included Sinhalese, Tamils and Muslims, would return to their homes once the Tamil Tiger terrorists had been defeated. People who had been kidnapped by the Liberation Tigers of Tamil Eelam (LTTE) were languishing in rat-infested torture chambers, where they were being subjected to the most inhuman and barbaric treatment.

97. The Human Rights Council should take up the cases of the thousands of Sinhalese and Muslims who had been expelled from the north of the country as part of the Tamil Tigers' policy of ethnic cleansing. Sri Lanka was a vibrant democracy threatened by a group of terrorists who resorted to suicide bombing and the mass murder of civilians. It therefore deserved to be supported by the international community in its attempts to eradicate terrorism, which was the root cause of the IDP problem.

98. Ms. KOURAB (International Islamic Federation of Students' Organizations) said that violence against women constituted the most pervasive violation of women's rights. Unfortunately, the many different forms of that violence were being committed with impunity in armed conflicts such as the one currently being waged in occupied Jammu and Kashmir, where the rule of force had overtaken the rule of law. After being raped and sexually assaulted, thousands of women were being left to cope with mental and emotional trauma exacerbated by the economic and social hardship that resulted from their menfolk being killed or abducted by the Indian forces. The women of Kashmir therefore looked to the Human Rights Council and to the Special Rapporteur on violence against women to highlight the continuing violence they were facing, and they urged the international community to break its silence and actively help in preventing such human rights abuses.

99. Ms. SCANNELLA (Amnesty International) said that the international community considered the demobilization of paramilitary groups in Colombia to have been successful, yet research by her organization indicated that, after a lull of a few months, paramilitary groups had resumed their recruitment of children for combat and, in some cases, sexual purposes. Such

recruitment was sometimes carried out in collusion with the security forces on a relatively large scale. The armed opposition groups had also continued to recruit children as young as 11, mainly from rural areas. Such activities required further investigation.

100. The much wider definition of culture included in the report of the Special Rapporteur on violence against women, its causes and consequences (A/HRC/4/34) was welcome, as it would help to mainstream gender concerns into the activities of the United Nations system as a whole. It was essential to move beyond the narrow framework within which culture had traditionally been discussed and to gain an understanding of the wider relationship between culture and violence against women.

101. Mr. GALLÓN (Colombian Commission of Jurists) said that the Colombian Government's failure to accede to requests to visit the country from the Chairperson of the Working Group on Arbitrary Detention, the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination and the Independent Expert on minority issues amounted to the systematic flouting of the principle of cooperation established in General Assembly resolution 60/251. The Human Rights Council should urge the Colombian Government to comply with its international human rights commitments.

102. Ms. KRITI (Union de l'action féminine) appealed to the Council to help her to learn the whereabouts and fate of her father, Suwaylim Ould Al-Haj Al-Bashir, who had been captured and abducted from Western Sahara 32 years earlier while fighting the Spanish occupation. She had written to a number of NGOs accredited to the Human Rights Council and had contacted Moroccan and North African organizations, but had received no answer.

Statements in exercise of the right of reply

103. Mr. LOULICHKI (Morocco) said that on the previous day the representative of Algeria had seen fit to reply to a representative of an NGO who had referred to the treatment of women and children confined in the camps at Tindouf, whose suffering had been reported by several NGOs of unquestioned credibility. In doing so, the representative of Algeria had inadvertently proved that his own country was a party to the disagreement over the provinces of southern Morocco and not a mere observer. The representative of Interfaith International had never mentioned Algeria, apart from saying the Tindouf was in the south-west of Algeria. That had been Algeria's first inconsistency.

104. Then, although admitting that the question of Western Sahara was a matter for the Security Council and the General Assembly, the representative of Algeria had launched into his usual discourse, forgetting that he was in the Human Rights Council and not the Security Council. That had been Algeria's second inconsistency.

105. On the principle of self-determination, the texts and practice of the United Nations were very clear. At the international level, according to General Assembly resolution 1514 (XV), that principle found expression in integration in an existing State, association with an existing State, independence or any other freely determined political status. Algeria wished to hear talk only of independence, which was synonymous with the undermining of Morocco's unity and territorial integrity.

106. He wished to draw the attention of the representative of Algeria to the fact that General Assembly resolution 1514 (XV) specified that “Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations”. Yet in 2001, Algeria had proposed to the Personal Representative of the Secretary-General a plan for the division of the country, a proposal that clearly violated the principle of self-determination. That had been Algeria’s third inconsistency.

107. The representative of Algeria had raised the subject of the persons confined in the Tindouf camps by referring to the 1951 Convention relating to the Status of Refugees. Yet that Convention placed Algeria under an obligation to guarantee the free movement of persons in the camps at Tindouf, even though they were confined in an isolated desert region surrounded by military forces, and also to conduct a population census or allow UNHCR to do so. Algeria had been refusing to carry out the census since 1977, despite pressing requests from UNHCR.

108. The representative of Algeria denied that humanitarian aid had been misappropriated, despite the evidence presented by several NGOs. That was why, after conducting detailed surveys, UNHCR and the World Food Programme (WFP) had decided to revise the number of beneficiaries receiving humanitarian assistance from 158,000 to 90,000 in September 2005.

109. If, as it claimed, Algeria wished to help what it called the “Saharan refugees”, all it had to do was to lift the blockade, then the world would realize the extent of the hoax that had been played for 30 years.

110. Mr. MIYAGAWA (Japan), responding to the statement made the previous day by the observer for the Democratic People’s Republic of Korea, said that his country had faced up to its history with sincerity and had expressed remorse and apologies. It had dedicated itself to promoting international peace and prosperity and to enhancing democracy. With respect to the issue of comfort women, Mr. Abe, the Japanese Prime Minister, had repeatedly made it clear that he endorsed the statement made by Mr. Yohei Kono, the Chief Cabinet Secretary, on 4 August 1993.

111. No satisfactory explanation of the fate of the victims of abduction had been provided by the authorities of the Democratic People’s Republic of Korea, even at the recent meeting of the Working Group on the normalization of relations between the Democratic People’s Republic of Korea and Japan. It was therefore impossible to accept the claim that the issue had been resolved. His Government strongly urged the Democratic People’s Republic of Korea to ensure the safety and immediate return of all abductees, to provide a full account and to hand over the persons suspected of carrying out the abductions.

112. Mr. BESSEDIK (Algeria), replying to the statement made by the representative of Morocco, said that self-determination did not signify autonomy. He agreed that there were several alternatives, but the population must be given an opportunity to opt for one of them. His Government had never mentioned independence, but had said that the people in question should be given the right to express its opinion on the path it chose: integration, association, independence or any other formula.

113. As for division, of the territory, he wished to remind the representative of Morocco that the first State to divide the territory had been Morocco, when it had decided to share it with the former occupying Power, Mauritania. It was therefore an indisputable historical fact that Algeria had never called for a division.

114. Thirdly, Algeria had always been in favour of a census. If the United Nations Settlement Plan for Western Sahara was implemented, Algeria would be prepared to act as an observer in order to facilitate that task, as the census was fundamental to the process of finding a comprehensive solution to the conflict.

115. The representative of Morocco had wrongly inferred from the number of refugees receiving humanitarian assistance that misappropriation had taken place. He himself chose to rely on the solemn statement by UNHCR, which would tend to refute that accusation. Moreover, United Nations agencies were still present on the ground.

116. When it came to lifting blockades, he would prefer to talk about the blockade imposed on Western Sahara, since no parliamentary delegations, media, or NGO delegations were allowed to enter that territory. He invited the Human Rights Council to look at the report of the OHCHR mission to Western Sahara, which highlighted the repression that was taking place there, and he asked the High Commissioner to publish the report, which was highly critical of Morocco.

117. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) said that his delegation rejected the Japanese allegations: if Japan's apologies were really sincere, why were the Japanese authorities so reluctant to resolve their past crimes against humanity? The Japanese abduction case had been completely resolved. Japan had often claimed that, in one instance, the mortal remains were not those of the abducted person in question. If that was so, he wished to know why Japan refused to accept the request of the husband and child of the deceased to return the remains. He wondered whether Japan was ready to agree to return those remains and acknowledge the ulterior political purposes behind its claim with regard to the Japanese abduction case.

118. Japan had huge outstanding human rights problems which included the 8.4 million persons who had been abducted, 1 million persons killed and 200,000 women who had been made sexual slaves in colonized Korea, as well as the systematic repression and discrimination against Korean residents in Japan. Yet instead of admitting and solving those crimes, Japan was denying them, as could be seen from the recent remarks of the current Japanese Prime Minister, who had vehemently refused to acknowledge or apologize for the Japanese army's use of sexual slaves. He strongly urged Japan to emulate Germany and come to terms with its past, rather than play political games with the abduction case, which had already been resolved.

119. Mr. LOULICHKI (Morocco) said that the representative of Algeria had a problem with the concept of autonomy. He persisted in saying that self-determination did not signify autonomy, whereas autonomy had been the term used on several occasions. It would seem that the concept irritated and troubled the representative of Algeria. He had said that it was not the first time that

the territory had been divided, thereby implicitly recognizing that his country had officially presented a partition plan. He had spoken of the application of a United Nations plan, but there was no such plan. The proposals which had been presented by Mr. Baker were no longer valid, and the Security Council had asked the parties to find a way out of the deadlock and to make progress towards a political solution.

120. He agreed with the representative of Algeria that the census was of fundamental importance, and he therefore wondered why Algeria had been opposing efforts to hold one ever since 1977. The representative of Algeria also claimed that UNHCR had not expressed a position on misappropriation, but both UNHCR and WFP had carried out a thorough and well-documented investigation which had refuted the figure that Algeria had been citing for 30 years - namely 158,000 persons in receipt of humanitarian assistance - and put it at 90,000. Delegations could draw their own conclusions.

121. The representative of Algeria had mentioned delegations that had not been allowed to enter the provinces of southern Morocco. Morocco was a democratic country; anyone could visit it, provided that he or she did not have any preconceived ideas or hidden agenda. But when delegations wishing to visit Morocco held wild, hostile positions with regard to the country and wished to disturb law and order in the provinces of southern Morocco, it was perfectly normal for a democratic country to refuse their request.

122. Algeria was ill-placed to talk about human rights. The Chairperson-Rapporteur of the Working Group on enforced or involuntary disappearances had recorded 1,622 cases in that country, and yet the Algerian Government had sent in replies concerning only three of them. Once again, people could draw their own conclusions.

123. Mr. BESSEDIK (Algeria), speaking on a point of order, said that his delegation had exercised its right of reply with respect to an NGO statement. He now wished to exercise his right of reply with respect to the statement made by the representative of Morocco.

124. The PRESIDENT said that no such distinctions could be drawn. The Council was hearing statements in exercise of the right of reply that had not been delivered the previous day, when Algeria had already exercised its first right of reply for three minutes. If it wished to make additional comments at the current meeting, it could only exercise its second right of reply.

125. Mr. BESSEDIK (Algeria), speaking on a point of order, insisted that he had been replying to a statement made by an NGO and not to the statement made by the representative of Morocco, who had in fact reacted to what he had said. His delegation therefore insisted on being allowed to exercise its second right of reply with regard to the statement just made by the representative of Morocco.

126. The PRESIDENT said that he was unable to accede to that request, since the rule was that a delegation was allowed only two statements in exercise of the right of reply per meeting, irrespective of whether they were made in response to one or more persons or to various statements delivered during a meeting. It would be stretching the rules to allow delegations to exercise their right of reply in connection with each and every statement of an NGO or Government representative. The Algerian delegation was entitled to exercise its right of reply once at the current meeting in respect of the meeting on the previous day.

127. Mr. MIYAGAWA (Japan) said that Chairman Kim Jong Il had confirmed and apologized for the abduction of Japanese nationals, when Mr. Koizumi, the Japanese Prime Minister, had visited Pyongyang on 17 September 2002. The abductions had constituted a grave violation of human rights and international law. His Government urged the Government of the Democratic People's Republic of Korea to heed the call of the international community and comply with General Assembly resolution 61/174, on the situation of human rights in the Democratic People's Republic of Korea. The numbers cited by the observer for the Democratic People's Republic of Korea were unsubstantiated and unacceptable.

128. Mr. CHARNBHUMIDOL (Observer for Thailand), replying to the comments made by the representatives of Human Rights Watch and the International Commission of Jurists, said that the Royal Thai Government's emergency decree had been issued in order to enable it to deal with the situation in the country in a more effective, integrated and expeditious way and to maintain law and order. The decree contained the necessary safeguards to protect human rights. It did not, however, provide for impunity. The provision that dealt with the protection of officials carrying out their duty in good faith did not prevent aggrieved individuals from suing State officials. Such officials would receive protection only if they could prove to the court that their actions had complied with the safeguards laid down in the decree.

129. Ms. VADIATI (Observer for the Islamic Republic of Iran), replying to the statement made by the representative of Germany on behalf of the European Union, said that the right to assembly and peaceful gathering was guaranteed by the Constitution of the Islamic Republic of Iran. Nevertheless, as in any other country in the world, including Germany, laws in the Islamic Republic of Iran were meant to be respected, and groups that wished to assemble or demonstrate had to obtain a permit. In the case of the recent temporary arrests, the point which had been totally overlooked in the statement by the representative of Germany was that the people arrested had neither informed the respective authorities of their gathering nor obtained permission to hold it. Their assembly had therefore been illegal, and they had been treated in accordance with the law.

130. The temporary detention of some women three weeks earlier after another unauthorized gathering had been due to the women's non-compliance with the police instruction to disperse after they had failed to present a permit. All but two of the detained women had been released 24 hours later, and the remaining two had been released the previous week. OHCHR had been duly informed of their release; it was in fact surprising that the representative of Germany was unaware of that fact.

131. She also wished to reject the baseless allegations made by the representative of Germany regarding the situation of the Baha'i community in her country. In accordance with the Government's established policy and Iranian legislation, all Iranian citizens from all walks of society, including the Baha'i, were entitled to enjoy all human rights.

132. Mr. ONANER (Observer for Turkey), replying to the statement made by the observer for Armenia, said that, Armenian citizens in Turkey constituted a community whose rights were safeguarded and recognized in keeping with both Turkish law and international treaty law. Armenians exercised their rights like all Turkish citizens and lived in the country in peace and serenity. The murder of Mr. Hrant Dink had been an isolated incident. Mr. Dink had been a prominent, widely respected Turkish Armenian journalist, and his loss was deeply regretted. The

only consolation was that the perpetrator of that heinous murder had been arrested within 36 hours. The Turkish Government was willing to normalize its relations with Armenia, but that process would require the resolution of several issues through bilateral and regional talks.

133. Mr. GARCIA (Philippines), replying to the statement made by the representative of the Asian Legal Resource Center, said that his own delegation's previous statement had made it clear that the Philippine Government was doing its best to ascertain the fate and whereabouts of persons who had reportedly disappeared and was exploring avenues of cooperation with ICRC. It was urgently addressing the issue of reported political killings and would keep the Working Group on Enforced or Involuntary Disappearances informed of progress on the bills on disappearances that had been tabled in the Philippine Congress.

134. He thanked the representative of the Netherlands Centre for Indigenous Peoples for her statement. The Philippine Government had already invited the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples to visit the country in December 2002 and was actively considering his request for a follow-up visit. In addition, the Philippines had been one of the countries which had supported the adoption of the United Nations Declaration on the Rights of Indigenous Peoples.

The meeting rose at 1 p.m.