



## General Assembly

Distr.  
GENERAL

A/HRC/2/SR.14  
24 November 2006

Original: ENGLISH

---

### HUMAN RIGHTS COUNCIL

Second session

#### SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,  
on Tuesday, 26 September 2006, at 10 a.m.

President: Mr. DE ALBA (Mexico)

#### CONTENTS

IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF  
15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL"

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Council at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.06-14148 (E) 191006 241106

The meeting was called to order at 10.15 a.m.

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

Interactive dialogue on:

Reports of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (continued) (E/CN.4/2006/41 and Add.1-3 and E/CN.4/2006/118);

Report of the Special Rapporteur on the right to education (continued) (E/CN.4/2006/45 and Add.1);

Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (continued) (E/CN.4/2006/97);

Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (continued) (E/CN.4/2006/98 and Add.1 and 2).

1. Mr. OUVRY (Observer for Belgium) welcomed the constructive approach to his mandate taken by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises and invited him to update the Council on the efforts he had made since the beginning of 2006 to develop materials and methodologies for companies to use when undertaking human rights impact assessments. He wondered whether the international community, and the United Nations and international financial institutions in particular, could play a more active role in that endeavour.
2. Mr. SIAHAAN (Indonesia) welcomed the emphasis placed by the Special Rapporteur on the right to education in his report on the importance of education for girls. In Indonesia, gender disparities in primary and secondary education had been nearly eliminated since the adoption in 2000 of a gender mainstreaming strategy.
3. With regard to respect for human rights in the context of efforts to combat terrorism, he noted that the Indonesian Government had issued two anti-terror regulations establishing a legal basis for combating terrorism and had adopted a law to deter and eradicate terrorist acts. It was committed to respecting international human rights provisions, in particular those banning torture. In 1998 and 1999 it had adopted laws ratifying the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and establishing that freedom from torture was a non-derogable right.
4. Mr. CHUMAREV (Russian Federation) expressed support for the conclusions and recommendations contained in the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (E/CN.4/2006/98). The Council should keep that very important subject on its agenda. He

asked how the Special Rapporteur intended to make use of the experience of Ms. Koufa, who was the expert on that topic on the Sub-Commission on the Promotion and Protection of Human Rights and how he intended to address the question of the responsibility of non-State actors, including terrorist groups, for human rights violations. Perhaps the inalienable right to be protected against terrorism should be introduced into the human rights code. He urged the Special Rapporteur to consider all aspects of the problem, including the defence of the rights of victims of terrorist acts.

5. He fully supported the approach adopted by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, which entailed taking stock of government and company practices that were related to human rights, although he was somewhat concerned by the hints of neoliberalism contained in the report. It was important to reaffirm who was responsible for drawing up standards for the observance of human rights by transnational corporations: that role should fall to States, not corporations.

6. Mr. RITTER (Observer for Liechtenstein) asked the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises how he intended to make use of the experience acquired in the United Nations Global Compact in order to compile best practices of States and transnational corporations. He further enquired about the structure of the compendium of best practices that the Special Representative planned to formulate.

7. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism had rightly pointed out the adverse consequences for human rights arising from the absence of a universal and comprehensive definition of terrorism, and said that the mandate of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism (the Counter-Terrorism Committee) included reviewing the conformity of measures taken by States with human rights provisions. His delegation urged the Special Rapporteur to continue his dialogue with the Committee and its Executive Directorate and wished to know what role he believed he should play in the new United Nations Global Counter-Terrorism Strategy.

8. Ms. MARKOV (Observer for Slovenia) asked for further information on the meetings held by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism with the International Committee of the Red Cross (ICRC), the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime and the Action against Terrorism Unit of the Organization for Security and Co-operation in Europe (OSCE). She also wished to know what role he thought he might play in increasing State awareness of human rights in the formulation of counter-terrorism policies and the sort of coordination with other special procedures he considered useful.

9. Mr. STRØMMEN (Observer for Norway) asked the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises what key messages he had heard during the regional consultations held in Johannesburg on human rights dilemmas of business operations in zones of conflict in Africa.

He also wondered how State-owned enterprises could be constructively engaged in addressing human rights challenges, and whether the Office of the United Nations High Commissioner for Human Rights (OHCHR) had a role to play in supporting transnational corporations as they developed human rights policies. Lastly, he requested an update on the drafting of standards to address corporate complicity in human rights abuses.

10. Mr. FRICK (Germany) asked the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living what the main issues of concern were in relation to relief and rehabilitation efforts and implementation of the right to adequate housing. His delegation also wished to know how the international community could effectively incorporate human rights standards into humanitarian relief policies and practices.

11. The visit to Germany in February 2006 by the Special Rapporteur on the right to education had been very useful and had resulted, inter alia, in the adoption by the Standing Conference of Ministers of Education of the German Länder of a resolution on the implementation of the Convention on the Rights of the Child. It had also given rise to a debate about the possibility of lowering the age for admission to free kindergarten classes.

12. Mr. GUEVARA (Mexico) commended the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for his work and asked him whether he would identify best practices using only the assessments and opinions contained in the reports of the Counter-Terrorism Committee, or whether he would include his own independent views as well.

13. He endorsed the recommendations of the Special Rapporteur on adequate housing that called for the adoption of a general recommendation on the right of women to adequate housing and to land, as well as the organization of an expert seminar to study current practices and standards. Model legislation should be drawn up to protect women against domestic violence and uphold their interests in housing-related matters.

14. Mr. ALETHARY (Observer for Yemen), referring to the introductory statement made by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, said that his delegation had responded to the queries that had been put to it. It would continue to cooperate with the Special Rapporteur with a view to combating terrorism in a context where human rights were respected.

15. Mr. RAHMAN (Bangladesh) said that some Governments were using the fight against terrorism to further their political agendas. Vulnerable groups were being targeted and discrimination had become common, with Muslims in particular as the victims. The lack of a universally accepted definition of terrorism must not be considered as a blank cheque that allowed Governments to do anything they wanted to combat it.

16. He asked the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises to what extent it was actually possible to draw up norms on the responsibility of transnational corporations, and what impediments stood in the way.

17. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living had focused on the question of eviction in his introductory statement. His delegation agreed that development-based eviction could be positive, provided that sufficient advanced notice was given to those being evicted. The Special Rapporteur should expand his approach to the question of adequate housing by taking the right to development into account.

18. Ms. PALAYRET (France) noted that the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises had said in his report that some corporations, particularly those with well-known trade names, had been more sensitive than others to pressure from civil society and the media. He had also referred to the need to encourage public companies to meet human rights challenges in their spheres of activity. She asked him how he thought the same requirements could be extended to all the main actors in the private sector.

19. Mr. VON KAUFMANN (Canada) said that some of the most important work done by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living related to women. He wondered what practical steps States could take to deal with violence against women in the context of the right to adequate housing.

20. The report of the Special Rapporteur on the right to education listed a large number of recommendations to promote the right to education for girls. He invited the Special Rapporteur to specify which of those recommendations should be given the highest priority.

21. Mr. ALAEI (Observer for the Islamic Republic of Iran) noted that, according to document E/CN.4/2006/98/Add.1, certain Western countries had refrained from cooperating with the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and had not responded to his communications. He asked whether the Special Rapporteur had received any answers from those countries since 15 December 2005, whether he had any practical suggestions as to how the countries in question might comply with international humanitarian law and international human rights law, and how those countries could alleviate the root causes of terrorism, rather than carrying out unilateral actions in breach of international law. He also invited the Special Rapporteur to consider the adverse effect of counter-terrorism legislation in certain countries on victims against whom such legislation was applied arbitrarily and illegally.

22. Mr. LÓPEZ (Cuba) said that the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism failed to distinguish between acts of terrorism and the legitimate right of peoples to fight for self-determination; it also failed to address the issue of State terrorism. It should also be noted that the report, unlike those of the Special Rapporteur's predecessors, did not take up concrete cases of human rights violations perpetrated in the fight against terrorism, such as those involving detainees at the Guantánamo Bay naval base. He asked the Special Rapporteur whether during his contacts with the Counter-Terrorism Committee he had been able to raise the question of secret detention centres used in the so-called war against terror.

23. Mr. BOYE (Senegal) said that the issue of human rights and transnational corporations was one of concern in a context of globalization marked by the relentless quest for power. He wished to know whether the Special Representative on that topic thought that the marked tendency towards delocalization and corporate mergers restricted the enjoyment of human rights, especially in the light of the job losses involved.

24. Ms. RESS (United Kingdom), addressing her comments to the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, said that her Government attached great importance to the human rights aspects of corporate responsibility. While States were bound by international human rights law, the positive and negative impact that corporate activities could have on the enjoyment of human rights could not be denied. Progress could not be achieved in that area unless a critical mass of consensus was reached on the action that must be taken by both the home and host States of transnational corporations. She welcomed the broad consultations that the Special Representative had been conducting with stakeholders in the different regions, and was particularly interested in hearing the reactions and views of the business sector.

25. Mr. LABIDI (Tunisia) said that the reports of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and the report of the Special Rapporteur on the right to education demonstrated the indivisibility and complementarity of human rights. Access to decent housing in a sound environment was recognized as a right and a matter of human dignity in Tunisia. Adequate housing must be available to all citizens, including those with low incomes. Tunisia's housing strategy focused on developing and increasing the supply of land for building, maintaining older housing units while creating new housing stock that provided sanitary and decent living conditions, and providing financing for housing through a housing savings system, all of which had enabled more than 80 per cent of Tunisians to be homeowners. Tunisia focused on the needs of low-income citizens through such public housing development programmes as the National Solidarity Fund.

26. Drawing attention to the report of the Special Rapporteur on the right to education, he said that Tunisia also attached importance to the issue of girls' right to education. Universal school enrolment had been achieved, and education was compulsory until the age of 16. Educational reforms introduced in 1991 had made it possible to increase the number of schools in rural areas, thereby considerably increasing enrolment rates, to focus on science and vocational training and to introduce human rights and tolerance in school curricula. The enrolment rate for girls was constantly increasing faster than overall rates: 57 per cent of pupils in secondary schools and 58 per cent of students in institutions of higher education were girls. Tunisia was also endeavouring to ensure that young graduates found jobs.

27. Ms. BERAUN ESCUDERO (Peru) said that the observations and recommendations made by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living following his visit to Peru in March 2003 had helped Peruvian officials to fine-tune and strengthen the country's strategy for adequate housing, as part of its commitment

to protecting and promoting human rights. She welcomed in particular the Special Rapporteur's guidelines on forced evictions, an initiative that the Council should support with a view to strengthening international human rights standards, and she wished to know what steps could be taken to ensure the effective implementation of those standards.

28. Turning to the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, she said that Peru had drawn lessons from its first-hand experience with terrorist violence. Terrorist acts violated the most fundamental human rights. Consequently, efforts to combat terrorism must be carried out in a context of respect for human rights and legality. The importance of defining terrorism was relative, since international actions to protect shared assets and values did not necessarily require definitions. In general, international legal instruments, including human rights instruments, tended to avoid setting out definitions. For example, in texts relating to the protection of democracy, the United Nations had not sought to define democracy, but had instead laid out the basic elements of democracy, such as the rule of law and the freedom of expression. Lastly, non-State actors must take responsibility for the preservation of life and human dignity, as United Nations practice and Security Council resolutions required them to do.

29. Mr. NEYRA SÁNCHEZ (Peru) said that the issue of human rights and transnational corporations and other business enterprises was one of great concern in Peru, where in recent months conflicts had arisen between indigenous persons living close to mining and gas operations. He agreed that cases of human rights violations in that context often arose from collusion between State agents and employees of private enterprises, for which responsibility lay mainly with the State; however, that did not relieve enterprises of responsibility. Unfortunately, voluntary principles and moral considerations did not seem to offer a realistic means of addressing that issue.

30. He appreciated the broad consultations that the Special Representative of the Secretary-General on the topic had undertaken and hoped that both civil society organizations and States would actively respond. The Special Representative's report stated that only legal practitioners from developed countries had provided advice on the legal dimensions of his mandate (E/CN.4/2006/97, para. 5). However, the lack of participation by legal experts from developing countries was due to a lack of material resources, not a lack of interest. He hoped that the regional consultations, such as those that were to take place in Bogotá, would help the countries of the region to focus on that issue and actively contribute to the work of the Special Representative of the Secretary-General.

31. Mr. JAZAÏRY (Algeria) said that he shared the concerns voiced by the representative of Cuba concerning the definition of terrorism: such a definition should make provision for exceptions, such as persons fighting for self-determination. Otherwise, the definition would serve only to legitimize actions taken by oppressive Governments to prevent the free expression of self-determination. While Algeria strongly supported the conclusion of a convention on terrorism, his delegation wished to point out that there had been no general agreement on that issue, as the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism had noted in his report (E/CN.4/2006/98, para. 29).

32. Ms. BRETT (Quaker United Nations Office) asked the Special Rapporteur on the right to education whether he planned to continue taking a thematic approach to the right to education and, if so, what his next topic would be. She wondered whether he might consider devoting a report to the right to education of all children in any form of detention or imprisonment, including children in prison with their mothers.

33. Mr. OZDEN (Centre Europe-Tiers Monde), speaking with reference to the report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (E/CN.4/2006/97), said that the Special Representative's reliance on the support of legal experts from only three countries which shared both the same legal system and the Special Representative's ideology on globalization and the role of transnational corporations did not constitute an acceptable approach. A number of studies had shown that voluntary initiatives for self-regulation, such as the Global Compact, only served to enhance the image of transnational corporations; binding measures were needed to ensure that such corporations were held accountable for their actions and respected the law. It was therefore urgent that the Council should include in its agenda consideration of the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights adopted by the Sub-Commission on the Promotion and Protection of Human Rights, and adopt a plan for a follow-up mechanism. Otherwise the issue would continue to be dealt with only by the World Bank and the World Trade Organization, which placed greater emphasis on private interests than on human rights.

34. Mr. GRASHAW (Human Rights Watch), addressing the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, said he was deeply concerned about government counter-terrorism measures that violated human rights. In a number of countries such measures had made deep encroachments on the right to be free from torture, arbitrary detention and unfair trial and threatened such rights as the right to freedom of expression and of religion. One such measure was the rendition of suspects to countries where they would be at risk of torture or ill-treatment, and diplomatic assurances were insufficient to address that situation. He wished to know what steps the Council should take to ensure that Governments ended those practices.

35. He was concerned that the developing international counter-terrorism framework imposed important obligations on States to combat terrorism yet failed to define terrorism. The resulting ambiguity made it difficult to determine what activities should be barred and was open to manipulation by repressive Governments acting in bad faith. Uzbekistan, for example, had tried to legitimize human rights violations under the guise of counter-terrorism activities. He therefore wondered what steps should be taken to secure agreement on a definition of terrorism and complete a comprehensive convention on terrorism.

36. Ms. AHMADI (International Federation of Human Rights Leagues (FIDH)) denounced the emerging trend in which States subverted the objectives of the fight against terrorism, sacrificing basic human rights. The Council must develop an effective system for ensuring that counter-terrorism measures were fully compatible with human rights. She wished to know how the Special Rapporteur on the promotion and protection of human rights and fundamental

freedoms while countering terrorism thought that the Counter-Terrorism Committee could conduct an appropriate and effective review of national practices, given that the proceedings of human rights monitoring bodies must be transparent and public.

37. FIDH was very concerned about the policy of the United States of America regarding extraordinary renditions, and she wished to know how the seeking of diplomatic assurances could be deemed to mitigate the violation of that principle. She also wondered whether the Special Rapporteur could look into the recent attempt by the United States to abolish the writ of habeas corpus. The Council should adopt a final resolution which condemned Guantánamo, extraordinary renditions and other disproportionate counter-terrorism measures.

38. Ms. SANTIEMMA (International League for the Rights and Liberation of Peoples) said that it was crucial for the Council to make a clear statement on the issue of transnational corporations. With regard to the recommendation by the Special Representative of the Secretary-General to embed global markets in shared values (E/CN.4/2006/97, para. 18), she observed that simply restraining trade liberalization was not an effective solution to the problem. Her organization recommended the adoption of an international instrument that was legally binding on both transnational corporations and Governments. She wondered what importance the Special Representative attached in his work to the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, and she called upon the Council to adopt those Norms, since they would be the first binding institutional response capable of creating a level human rights field for international competition, leaving behind the voluntary codes of conduct that had had little effect thus far in protecting the human rights of vulnerable groups around the world.

39. Ms. PARKER (Humanitarian Law Project) agreed with the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the need to define terrorism sufficiently to protect human rights. Failure to do so had led to the continued use of such terms as the “war on terrorism”, which intentionally blurred both human rights law and humanitarian law. That blurring had serious consequences, not least of all for the right to self-determination. She wished to know how the Special Rapporteur thought that trend, which was especially apparent in the United States of America, could be stopped. In Turkey and Sri Lanka, meanwhile, current armed conflicts were being described as terrorism so that the Governments in question could avoid applying international humanitarian law. The Special Rapporteur must insist on the establishment of a sharp distinction between armed conflicts calling for the application of humanitarian law and terrorism calling for the application of criminal law.

40. Ms. RAO (International Women’s Rights Action Watch) commended the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living for integrating a gender perspective in the monitoring and reporting aspects of his mandate and for recognizing the indivisibility of rights, an approach that other mandate-holders should follow. The Council should continue to support the Special Rapporteur’s mandate and give priority to implementing his recommendations, especially the recommendation that all Council members should ratify the Optional Protocol to the Convention on the Elimination of All Forms of

Discrimination against Women and ensure that an effective optional protocol to the International Covenant on Economic, Social and Cultural Rights was drafted and adopted speedily. She also supported the recommendation that States should ensure consistency between the provisions of international human rights instruments and religious and customary law and practice in order to guarantee women's equal rights to housing, land, property and inheritance. She wondered whether the Special Rapporteur proposed to work with the Committee on the Elimination of Discrimination against Women (CEDAW) on a continuing basis, and whether he thought there was a need for temporary special measures, in accordance with article 4.1 of the Convention and the Committee's general recommendation No. 25, to be undertaken by States to help women realize their right to housing. She urged the Special Rapporteur to consider the links between women's right to participation in political life and public policy formulation and their enjoyment of economic, social and cultural rights, including the right to housing.

41. Mr. GILLIOZ (Human Rights Watch), speaking also on behalf of the Centre on Housing Rights and Evictions, said that he especially appreciated the basic principles and guidelines on development-based evictions and displacement that the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living had highlighted in his report. A recent study had highlighted that forced evictions could have the same developmental consequences for children as war. He wished to know what kind of monitoring system the Council could develop to address the issue of forced evictions, and what practical steps it could take to develop the accountability framework described in the Special Rapporteur's recommendations.

42. He welcomed the Special Rapporteur's efforts to address the mass forced evictions and demolitions of homes undertaken by the Zimbabwean Government in May 2005 and asked him what steps he thought the Council should take to ensure that the Government ceased all such evictions and provided emergency shelter to those displaced by them. He also wished to know whether the Special Rapporteur had requested an invitation to visit Zimbabwe.

43. Lastly, he asked what the Council should do to further the understanding that the right to adequate housing could not be fully achieved without equal protection of rights for men and women, and especially for vulnerable groups of women who were the victims of multiple forms of discrimination.

44. Ms. CHAUDRHY (Habitat International Coalition - Housing and Land Rights Network) noted with satisfaction that the report of the Special Rapporteur on the right to adequate housing had stressed substantive gender equality and recognition of women's right to housing and land. She was particularly concerned about the rise in forced evictions around the world; the systematic demolition of the housing of the working poor and the resulting evictions in the guise of the "public interest" were deeply disturbing. She wondered whether the Special Rapporteur could provide more information on market-based evictions and suggest strategies to reverse that disturbing trend.

45. She noted with alarm that forced evictions were increasingly being induced by laws and judicial orders issued by institutions entrusted with responsibility for protecting human rights. She would welcome further elaboration from the Special Rapporteur on how the right to land

might be included as a human right in international law. It was to be hoped that States would incorporate the guidelines on development-based evictions and displacement (E/CN.4/2006/41, appendix) into their national laws and policies; she invited the Special Rapporteur to specify how the guidelines could best be made operational.

46. Ms. PRADEV RAND (Women's World Summit Foundation), speaking also on behalf of Zonta International, Brahma Knmaris World Spiritual University, Pacific and South East Asia Women's Association International, the International League of Women for Peace and Freedom, the Worldwide Organization for Women and the International Council of Women, said that the theme for the 2006 World Rural Women's Day campaign was "Claim your fundamental right to adequate housing!" Housing and land were key issues for women, especially in Africa, owing to a lack of autonomy, which in turn was due to a lack of access to economic resources and failure to respect women's rights, including to land and housing. Millions of women had been relegated to slums, squatter settlements, shanty towns, transit centres, refugee camps or the streets, with major social, psychological and physical consequences for such women and their families.

47. She asked the Special Rapporteur on adequate housing how civil society organizations and Governments could work together to implement the basic right to adequate housing, and what legislative provisions he could recommend for gender-sensitive housing policies. She also wished to know what types of institutions would help protect women's rights to adequate housing, and how national legal and policy frameworks for protecting women's rights to adequate housing, land and inheritance could be strengthened to provide avenues for redress where violations occurred. Lastly, she sought the Special Rapporteur's views as to how an anti-violence provision could be introduced in housing legislation and policies.

48. Mr. KILGOUR (Interfaith International) said that the work of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism was very important. It was therefore unfortunate that States were using efforts to counter terrorism as an excuse for advancing anti-democratic agendas. Pakistan was one of the States that misused the international community's support under the guise of countering terrorism. More than 5,000 journalists, politicians and human rights activists had disappeared from different areas in Pakistan. The most seriously affected area was Balochistan, where the Government was killing the local population and its leaders, who were struggling for their economic, social and cultural rights, on the grounds that they were traitors and terrorists. At the same time the state of Jammu and Kashmir, which was under the control of both India and Pakistan, was a hub of terrorists and called for attention in the context of counter-terrorism efforts. The local population had suffered enough from the presence of those unwanted elements and the proxy was being waged there by both countries.

49. Mr. PARY (Indian Movement "Tupaj Amaru") said that the need to regulate transnational corporations was an integral part of the international community's efforts to provide legal support for the new international economic order. His organization therefore believed that the United Nations and the relevant bodies of the United Nations system should establish a commission or high-level working group to draft a set of norms to that end.

50. A code of conduct was needed for three reasons: firstly, because in their constant search for profits powerful monopolies behaved irrationally and were not subject to the jurisdiction of host countries; they were not interested in social problems or human rights. Secondly, some host countries had lost the capacity to negotiate or to exercise jurisdiction over foreign companies owing to defects in their legislation. More than 70 countries had in fact made changes in their legislation to give preferential treatment to foreign capital. Thirdly, it was in the nature of the ultra-liberal policies imposed on poor countries by the International Monetary Fund that supranational economic entities should lose any capacity to negotiate.

51. Mr. KOTHARI (Special Rapporteur on adequate housing as a component of the right to an adequate standard of living) said that he was grateful for the invitation from the Islamic Republic of Iran and was well aware of the work being done in that country on housing. In paragraph 31 of his report (E/CN.4/2006/41/Add.2) he had been trying to stress the need for coordination among the multiplicity of housing bodies, for some groups were being left out of the housing delivery system. He again requested the Iranian Government to reconsider its eminent domain regime because it did not allow challenges to forcible-eviction orders. As he had indicated in the basic principles and guidelines on development-based evictions and displacement, there must be a process of consultation and compensation. On the subject of discrimination in housing, he maintained that he had simply reported on what he had seen: some communities did suffer a high degree of discrimination in housing. He would be grateful if the Government looked into the issue.

52. Cambodia was not the only country in which squatters had come to the cities; again, a process of consultation and compensation was needed in order to minimize displacement. Cambodia's land legislation of 2001 was very progressive, but the failure to adopt the necessary sub-decrees, on collective ownership, for example, had created a vacuum conducive to land-grabbing. He welcomed the interest of the United Nations Human Settlements Programme (UN-Habitat) in the work being done in Cambodia.

53. He was grateful for the comments from the observer for Australia but would address those remarks at the next session, when he would be presenting the relevant report.

54. Replying to the representative of Switzerland, he said that he had consistently emphasized that the social dimensions of property needed careful consideration, for they were being lost from sight in the neoliberal model of property ownership advocated by Hernando de Soto, which disregarded the concept of the indivisibility of human rights: there was no point giving title to squatters if they lacked the means of access to basic services.

55. He was grateful for the expressions of support for the basic principles and guidelines on development-based eviction and displacement, which outlined several tests of implementation, including a comprehensive review of existing legislation and policy. Since the principles and guidelines built on existing human rights obligations, they could easily be incorporated in national policies. Every country should have a national resettlement policy.

56. He was monitoring the situation in Zimbabwe, to which the representative of Finland had referred, and had offered to carry out a mission to help the Government deal with the problems. According to information he had received, Operation Murambatsvina had led to a grave housing crisis.

57. With regard to the tsunami and its impact on housing, he said that he had worked with civil society organizations to prepare a compilation of human rights guidelines on post-disaster rehabilitation, and the Special Representative of the Secretary-General on the rights of internally displaced persons had issued recommendations for the implementation of the guidelines in respect of internally displaced persons.

58. He was grateful to the representatives of Canada and Mexico for their expressions of support for his work on women's housing rights. He hoped that CEDAW would adopt general recommendations on the subject; he himself had recommended that the Council should examine the model provisions that he and the Special Rapporteur on violence against women, its causes and consequences were to draft. It was very important for the Council to play a role in overcoming the culture of silence.

59. Mr. MUÑOZ VILLALOBOS (Special Rapporteur on the right to education) said that he had given a due account in his report on his visit to Botswana (E/CN.4/2006/45/Add.1) of the considerable educational achievements in that country, but that he had necessarily had contacts with civil society organizations for the purposes of balance. There was no doubt that the introduction of school fees was a retrogressive measure that would affect population groups with high dropout rates in particular. However, the Government of Botswana had been very receptive to his recommendations; it was evaluating the impact of that measure and might revoke it in the near future. Botswana's investment in education infrastructure was exemplary.

60. Efforts to promote the exercise of the right to education were rightly designed to improve the coverage and the quality of education systems, but greater attention should be paid to the type of education needed in the world. Never before had so many educated people been involved in so many wars and so much destruction. He was grateful in that connection for the comments made by several delegations on the need to incorporate the topic of human rights education in school curricula.

61. The Durban Declaration and Plan of Action reflected the importance of education in addressing attitudes of discrimination, and the observer for Chile had been right to suggest that the content of both texts should be incorporated in education programmes. It must be remembered, however, that they concentrated on the right to primary education to the exclusion of secondary education.

62. One of the important questions raised by the representative of Finland related to the right to education in armed conflicts, a topic which he intended to address in future reports, together with the right to education of disabled persons and persons deprived of their liberty. The work on education in armed conflicts done by the Inter-Agency Network for Education in Emergencies was most interesting, for the Network had produced minimum standards to guide State policy in that area. It was important for humanitarian assistance efforts to be linked to education efforts, for exercise of the right to education would help societies afflicted by natural disasters or armed conflicts to return to normal.

63. In reply to the question put by the observer for Portugal on strategies for attaining the targets of the Millennium Development Goals, he said that what was most important was to secure increased budgets for education, which should amount to at least 6 per cent of gross domestic product. Another important requirement was to give more attention to persons with special educational needs.

64. Many countries had not yet incorporated the gender perspective in education: they should make a greater effort in that regard. The representative of Canada was right to stress the importance of education statistics, for without them it was impossible to identify and address the needs of all persons. It was also essential to have information on the extent to which human rights were respected in the classroom.

65. Mr. RUGGIE (Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises) said that his task clearly involved the application of standards, a controversial issue for obvious political reasons and because of the intellectual difficulty inherent in dealing with what were mostly new concepts. International human rights standards were adopted by States for States; the question now was which of those standards should be applied to companies and by what methodology. The only way to proceed was to deal separately with the content and the legal status of standards. His task was to map out the substantive standards applicable to companies, while the Council's task was to decide on their legal status.

66. Several delegations had asked about the various consultations which he conducted: there were four legal workshops drawing on experts representing every one of the world's legal systems, and regional consultations were regularly convened. It had become apparent that local stakeholders were immensely practical in nature; they wanted investments, jobs and remedies for abuses and they wanted them now. Every Council member came in for criticism for paying too much attention to transnational corporations and too little to the national companies for which most people worked and which were often held to be more abusive; his mandate did in fact cover "other business enterprises". There was repeated emphasis on State responsibility and the need to increase State capacity to regulate and adjudicate.

67. On the question of "level playing fields", he said that State-owned enterprises represented an interesting challenge, for they were not obviously amenable to the kinds of pressure that could be brought to bear on companies. As a project on the topic was under way it would be premature to give a definitive answer. His hunch was that such enterprises looked to their counterparts in the commercial sector for pointers; they clearly ought to be more responsive than the commercial sector to the wishes of their own Governments.

68. The suggestion that he should coordinate his work with other specialized procedures was a good one, and he intended to do more in that area.

69. Mr. SCHEININ (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that he agreed with the general comments made by the representative of Turkey on his report on his visit to that country (E/CN.4/2006/98/Add.2). Special rapporteurs should certainly not try to redefine their mandates, but there might be differences of interpretation, concerning, for example, the word "promotion" in his own mandate, which to him meant that he should not merely react to alleged human rights

violations. Special rapporteurs should of course report to the Council before turning to the media, but it was often impossible to comply with that requirement in practice: Turkey, for example, had a vibrant civil society, and he had had to respond to public interest. However, his conclusions were always delivered first to the Government concerned.

70. The question put by the representative of Switzerland concerning the possible incompatibility with human rights of a recommendation of the Counter-Terrorism Committee or a measure taken by some other Security Council entity had become largely moot as a result of the inclusion in recent Security Council resolutions of a clause stressing the need for compatibility. What was more important was how the Committee's messages were received in the countries concerned. He referred the representative of Switzerland to his forthcoming report to the General Assembly, which discussed his approach to the listing and de-listing of subjects as terrorists. There were many actors addressing the issue of extraordinary renditions and secret detention, and his own role was essentially a complementary one. He had done some specific work on the topic, for example in his communications with Governments and with regard to the European Union's new extradition treaty with the United States. He had been assured by the European Union that the "transfers clause" should be read in the general context of the treaty, which was confined to formal extradition.

71. It would be premature to offer concrete proposals in response to the question from the observer for Chile about ways of reporting more regularly to the Council. It might be possible to use the universal periodic review mechanism or to establish another mechanism for drawing the Council Bureau's attention to issues requiring attention between sessions.

72. He wished to assure the representative of Finland that he had played a part in the development of the human rights components of the comprehensive strategy against terrorism. Human rights were addressed firstly as a pillar of any effective strategy of that kind but also as a pillar of each of its components. He would deal with the question of specific persons or groups which fell victim to human rights violations in his next report to the Council.

73. He was sympathetic to the points made by the observer for the United States of America and grateful for that country's support for his mandate. The comments on victims contained in his report would help to build up the country-specific work.

74. He could assure the representative of the Russian Federation that he was aware of the Sub-Commission's work on human rights and counter-terrorism, which he would use in his own further work. There were two possible approaches to the question of non-State actors: the international community could develop mechanisms of accountability, for many of the crimes in question were defined in international law in terms of their capacity to violate human rights; or emphasis could be placed on the promotion of advocacy, in which the instruments setting out human rights standards were truly important for the enhancement of awareness.

75. Mr. MAFEMBA (Observer for Zimbabwe), speaking in exercise of the right of reply, said that the evictions carried out under Operation Murambatsvina were neither arbitrary nor unlawful. Notices of impending evictions were published in local newspapers, and approaches were made by the local authorities to landlords who had erected illegal structures. Legal remedies were available to any person claiming that his property had been unlawfully destroyed or otherwise affected by an eviction, and some evicted persons had in fact instituted court

proceedings. The Government of Zimbabwe was not indifferent to the suffering of its people. Indeed, the economic and social policies introduced to improve the lot of ordinary Zimbabweans were acclaimed the world over. It was fulfilling its responsibility to apply the law in the context of those policies, including Operation Garikai, which were supported by most of the people.

76. Mr. VUN (Cambodia), speaking in exercise of the right of reply, reaffirmed his Government's commitment to cooperate with friendly countries and with United Nations institutions. The Cambodian Government needed technical and financial assistance in its efforts to consolidate the social improvements in the country. The report of the Special Rapporteur on adequate housing on his visit to Cambodia (E/CN.4/2006/41/Add.3) did not reflect the true housing situation in the country.

Presentation of reports followed by interactive dialogue (continued)

Report of the Independent Expert on the situation of human rights in Somalia  
(A/HRC/2/CRP.2)

77. Mr. ALNAJJAR (Independent Expert on the situation of human rights in Somalia) said that over the past six months Somalia had witnessed significant events on the political and security fronts, with serious implications for the human rights of the Somali people. In June 2006, after weeks of fighting resulting in scores of civilian casualties, militia loyal to the Islamic Courts Union (ICU) had gained control of Mogadishu and Jowhar and consolidated their control over much of southern and central Somalia, including the strategic port city of Kismayo.

78. With a view to bringing peace and security to the country, the Transitional Federal Government had requested the support of the African Union, which had recently agreed to send 8,000 peacekeeping forces to stabilize the country. In addition, discussions had been held in Khartoum on 4 September between ICU and the Transitional Federal Government under the auspices of the League of Arab States, leading to an agreement to establish joint police and military forces and to rehabilitate the Somali militia. He joined the Secretary-General in welcoming the outcomes of those talks, urged further progress in the next round of talks and called for greater involvement of the international community in the peacebuilding effort. Without such involvement the situation in Somalia would certainly deteriorate, notwithstanding the apparent calm in areas controlled by ICU. Indeed, there were signs that the southern and central parts of the country were heading towards an armed conflict, which would draw in regional powers and have a catastrophic effect on millions of people.

79. Recent events had inflicted considerable suffering on the Somali people, and attacks against civilians appeared to be escalating in frequency and intensity. Caught in the crossfire, many people had fled the cities for the country's already overcrowded camps for internally displaced persons, even crossing the border into other countries in the region. In addition, several humanitarian aid workers, human rights defenders and public figures had been assassinated, and threats had recently been made against United Nations operations in Somalia. He strongly condemned all those acts and appealed to the Government of Somalia to bring those responsible to justice and to ensure that such acts were not repeated. He also condemned the apparent assassination attempt, the previous week, on Abdullahi Yusuf Ahmed, President of the Transitional Federal Government.

80. Since the presentation of his previous report at the sixty-first session of the Commission on Human Rights, Somalia had appeared to take a tentative step on the path to peace and security. Following the political progress made in 2005 and several months of wrangling over safe relocation of the Government, the Transitional Federal Government and the Transitional Federal Parliament had signed the Aden Declaration on 26 February 2006. Nevertheless, during the period covered by the report the country had continued to experience widespread insecurity, extrajudicial killings, arbitrary arrests and detention, threats to press freedom, violations of women's and children's rights and infringements of economic, social and cultural rights.

81. In the realm of economic, social and cultural rights, the situation was still serious cause for concern. Most children, and girls in particular, had no access to education. Human rights abuses were rife in the waters off Somalia's extensive, unmonitored coast. Illegal fishing and environmental degradation by foreign vessels continued, and acts of piracy and exploitation and deaths of boat people fleeing Somalia were a constant concern. He reiterated his call to the international community to support the Somali authorities in their efforts to put an end to all human rights violations in the country.

82. The humanitarian situation was also alarming, with over 2 million people, mostly in southern and central Somalia, in need of urgent humanitarian assistance as a result of the severe drought in the subregion. That problem was compounded by the existence of an additional wave of internally displaced persons, who were eking out an existence in makeshift camps in deplorable conditions. In early 2006 the United Nations had launched a revised Consolidated Appeal for \$326.7 million to address the emergency; however, humanitarian assistance was often prevented from reaching vulnerable populations by the lack of security. That situation could undermine political progress if it was not contained in a timely manner. He strongly urged donors to fund the revised Consolidated Appeal, which had reached only 40 per cent of its target.

83. On the occasion of his annual mission to Kenya and Somalia he had visited Jowhar, "Somaliland", "Puntland" and Nairobi. Once again, a visit to Mogadishu and the southern and central regions had not been possible owing to security considerations.

84. In his list of recommendations he had particularly stressed the need for technical and financial support to strengthen civil society, establish national institutions, protect internally displaced persons, establish and uphold the rule of law and defend economic, social and cultural rights. He called on the Council to take the early warning about the looming crisis in Somalia seriously: in the coming days and perhaps weeks, there would be little opportunity to help the country avoid a full-blown crisis, so the conflict must be forestalled before it was too late.

85. Ms. FRÖBERG (Finland), speaking on behalf of the European Union, commended the Independent Expert on his report and for drawing the international community's attention to the situation of human rights in Somalia. The European Union, deeply concerned about the ongoing tensions in the country, pledged its commitment to the peace and reconciliation process. The involvement of the Somali people, including that of civil society and women's groups, was instrumental to that process.

86. She wondered what measures the international community, and the Council in particular, could take to assist Somalia in the promotion and protection of human rights, especially in relation to minorities and internally displaced persons. She also wished to know what steps could be taken to eradicate gender-based violence against women and children, including female genital mutilation and rape.

87. Mr. VELLANO (Observer for Italy) asked the Independent Expert what he considered to be the most effective way of tackling the serious problem of human trafficking. He also wished to know what initiatives could be taken to deal with and prevent conflicts and inter-clan fighting arising from land and property issues. Lastly, the Independent Expert had highlighted the existence of private detention: what strategies could be implemented to address the lack of a functioning justice system in the current political context? He wondered whether an assessment of the current situation of the judicial system, including the role of the sharia courts, would be feasible.

88. Mr. DOUALEH (Djibouti) agreed with the Independent Expert's observation that the human rights situation in Somalia was linked to political and security developments. The attempted assassination of President Abdullahi Yusuf Ahmed had indeed represented an attempt to destroy the reconciliation process in the country. He wondered what could be done to ensure that the positive yet fragile political process that had been launched was not derailed. Could the decision of the African Union to send in troops help to strengthen the political process by focusing on dialogue between ICU and the Transitional Federal Government, or was there a risk that doing so might thwart the process?

89. Ms. DE PIRRO (Observer for the United States of America) welcomed the efforts made by the Independent Expert to meet with individuals from local, regional and State institutions as well as with representatives of civil society organizations, human rights defenders and United Nations teams.

90. While her Government had noted some slight gains in the situation of internally displaced persons, improved coordination and assistance for that group was essential. She endorsed the Independent Expert's findings regarding the importance of freedom of speech for all individuals, particularly for those who monitored and reported human rights abuses in the region. She wished to know what impact efforts to reform the coordination of humanitarian assistance had had on the special protection requirements of internally displaced persons and invited the Special Rapporteur to suggest possible ways of improving partnership and coordination between civil society organizations in the region and international organizations, such as the United Nations country team.

91. Mr. MUSA (Observer for the Sudan) said that his Government attached particular importance to the situation of human rights in Somalia since it significantly influenced the stability of the region and thus of the continent as a whole. The Sudan, as a neighbouring country and in its capacity as Chair of the League of Arab States, had sponsored the talks between the Transitional Federal Government and ICU, but the support of the international community was required if stability was to be restored in Somalia.

92. Mr. ALNAJJAR (Independent Expert on the situation of human rights in Somalia), replying to the comments made by the representative of Finland, said that in view of the pace at which events were unfolding, he had warned that if the international community did not take serious action to prevent a full-blown conflict, the consequences would be disastrous, since Somalia was in a highly strategic position, with a coastline of 3,600 kilometres. It was important that Somalia's economic rights should not be undermined. The activities conducted off the coast of Somalia by Governments and companies from all over the world, which were not subject to any monitoring, constituted breaches of those rights. One of the foundations of the Somali economy was livestock, but exports were being banned as a result of the political, economic and health problems assailing the country. Economic assistance was thus imperative.

93. Turning to the issue of women and children, he drew attention to the fact that only 13 per cent of all children in Somalia, with the exception of "Somaliland", had access to education, an appalling situation. Women were still subject to substantial discrimination, particularly in terms of their political participation.

94. In response to the questions raised by the observers for Italy and the United States of America, he said that living conditions in the camps for internally displaced persons were beyond belief and that the situation was deteriorating further: over the past month some 4,200 people had fled the country for neighbouring Ethiopia. He drew attention to the plight of the boat people leaving Somalia for Yemen, where the economic situation was particularly dire for those passengers who did not die during the crossing.

95. Failure to settle the land and property question would have far-reaching implications, since 80 per cent of all Somalis were engaged in livestock farming. It was to be hoped that the committees established by Parliament to address issues related to national reconciliation, reconstruction and peace and security would play a positive role in the process. With regard to the judicial system, he noted that the highly successful Law and Security Programme run by the United Nations Development Programme (UNDP), which provided training for police and justice system officials, was operational and in need of support. In general, cooperation with the United Nations country team was effective, but he would welcome additional support.

96. Turning to the question raised by the representative of Djibouti, he said that he did not want to embark on a discussion of the decision to bring in African Union troops in view of its sensitive political nature. It was important that the peace process under way in Khartoum, which did not require the intervention of foreign troops, should continue. In that connection, he welcomed the support pledged by the Government of the Sudan for the talks held between the Transitional Federal Government and ICU.

Report of the Personal Representative of the High Commissioner for Human Rights  
on the situation of human rights in Cuba (E/CN.4/2006/33)

97. Ms. CHANET (Personal Representative of the High Commissioner for Human Rights on the situation of human rights in Cuba), introducing her report (E/CN.4/2006/33), said that over the four years of her mandate she had never been able to establish any contact with the Cuban

authorities despite her repeated attempts to do so. However, with the help of non-governmental organizations (NGOs), academics with a particular interest in the human rights situation in Cuba, and the Inter-American Commission on Human Rights, she had been able to maintain and coordinate an information flow that had enabled her to make some recommendations.

98. Following the unprecedented wave of repression in March-April 2003, when 80 members of civil society had been imprisoned without a fair trial, the detainees had been given heavy prison sentences for acts “contrary to the independence and integrity of the State”. Their situation could not be described as having improved since then, and their mental and physical condition remained a source of concern.

99. Nevertheless, she had always recognized positive aspects of the situation in Cuba, including the Government’s efforts to contribute substantial funds to education and promote education and health, despite the difficulties arising from the disastrous embargo, which had been exacerbated in 2004 by severe restrictions on the movement of persons imposed by the United States of America.

100. She pointed out that although Cuba had not cooperated with her, it had willingly cooperated with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Chairperson of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders. It must be noted that Cuba’s persistent refusal to recognize her mandate was causing a stalemate. The international community must not allow States to evade international control by obstructing the mechanisms it had established or by escaping the institutional control of the treaty bodies, particularly the Human Rights Committee and the Committee on Economic, Social and Cultural Rights. It should be noted that Cuba had not acceded to either of the Covenants monitored by those bodies.

101. During the current transition from the Commission on Human Rights to the new Human Rights Council it seemed fitting to reconsider her mandate in the light of the Council’s new universal periodic review mechanism and other new procedures still under review. It might, for example, be possible to approach the situation of human rights in Cuba from a different standpoint, which would encourage the State’s involvement and cooperation in an absolutely essential dialogue. A new procedure would have to be established, under which all States that did not wish to cooperate with a rapporteur would be dealt with according to the same rules.

102. Mr. FERNÁNDEZ PALACIOS (Cuba) deplored the fact that such a libellous report should be submitted to the Human Rights Council, as it reflected the old practices of the discredited Commission on Human Rights. His delegation intended to relegate the document to the recycling bin.

103. The mandate of the Personal Representative of the High Commissioner for Human Rights on the situation of human rights in Cuba was one of hypocrisy, double standards, selectivity and political manipulation. The most effective contribution that the Personal Representative could make would be to resign from the Council.

104. The Personal Representative had criticized the criminal United States blockade against Cuba only because she maintained it was being used by the Cuban Government as a pretext to apply laws that she qualified as “repressive”. She could not claim to be objective and impartial while denying the Cuban people’s right to self-determination and its struggle to survive against the most powerful and aggressive empire in history. Moreover, there was no justification for the fact that her report failed to mention the acts of terrorism against the Cuban people carried out from United States territory with total impunity. She had likewise omitted any reference to the fact that the most notorious terrorist in the western hemisphere, Luis Posada Carriles, was still in the United States and had not been judged or extradited for his acts. Her silence on the situation of the five young Cuban men who remained arbitrarily imprisoned in the United States for combating terrorism and defending the lives of the Cuban people was that of an accomplice.

105. Rather than dwell on Washington’s stale anti-Cuban discourse, he preferred to recall the words of his country’s national hero, José Martí: “It is with the poor of the Earth that I wish to cast my lot”. It was in fact the developing world that had allowed Cuba to sit on the Council so that it might continue to raise its voice against injustice and subjugation by the powerful.

106. The PRESIDENT urged delegations to refrain from personalizing their remarks, as such language merely made the Council’s work more difficult.

The meeting rose at 1.10 p.m.