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HUMAN RIGHTS COUNCIL

Fifth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 12 June 2007, at 3 p.m.

President: Mr. BURAYZAT (Jordan)
(Vice-president)

later: Mr. LOULICHKI (Morocco)
(Vice-president)

later: Mr. DE ALBA (Mexico)
(President)

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In the absence of Mr. de Alba (Mexico), Mr. Burayzat (Jordan), Vice-President, took the Chair.

The meeting was called to order at 3.30 p.m.

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

Introduction of reports followed by an interactive dialogue:

Report of the Special Representative of the Secretary-General for human rights in Cambodia (A/HRC/4/36; A/HRC/5/G/3; A/HRC/5/NGO/23)

Report of the Independent Expert appointed by the Secretary-General on the situation of human rights in Haiti (A/HRC/4/3), A/HRC/5/NGO/39)

Note by the Secretariat on the report of the Independent Expert appointed by the Secretary-General on the situation of human rights in Somalia (A/HRC/5/2)

Report of the Special Rapporteur on the situation of human rights in Belarus (continued) (A/HRC/4/16; A/HRC/5/NGO/22)

1. Mr. GHAI (Special Representative of the Secretary-General for human rights in Cambodia) said that significant progress had been made in rebuilding Cambodia since the conclusion of the Paris Peace Agreements. Elections had been held, although more should be done to make the electoral system fully independent and to prevent the manipulation of voting and voter registration at the local level. He welcomed Cambodia’s ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its adoption, at long last, of a new Code of Criminal Procedure.
2. Progress had, however, been disappointing in most areas of his mandate. In many respects, obligations arising from the Paris Peace Agreements had not been fulfilled: little progress had been made in reform of the legal and judicial systems, the courts were still used to punish the innocent, and wealthy and politically well-connected persons could act with impunity, fuelling widespread corruption.
3. There were serious restrictions on freedom of speech, and the offence of “disinformation” was used to imprison persons out of favour with the Government. Other laws were frequently violated in the interests of senior officials. A recent report by the non-governmental organization (NGO) Global Witness on logging concessions and the destruction of forests alleged the violation of numerous laws by those close to the country’s highest authorities. The Government’s response had been to ban the report and blame Global Witness.
4. Earlier that day he had issued a report on economic land concessions, which found that, as a result of the failure to comply with the legal framework on land rights, concessions had encroached on the land and forest resources of local communities, seriously impairing the rights and livelihood of community members. Furthermore, despite the Government’s promises to enact legislation to protect land rights, the land of indigenous peoples was still being

alienated. The Government's policy to "develop" the north-east of the country, where most indigenous people lived, would cause them to lose more land and would undermine their livelihoods.

5. Trade union leaders had been beaten up, killed and threatened, and trade union rights had been severely curtailed. A senior Government official had claimed that restrictions on trade union rights were necessary because the State encouraged foreign investment. In view of those disturbing trends, he urged the Government of Cambodia to submit its initial report under the International Covenant on Economic, Social and Cultural Rights, which was long overdue, as soon as possible.

6. Fundamental legal and judicial reforms were required in Cambodia to protect against human rights violations. Serious allegations, including accusations of bribery in connection with judicial appointments to the Extraordinary Chambers in the Courts of Cambodia for the trial of Khmer Rouge atrocities, should be investigated and resolved. If not, the integrity of the trial process would be undermined and the exemplary value of the Extraordinary Chambers negated.

7. A rights-based approach should be adopted to economic, social and political development. Economic growth alone would not solve the problems of poverty and deprivation. A wealthy and powerful class had emerged, supported by the State, and based on exploitation of the people and the country's resources. Disparities in wealth had increased sharply. There was a need to build trust both among communities and between communities and the State. It was to be hoped that the imminence of the Khmer Rouge trials would highlight the weaknesses of the legal system and increase pressure for reform, but there were fears that with the exploitation of new mineral resources in Cambodia, the Government would become even more careless of legality, transparency and human rights.

8. He urged the Council to give serious consideration to the recommendations contained in his report and expressed the hope that it would do all it could to ensure that the objectives of the Paris Peace Agreements were fulfilled.

9. Mr. CHHEANG (Observer for Cambodia) said that the report of the Special Representative of the Secretary-General for human rights in Cambodia had dwelled exclusively on negative aspects of the human rights situation in Cambodia. No mention was made of the efforts made by Cambodia's governing institutions to promote democracy, encourage respect for human rights and support the implementation of international human rights instruments. The report's allegations, in particular the allegation of deliberate and systematic human rights violations in Cambodia, did not reflect reality. His delegation categorically rejected the report.

10. He requested the Secretary-General to consider his Government's position regarding the Special Rapporteur and his report. His delegation called for a report that reflected the actual situation in the country, was impartial and recognized the progress achieved since 1993. The Special Representative of the Secretary-General had called the competence of the United Nations into question by criticizing a defamation law that had been introduced by the United Nations Transitional Authority in Cambodia (UNTAC). His delegation further requested the Council to invite the Office of the United Nations High Commissioner for Human Rights (OHCHR) to address the situation of its office in Phnom Penh, which had been operating in an irregular manner.

11. Mr. MEYER (Canada) said that his delegation regarded the report of the Special Representative of the Secretary-General as broadly accurate. It was important to foster dialogue and provide clarification of the situations to which the Special Representative's report had drawn attention. Many of the issues mentioned in the report could constitute impediments to sustainable development as well as to the protection of human rights. At the forthcoming Cambodia Development Cooperation Forum, Cambodia's development partners would discuss some of those issues with the Cambodian Government.

12. The Cambodian Government's decision to ban a report by an NGO on the illegal destruction of forests and its threat of legal action were worrying. Canada called on the Government of Cambodia to respect the right to freedom of opinion and expression. He asked what measures the Special Representative would recommend that the Government of Cambodia should take to ensure the safety of individuals involved in monitoring the human rights situation in the country.

13. Ms. KONRAD (Germany), speaking on behalf of the European Union, said that further attention should be paid to the human rights situation in Cambodia. The European Union supported the work of the OHCHR office in Phnom Penh and the mandate of the Special Representative of the Secretary-General for human rights in Cambodia. States should cooperate with all human rights mechanisms.

14. She expressed concern about the unresolved cases of murders of trade union members. Two men, widely believed to be innocent, had been convicted of the murder of the trade union leader Chea Vichea. Given that all legal remedies were nearly exhausted, she asked what measures the Special Representative would recommend in that and similar cases.

15. She would also welcome clarification as to how the international community could best help Cambodia strengthen, promote and protect human rights.

16. Ms. MAHILUM-WEST (Philippines) said that it was important to recognize the challenges Cambodia faced as a country in transition, as well as the progress it had already achieved. The Special Rapporteur on the independence of judges and lawyers had drawn attention to the successful establishment of the Extraordinary Chambers in the Courts of Cambodia to prosecute those who had committed crimes under the Khmer Rouge regime. The Independent Expert on the question of human rights and extreme poverty had mentioned Cambodia's poverty reduction efforts and the increase in the primary education completion rate. Capacity-building had also contributed to development. All those achievements should be built on in the future.

17. Mr. NAKAGAWA (Japan) welcomed the fact that the recent elections in Cambodia, in which Japan had acted as an observer, had been largely peaceful. Moreover, the rules of procedure of the Extraordinary Chambers in the Courts of Cambodia had been adopted that very day, and it was to be hoped that the tribunal would make swift and substantial progress. However, the Special Representative of the Secretary-General had noted that Cambodia still lacked basic laws and a fair system of justice. He asked the Special Representative what the international community could do to strengthen Cambodia's judicial system further.

18. Mr. SIAHAAN (Indonesia) said that the report of the Special Representative of the Secretary-General for human rights in Cambodia downplayed the efforts made by the Government of Cambodia. His delegation was opposed to country-specific mandates, for special procedures as they usually resulted in a politicized approach and were an ineffective means of engaging with the country in question. Human rights should be promoted through constructive dialogue.
19. Mr. PALON (Malaysia) said that the report of the Special Representative of the Secretary-General failed to take account of the progress that had been achieved by Cambodia in its efforts to consolidate democracy, the rule of law, and respect for human rights. Moreover, there had been further progress since publication of the report. The challenges faced by the Cambodian Government were not unique to Cambodia, but were more pronounced, given the country's history. Improvement of the human rights situation would be a gradual process, and it was important that Cambodia should take ownership of that process, receiving assistance from the international community when it was requested. He welcomed the commitments expressed by the Government of Cambodia, and encouraged it to pursue its development efforts.
20. Ms. WHITE (Observer for Australia) said that the Special Representative of the Secretary-General for human rights in Cambodia continued to play an important role by focusing international attention on the human rights situation in that country. The most effective means of protecting and promoting human rights was through strong democratic processes and the rule of law, and she therefore welcomed the recent elections, which had been conducted in a peaceful atmosphere. Yet there was room for improvement in the areas of voter participation, which must be free from intimidation, and the administration of elections, which must be - and be seen to be - impartial. Australia was continuing to help Cambodia strengthen electoral processes and the rule of law, and welcomed the work of the OHCHR office in Cambodia.
21. Mr. ŠTEFÁNEK (Observer for Slovakia) said that the problems that the granting of economic land concessions caused for rural communities appeared to stem from the implementation of the law, rather than the law itself. He asked the Special Representative of the Secretary-General for human rights in Cambodia what kind of mechanism might make it possible to review concessions that had already been approved.
22. Mr. Loulichki (Morocco), Vice-President, took the Chair.
23. Ms. LEVIN (Observer for the United States of America) expressed support for the ongoing work of the Special Representative of the Secretary-General for human rights in Cambodia and the OHCHR office in Cambodia. She welcomed the recent positive developments in the country, including efforts to combat human trafficking and Cambodia's continued concentration on the human rights provisions of the Paris Peace Agreements. She commended Cambodia for its recent peaceful local elections and urged the Government to address long-standing problems in the electoral process.
24. Her delegation remained concerned about pervasive corruption and the lack of judicial independence and joined the international community in urging Cambodia to ensure the independence and effectiveness of the judiciary and of the Constitutional Council in order to protect the human rights of the Cambodian people.

25. The problem of citizen access to land and natural resources in Cambodia was pressing. Cambodia should therefore take prompt action to ensure that land concessions were strictly regulated and that the existing land registration process was implemented justly.

26. Her delegation appreciated Cambodia's efforts to build its capacity to enact human rights instruments and encouraged the Government to ensure the continued, effective administration of the Extraordinary Chambers in the Courts of Cambodia, the creation of a fair and equitable land market, and the protection of fundamental civil and political rights.

27. Mr. GHAI (Special Representative of the Secretary-General for human rights in Cambodia), replying to the question regarding the trial of two men accused of the murder of the trade union leader Chea Vichea, said that he had met with the families of the victim and the defendants. He found it difficult to put forward any solution, given the weakness of the Cambodian judicial system. However, one possible solution would involve strengthening the Constitutional Council, which was intended to protect the Constitution, and the Supreme Council of the Magistracy, which protected the independence of the judiciary. Neither institution had performed the task entrusted to it during the murder trial, and thus Government intervention had not been prevented. As local remedies had been exhausted in the case, he could only suggest that an independent investigation should be launched; however, there was little likelihood of such an occurrence in the current climate: the chief of police at the time of the trial, who had admitted to having been instructed to frame the two men accused of the murder, was languishing in a prison cell, while the witness to the crime had fled to Thailand, whence she had filed an affidavit stating that the accused had not committed the crime. For a royal pardon to be granted, another possible solution, guilt would have to be assumed; furthermore, it was, actually the Government that granted such pardons, and not the King.

28. As to the role the international community could play in the country, he suggested that foreign assistance should focus on improving the legal and judicial system. The United Nations treaty bodies should also focus greater attention on the situation in Cambodia, as the country had been greatly remiss in submitting its reports to them. Under the new procedures, the treaty bodies could justify consideration of the situation in Cambodia without a formal country report having been submitted. Sanctions on the trade in goods exploited illegally in the country could also be considered.

29. The recent sub-decree on Economic Land Concessions provided a good framework for reviewing or even revoking existing land concessions, as it provided for sanctions in cases where the terms of the concession had been violated. After making a detailed inquiry, he had learned that the Government had undertaken very few reviews to date, ostensibly because investors had opposed the opening up of concessions. A technical secretariat had been set up to deal with the reviews, but an independent mechanism was needed.

30. Mr. CHHEANG (Observer for Cambodia) called for the Human Rights Council to review the mandate of the Special Representative of the Secretary-General for human rights in Cambodia. The Government of Cambodia would no longer accept the mandate of Mr. Ghai.

31. Mr. JOINET (Independent Expert appointed by the Secretary-General on the situation of human rights in Haiti), introducing his report on the situation of human rights in Haiti (A/HRC/4/3), said that the report covered the situation in Haiti up until the end of 2006.

However, he had submitted an update to the report covering his recent visit to Haiti; unfortunately, the update was currently available only in French. The update reflected several recent important events, including the return to constitutional legality signalled by the election of a President and a Parliament unmarred by any serious irregularities. The update was concerned chiefly with the cooperation component of his mandate, as the monitoring of human rights violations was currently being carried out by the NGOs present in the country and the Human Rights Section of the United Nations Stabilization Mission in Haiti (MINUSTAH).

32. Overall, Haiti had made progress. Reform of the Haitian police had, for example, progressed at a slightly faster rate than reform of the judicial system. A large-scale officer vetting operation had been prepared and would soon be launched by the General Police Inspectorate, and a number of assessment criteria had recently been adopted by the National Police High Council. There were three possible outcomes of the vetting: certification; provisional certification, subject to further training; or exclusion. The operation had credibility because it was being conducted jointly by the General Police Inspectorate and MINUSTAH, through the United Nations Civilian Police (UNCIVPOL).

33. Another priority of the police reform was the fight against gangs, and there were some tentative but tangible signs of improvement in the security situation, such as a drop in the number of kidnappings. That progress was due to the improved coordination between the National Police and MINUSTAH officers and greater acceptance of the MINUSTAH presence, which had led to a better supply of information from civil society and, consequently, more arrests and less crime. While he commended the efforts made to enhance cooperation, he nonetheless counselled vigilance against efforts to sabotage the reform.

34. To address corruption in Haiti, particularly within the justice system and the police, all the parties involved had held discussions on the issue, during which the Government had emphasized the need for improved cooperation among the parties. Early results were promising, in particular the unprecedented arrest of a number of police and judicial police officers. Lastly, reform of civil status in Haiti, which he had long advocated, had begun and appeared to be on the right track.

35. Mr. PIERRE (Observer for Haiti) said that Haiti's newly elected leaders had set themselves the goals of strengthening the rule of law, ensuring security and stability, and combating poverty. His Government was convinced that the rule of law could be strengthened only after radical reform of the judicial system. To that end, an action plan had been elaborated, focusing on reform of judiciary regulations, the Supreme Council of Justice and the Judicial Training College. Draft legislation covering those reforms had been submitted to the Haitian Parliament for ratification, and a Secretary of State for judicial reform had been chosen.

36. His Government was pursuing a policy of protecting human rights and in that connection had prepared a bill on the status of women. As part of the civil status reform, an inter-ministerial commission had introduced a bill on a National Identification Office. The Haitian Parliament had also recently ratified two International Labour Organization conventions relating to child labour.

37. His Government believed that the rule of law meant good governance. Accordingly, it had begun to root out and remove officers of the Haitian National Police who were deemed unfit. At the same time, it was conducting a determined campaign against corruption; to that end, Parliament had ratified the United Nations Convention against Corruption.

38. The issue of security was also being addressed. The Government had adopted a plan of action that was beginning to bear fruit. With the help of MINUSTAH, Haitian National Police officers were tracking down miscreants, while the Government was pursuing criminals with a view to eliminating the violence which often had its roots in poverty. Peace had more or less returned to Haiti, and the Haitian people could look forward to an environment that was secure, stable and conducive to economic development. As part of its campaign against poverty, the Government had increased its efforts to encourage national and international investment.

39. Where there was poverty, democracy and the rule of law were at risk and full enjoyment of human rights would remain out of reach. For that reason, the international community in general and the Human Rights Council in particular should place special emphasis on economic and social rights, including the right to development, and should contribute to their realization.

40. The issue of the deportees who were being held in Haiti for security reasons but who had committed no crime in their own country was of great importance to Haiti. The Government anticipated strong support from the Human Rights Council and its partners in creating a reintegration centre for those repatriated citizens of Haiti.

41. At a turning point in its history, Haiti was in greater need of justice, peace and solid human rights institutions than ever. For that reason, he had been authorized by his Government to request the High Commissioner for Human Rights to extend the mandate of the Independent Expert on the situation of human rights in Haiti for one year so that the Haitian authorities could continue to avail themselves of his expertise as they rebuilt their country.

42. Mr. MEYER (Canada) said that, like the Independent Expert, his delegation was also concerned by the weakness of the justice system in Haiti, which had resulted, for example, in prolonged detentions and prison overcrowding. Greater priority must be attached to justice and penal reform so that they could keep pace with police reform. Canada was focussing its efforts on improving all of those areas. He invited the Independent Expert to give his views on the situation in Haiti one year after its Government had been elected, including on challenges that the country and its international partners should be focussing on. He also asked the Independent Expert whether MINUSTAH was giving enough attention to human rights and how human rights efforts could be strengthened both in the present and after the departure of MINUSTAH.

43. Ms. KONRAD (Germany), speaking on behalf of the European Union, welcomed the constructive relationship that had been established between the Independent Expert and the Haitian authorities. She noted with approval that that relationship might have assisted the country in its long-term judicial and law enforcement reforms, two areas of fundamental importance to the realization of human rights. The approach taken by the Independent Expert underscored the benefit for countries of cooperating with the special procedures.

44. She sought further information from the Independent Expert on the implementation of his recommendations regarding the strengthening of the internal investigation branches of the

judicial system and the police; efforts to combat corruption; the provision of legal assistance; reform of the Office of the Ombudsman; and the strengthening of standard medical practices. She also wished to know whether any of the Independent Expert's recommendations on combining laws on women's rights, contraception and family law reform into a single text had been pursued by the authorities. What forms did the international community's support for those recommendations take?

45. Mr. FEYDER (Observer for Luxembourg) said that his delegation was concerned that Haiti's economy had been made into one of the world's most liberal following reforms imposed by the International Monetary Fund and the World Bank. A striking illustration of the opening up that had taken place was the reduction of customs duties on rice within a few months from 50 per cent to 3 per cent. As a result, rice imports had rocketed while local production had plummeted. Haiti currently had to set aside 80 per cent of its export earnings for food imports, particularly rice. That policy had struck a terrible blow to Haitian agriculture, and he therefore asked the Independent Expert whether the relationship between the full enjoyment of economic, social and cultural rights and trade policies could be taken into account when he considered the situation of human rights in Haiti.

46. Mr. JAZAÏRY (Algeria) said that he had found some of the special rapporteurs' reports conciliatory and others antagonistic. General Assembly resolution 60/251 spoke of dialogue and cooperation, and he would like the Council to consider how in the future it might express its appreciation to those mandate-holders who managed to create a climate that helped countries to make progress on the situation of human rights, as in the case of Haiti. Talk of blockades was perhaps not the best way for a body such as the Council to promote human rights.

47. Ms. LEVIN (Observer for the United States of America) commended the Independent Expert for his thorough overview. Haiti's restoration of democratic institutions during 2006 had indeed been a significant achievement, although much remained to be done to consolidate the rule of law. Recalling her country's financial contribution to those efforts, she welcomed the progress made by the police and MINUSTAH in reducing the power of gangs in Port-au-Prince, which had led to a reduction in serious crime and given a much-needed boost to public confidence. Such progress could not last, however, if the police and the judicial system were not credible or effective. Corruption and institutional capacity within the judiciary were a major concern. The international community must continue its long-term support in order to consolidate the gains made to date and secure conditions conducive to democratic governance, the rule of law and the permanent reduction of criminality, especially crimes against women.

48. Mr. CHIHUAILAF (Observer for Chile) said that, in addition to the shortcomings in Haiti's police force and judicial system, a number of practices persisted in the country that were not consistent with respect for human dignity. Chile welcomed the adoption of a national plan to combat violence against women and urged the Government to introduce the necessary reforms relating to women's legal and social status.

49. His delegation agreed that reintroducing the death penalty would achieve nothing: to compound street violence with State violence would be utterly counterproductive. It likewise agreed that, as civil society was a key component in reconstruction, the Council should demonstrate its solidarity with NGOs working in Haiti.

50. Lastly, he asked whether the Independent Expert could provide any information on the outcome of the first phase of the Ministry of Justice plan of action and the implementation of priority reforms.

51. Mr. FLORÊNCIO (Brazil) said that it was important to provide advice and substantive support on human rights issues in order to restore dialogue between the police and the judiciary in Haiti. He had been pleased to learn that there was real political will to improve Haiti's police force; efforts in that regard should focus on training and the eradication of corruption.

52. He asked the Independent Expert what effective steps the international community could take to promote and protect human rights in Haiti. He also wondered how the police and MINUSTAH could further enhance security and human rights in the country.

53. Mr. JOINET (Independent Expert appointed by the Secretary-General on the situation of human rights in Haiti) said that vetting the police and the judiciary was no simple matter. A simple purge would not suffice, for corruption was so widespread that an enormous number of people would have to be suspended, and that in turn raised the question of what would happen to them afterwards.

54. International cooperation could help, firstly, by replacing Haiti's forensic laboratories, all of which had been destroyed, and, secondly, by building at least one new prison. He had at first opposed the construction of new prisons, notwithstanding the atrocious conditions in existing facilities, believing that it would only encourage more long-term detentions. However, since the implementation of measures such as the reorganization of the Port-au-Prince prosecutor's office, he found the idea more acceptable.

55. It was indeed true that Haiti had the world's most open economy - and that was partly why it also had the most corruption. One reason that the President of Haiti placed such a high priority on eradicating corruption was that doing so would increase security and help combat poverty, and thereby attract investors.

56. Excellent work was being done on the status of women. The difficulty was that, in a period of reform, parliamentary timetables became overloaded, creating delays in the adoption of legislation.

57. There had been clashes between certain civil society organizations and MINUSTAH, but things were improving as human rights organizations began to play a more active role in reform processes.

58. Mr. PIERRE (Haiti) thanked the Independent Expert and said that every report he had produced on Haiti had become a practical tool for use by the Government, researchers, students and human rights workers. He also thanked all those countries that had continued to provide financial and technical support to Haiti.

59. The PRESIDENT drew attention to the note by the Secretariat on the report of the Independent Expert appointed by the Secretary-General on the situation of human rights in Somalia (A/HRC/5/2) and invited the Independent Expert to provide an oral update on the situation of human rights in Somalia.

60. Mr. ALNAJJAR (Independent Expert appointed by the Secretary-General on the situation of human rights in Somalia) said that the security situation in Somalia had deteriorated considerably since his last briefing to the Council in September 2006. Between December 2006 and January 2007, Transitional Federal Government forces, backed by Ethiopian troops, had dislodged the Islamic Courts Union from southern and central Somalia and taken control of Mogadishu and most of the southern and central region. There had been reports of violations of human rights and of international humanitarian law, including renditions within the context of the war on terror.

61. In February 2007 Security Council resolution 1744 (2007) had authorized deployment of an African Union force (AMISOM) for a six-month operation leading to a possible United Nations mission. Some 1,700 troops had been deployed out of a planned force of 8,000.

62. One of the key human rights issues in southern and central Somalia was the protection of civilians. There had been widespread reports of indiscriminate artillery fire, shelling and car bombs in civilian areas, and of non-military targets such as hospitals and schools being hit during the fighting. He and 11 other mandate-holders had issued a joint statement on 27 April 2007 calling for a ceasefire and respect for international humanitarian law in times of conflict and human rights at all times.

63. An estimated 400,000 people had fled Mogadishu in February and May 2007 as a result of the fighting. That was in addition to the more than 400,000 existing internally displaced persons, who were subject to threats, intimidation, looting, assault and rape. Sexual violence had always been an issue of concern in Somalia, given the continuing conflicts, the lack of a justice system and the absence of law and order. However, the lack of security in and around camps for internally displaced persons, together with the re-emergence of armed groups and freelance militias and the arrival of a large population of military troops, had contributed to the increase in incidents and to the climate of utter impunity in which they occurred.

64. The National Reconciliation Congress was due to start on 14 June. Sustainable peace in Somalia could be attained only through an inclusive dialogue leading to a political solution and national reconciliation. The Congress should be seen as a positive first step within the broader framework of a reconciliation process for Somalia.

65. The situation of human rights defenders was deteriorating. Widespread harassment, sometimes culminating in targeted killings of human rights defenders, journalists, humanitarian aid workers and public figures, continued.

66. According to the United Nations Children's Fund (UNICEF), children had been active combatants in recent fighting, which he found completely unacceptable. He welcomed the recent report on Somali children in armed conflict that had been submitted to the Security Council pursuant to its resolution 1612 (2005). The recent fighting had also severely affected school enrolment. In fact, most Somali children, and young girls in particular, had no chance of formal education at all.

67. The situation with regard to economic, social and cultural rights remained disturbing. The waters off the extensive and unmonitored Somali coast were still rife with human rights abuses: unfettered fishing and environmental degradation by foreign vessels continued, and piracy appeared to be on the rise, often hampering much-needed humanitarian assistance.

68. Although the situation in “Somaliland” was comparatively peaceful, he continued to be concerned about police brutality, arbitrary arrests of journalists and human rights defenders, reports of impunity and so-called security committees which exercised judicial responsibility without fair trial guarantees. In “Puntland” the main issues were still coastline protection, living conditions in camps for internally displaced persons and the need for humanitarian assistance to those camps, sexual and gender-based violence, harassment of the media and the absence of the rule of law or an effective justice system. He urged the authorities there to take action against people trafficking and smuggling.

69. He wished to make five recommendations to address the developments he had just reported. First, the United Nations should encourage greater support for the Transitional Federal Institutions, which it must press to provide protection to the population and implement the human rights principles contained in the Transitional Federal Charter. Secondly, the United Nations and the Somali authorities must increase their efforts to address immediate human needs and protect the human rights of the hundreds of thousands of internally displaced persons scattered across Somalia. Thirdly, the United Nations and the international community should work with the Transitional Federal Government, possibly through an inquiry or investigation, to obtain information about the current human rights situation and any violations that might have taken place during the many months of recurrent fighting. Fourthly, the international community should support the National Reconciliation Congress, bearing in mind that the Congress was part of a larger framework of reconciliation and as such the beginning of a process that did not, however, preclude other transitional justice initiatives or processes. Lastly, in the event that a United Nations mission for Somalia was authorized, any such operation must include a human rights component to conduct monitoring and investigations and provide capacity-building and awareness-raising. The mission should also have a strong civilian protection mandate.

70. Ms. KONRAD (Germany), speaking on behalf of the European Union, said that the European Union continued to support the Independent Expert’s mandate. It deplored the recent fighting in Mogadishu and urged all parties to commit themselves to a lasting cessation of hostilities.

71. She asked the Independent Expert what measures he would suggest to improve the protection of the civilian population, particularly in view of the humanitarian crisis unfolding in the wake of the intensified fighting and following the renewed inter-clan conflicts, exacerbated by the floods of 2006. What concrete steps should be taken to advance respect for human rights and humanitarian law by the Transitional Federal Government and other parties, including free and unhindered humanitarian access to all in need? With regard to the provision of assistance, she asked him to give his assessment of the current move from an access-based approach towards a more needs-based approach. She asked also how the rights of internally displaced persons should be best protected in the light of the current evictions that were being carried out in Mogadishu to make way for public institutions.

72. She wondered how women could enhance their voice and participation in the political process, in the light of the relevant provisions of the Transitional Federal Charter. Lastly, she asked the Independent Expert how he believed human rights could better be integrated into a judicial system comprising customary law, sharia law and secular law based on a system inherited from the colonial era.

73. Mr. DOUALEH (Djibouti) said that Djibouti had persistently called for dialogue between the Transitional Federal Government and other parties in order to reach a comprehensive and durable solution to the crisis in Somalia. His delegation was therefore encouraged by the convening of an all-inclusive Congress and by the fact that the Transitional Federal Government had expressed a strong commitment to revitalizing the peace process. Djibouti strongly supported that initiative. The political, material and financial support of the international community remained crucial. The benefits of such an investment in peace by the international community would far outweigh the costs.

74. Ms. LEVIN (Observer for the United States of America) said that sustainable security and stability in Somalia continued to be impeded by extremists, clan tensions, the displacement of populations and delays in the deployment of African Union mission troops. In order to promote security and stability on the ground, the United States sought the establishment of a stable national Government based on national reconciliation. The United States President had appointed a special envoy for Somalia, who would engage with the Transitional Federal Government, clan elders, the business community, civil society and other Somali stakeholders, as well as with regional and international partners.

75. She asked the Independent Expert how it might be possible for the international community to work together to ensure the defence of human rights in Somalia and how the Human Rights Council could most appropriately express its human rights concerns about Somalia.

76. Mr. VELLANO (Observer for Italy) asked the Independent Expert what concrete steps should be taken to prevent human trafficking, which often resulted in people undertaking perilous sea journeys, in many cases being forced by the smugglers to leave the boat while still far from shore. He also asked the Independent Expert to elaborate further on the protection of children's rights in Somalia, particularly with regard to street children.

77. Mr. ALNAJJAR (Independent Expert appointed by the Secretary-General on the situation of human rights in Somalia) said that a political settlement would be a way into the process of protecting human rights of civilians and solving the long-standing and worsening situation of internally displaced persons. He agreed that stable, viable government was a key component of human rights protection, and the Transitional Federal Government was also aware that development must include a human rights component, including the establishment of an independent human rights commission. The United Nations had a role to play in strengthening that human rights component, and the international community must also commit itself to providing resources for that effort.

78. The question of trafficking was a complicated one. Somalia's coastline was extremely long and foreign vessels were endangering Somali people's livelihood. The international community could help by providing vessels or monitoring, or even setting up some kind of institution to control the coastline.

79. Mr. FORST (National Human Rights Commission of France) commended the Independent Expert appointed by the Secretary-General on the situation of human rights in Haiti for his report (A/HRC/4/3). The combination of corruption and extreme poverty made it difficult to guarantee Haiti's citizens full exercise of their rights. Efforts to re-establish constitutional legitimacy and bring about judicial reform were being hampered by corruption and the threatened reinstatement of the death penalty. The situation in Haiti demonstrated the extent to which human rights were indivisible and interdependent. When people were deprived of their civil and political rights, how could they demand their economic and social rights? When they were deprived of everything, how were they to exercise their civil and political rights? As the Independent Expert had noted in his report, the Office of the Ombudsman could play a fundamental role in Haiti. The measures recommended by the Independent Expert were indeed appropriate, but if the necessary resources were not allocated, those efforts might once again come to nothing.

80. Mr. FITZPATRICK (Asia Pacific Forum of National Human Rights Institutions) said that his organization and its member institutions welcomed the Cambodian Government's decision to establish an independent national human rights institution in full compliance with the Paris Principles that would be responsible for investigations into human rights violations, public education and monitoring. Significantly, announcement of that decision had first been made at a meeting convened by the four existing national human rights institutions in the Association of Southeast Asian Nations (ASEAN) region. The Asia Pacific Forum had held discussions with representatives of the Cambodian Parliament, Government and civil society on the establishment of an independent national human rights commission in Cambodia. It was committed to providing its collective expertise in that endeavour and looked forward to welcoming the institution as a member.

81. Ms. CHAVIANO (Centrist Democrat International) said that her father, Francisco Chaviano González, had been held as a political prisoner and prisoner of conscience in Cuba since 1994. He had founded the National Council for Civil Rights in Cuba and had worked to document cases of persons who had been "disappeared" for seeking freedom during the long years of dictatorship in her country. The political police had carried out their threat to sentence him to 15 years in prison if he did not stop that work, and he had been tried by military tribunal, despite being a civilian, in 1995. He had been psychologically tortured for almost a year at the headquarters of the Cuban political police in Havana, where he had been held without a trial and stripped of all his rights. Her father was not receiving proper medical care despite being seriously ill, his conditions of detention were unsanitary and abusive and he had been denied family visits for long periods. Both she and her mother had endured harassment and repression at the hands of the political police. She sought justice for her father and for her family, who had been made to suffer for defending human rights, and she called for human rights to be respected in Cuba and for all Cuban political prisoners to be released.

82. Mr. HILL (Amnesty International) said that serious violations of human rights and international humanitarian law continued to take place in Somalia, and that it was therefore necessary to maintain an international human rights focus on that country. In order to improve the protection of basic human rights in Somalia, he recommended that the mandate of the Independent Expert appointed by the Secretary-General on the situation of human rights in Somalia should be extended. He requested OHCHR to expand its field mission to Somalia in order to provide technical assistance and advice on human rights to the Transitional Federal Institutions and to international agencies working there, and to support Somali human rights defenders.

83. He recommended that the Transitional Federal Institutions should develop a strategy and action plan to ensure respect for human rights and protect vulnerable groups, and that the international community should assist them in that work. The Transitional Federal Institutions should guarantee international humanitarian agencies safe and unrestricted access to the 800,000 internally displaced persons in the country. Effective mechanisms should be developed for the independent, impartial investigation of past war crimes, crimes against humanity and serious violations of international humanitarian and human rights law, particularly those committed during the recent fighting in Mogadishu. He asked the Council to support those recommendations and the Independent Expert to take them into account.

84. Mr. GILLIOZ (Human Rights Watch) said that Human Rights Watch researchers had documented serious violations of international human rights and humanitarian law by most of the armed groups engaged in the conflict in Somalia. There had recently been a massive surge in indiscriminate attacks on civilians by all the main parties to the conflict in Mogadishu, and serious violations of international humanitarian law amounting to war crimes may have occurred. The Council should support efforts to protect civilians and investigate and hold accountable those responsible for human rights abuses. It should consider ways of investigating those crimes in an independent and impartial manner. Any investigative mechanism should also be mandated to draw up recommendations for further investigation of and ensuring accountability for past crimes in Somalia.

85. He recommended that the mandate of the African Union and any future United Nations force in Somalia should include civilian protection and other human rights monitoring functions. Relevant special rapporteurs, including the Special Representative of the Secretary-General on the situation of human rights defenders, should visit Somalia, in view of the substantial pressure experienced by local human rights defenders, the media and other civil society activists. Sustained independent human rights monitoring and reporting were essential, and he urged OHCHR to explore the possibilities of expanding its field presence in Somalia.

86. The remarks made by the Special Rapporteur on the situation of human rights in Belarus contrasted sharply with his conclusion in paragraph 51 (d) of his report (A/HRC/4/16) that in carrying out his mandate he had met with “an absolute refusal to cooperate on the part of the Government of Belarus” and that “efforts made to engage in constructive dialogue were fruitless”. He therefore wished to know what measures the Special Rapporteur recommended that the Council should take in response to the intransigence of the Belarusian Government.

87. Mr. HÉDOUVILLE (International Federation for Human Rights) said that his organization and one of its members, the Lawyers' Committee for the Respect of Individual Liberties (CARLI), were deeply concerned at the situation of human rights in Haiti, where insecurity and attacks on freedom of expression persisted, as demonstrated by the deaths in May 2007 of two media workers. The situation with regard to justice was also a source of concern, and much of the population could not meet their basic needs because of the rampant corruption in Haiti.

88. In view of those concerns, he requested that the Council should encourage capacity-building efforts by friendly States; adopt a resolution on the situation of human rights in Haiti recommending that the Government should take specific measures to improve human rights; engage in efforts to combat corruption, in particular by condemning the embezzlement of funds by the Duvalier regime; and renew the mandate of the Independent Expert on the situation of human rights in Haiti, which expired in June 2007.

89. Mr. MAURIKOS (World Federation of Trade Unions) expressed his dismay at the impassivity of OHCHR in the face of the paradoxes and contradictions that emerged year after year when issues related to Cuba were raised. No other independent and sovereign country had been subjected to such an extent of criminal interference. That ongoing inhuman aggression waged against that country, which was akin to genocide, violated all the rights of the Cuban people. He had been astonished and dismayed to learn that the "subjects of concern" in the report of the Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba (A/HRC/4/12) did not include the blockade and the undeclared war against the Cuban people and that the blockade was not the subject of a single recommendation. All the recommendations prescribed drastic and interventionist measures that Cuba alone was supposed to endure; not one of them was directed at the Government that was attacking and assaulting Cuba. It was difficult to imagine that a report by a senior United Nations official could be so inconsistent. The World Federation of Trade Unions demanded answers to those questions and urged the Council to hold the Government of the United States of America to account.

90. Mr. LAO (Asian Legal Resource Centre) said that the report of the Special Representative of the Secretary-General for human rights in Cambodia (A/HRC/4/36) had accurately depicted the situation of human rights in Cambodia. He would be interested to learn from the Special Representative what the Council and the Government of Cambodia could do to address that situation. For example, he wished to know how it was possible to have an independent judiciary when almost all judges were affiliated with the ruling party and were therefore subject to party disciplinary measures. The President of the Cambodian National Assembly himself had said that it was difficult to find independent judges. Even the Chief Justice was a member of the permanent and central committees of the ruling party.

91. He asked how the Cambodian justice system could protect human rights and freedoms when it was undermined by a system of rule by decree. One example of that system was the "land-grabbing" issue, which in 2006 had affected nearly 4,700 families across the country. He also wished to know what the Special Representative and the Council could do to ensure that the Cambodian Government ended the party affiliation of judges, enacted a law to guarantee the tenure of judges and protect their independence, and reform the Supreme Council of Magistracy to make it an independent body that was more accessible to the public.

92. Mr. BADENAS (Centre Europe-Tiers Monde) said that no person or State was - or should be - above the law. It was in that spirit that the General Assembly had in its resolution 60/251 assigned to the Human Rights Council the task of undertaking a universal periodic review of the fulfilment by each State of its human rights obligations and commitments. The President himself had said that the universal periodic review should ensure the universal coverage and equal treatment of all States. Yet since the Council had been established it had had only four countries on its agenda: Belarus, the People's Democratic Republic of Korea, Cuba and Myanmar. Consideration of those countries was a legacy of the former Commission on Human Rights that reflected the former body's practice of applying double standards when dealing with the situation of human rights in specific countries, a practice that had led to its abolishment. The country-specific mandates had demonstrated their shortcomings, and the Human Rights Council should work to establish a universal periodic review of the effective implementation of all human rights throughout the world.

93. Mr. BARNES (Indian Council of South America) said that insofar as the special procedures country mandates were concerned, the Council must rationalize once and for all its method of addressing human rights violations wherever they occurred as part of the process of reviewing, improving and rationalizing all mandates called for by the General Assembly in its resolution 60/251. The attempt to create a system that eliminated politicization and selectivity appeared to be at a standstill; the Council had not demonstrated its willingness to address all situations, as it had been called upon to do. The Council's practice must be consistent and far-reaching so that all States were treated equally, regardless of their size, economic status or power. That could be achieved through a more transparent process that allowed for greater participation of all stakeholders in the work of the Council. One way to eliminate selectivity and politicization would be to have a resolution submitted for every State as it underwent the universal periodic review process.

94. He called for an end to the mandate of the Special Rapporteur on the situation of human rights in Cuba, which was politically motivated and did not comply with the principle of limiting country-specific mandates to States that demonstrated a pattern of gross violations of human rights.

95. Mr. MARKUSHEUSKI (International Helsinki Federation for Human Rights) said that his organization and the International Federation for Human Rights were deeply concerned at the grave situation of human rights in Belarus, which remained the worst in Europe. The authorities of that country had increased their repression of civil society: all major human rights organizations had been closed down in recent years, with the exception of the Belarusian Helsinki Committee, which was constantly being harassed. Activists of "suspended" or "liquidated" organizations carrying out activities were liable to imprisonment under the Belarusian Criminal Code as amended in 2005, and many had already been convicted. A law adopted in 2003 severely restricted the right to peaceful assembly. Freedom of the press had also been severely restricted: the independent media had been eliminated, journalists were arbitrarily detained and the free distribution of independent newspapers was hampered.

96. The mandate of the Special Rapporteur on the situation of human rights in Belarus had been established in 2004 and renewed in 2005. In 2006, the General Assembly had expressed its deep concern in its resolution 61/175 and had formulated recommendations to the Government of Belarus. Yet Belarus had blatantly failed to cooperate with all United Nations human rights

mechanisms: it had failed to comply with its reporting obligations to the treaty-monitoring bodies since the end of the 1990s and had not responded to requests for visits made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Representative of the Secretary-General on the situation of human rights defenders. The Special Rapporteur on the situation of human rights in Belarus held the only remaining mandate that was capable of communicating the concerns of Belarusian civil society to the international community and allowed civil society to hope that the human rights situation in Belarus could in fact be improved.

97. Mr. ALARCON (Comisión Jurídica Para el Autodesarrollo de los Pueblos Originarios Andinos (CAPAS)) said that the country review mechanism had in some cases dealt with violations of the rights of indigenous peoples. In every country with indigenous peoples serious incidents had taken place that fell within the mandate of the Council and required more extensive treatment than they were currently being given. The special rapporteurs, and the Special Representative of the Secretary-General for human rights in Cambodia in particular had identified and informed the Council of serious violations of human rights of indigenous peoples. Those violations required follow-up, in order to find appropriate solutions and set new human rights standards for indigenous peoples, taking into account their spiritual relationship with the land. Such follow-up could be performed by a specialized body for indigenous peoples, which the Council should establish as part of its new institutional structure. The body for indigenous peoples should be specifically mandated to compile all the observations of the special rapporteurs and examine them in further detail, with the direct participation of indigenous peoples, regardless of their status, and should report directly to the Council on its work. The universal periodic review mechanism should also include a segment in which serious situations affecting indigenous peoples were considered directly by the Council, thereby making the international community aware of events that affected their fundamental rights.

98. Mr. PIERRE (Haiti), speaking in exercise of the right of reply, said that the representative of the International Federation for Human Rights had spoken of attacks on freedom of expression in connection with the murder of two media workers. The Government of Haiti had learned of those deaths at the same time as the rest of the world and deplored the killings. It had ordered an investigation in order to shed light on those arbitrary, cowardly acts. That speaker had also spoken of corruption in connection with the situation of poverty of Haitians. Corruption was not a new phenomenon in Haiti, but the current Government was working to eliminate that scourge.

The meeting rose at 5.55 p.m.