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## Third Committee

### Summary record of the 33rd meeting

Held at Headquarters, New York, on Thursday, 4 November 1999, at 3 p.m.

*Chairman:* Mr. Galuška . . . . . (Czech Republic)

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*The meeting was called to order at 3.15 p.m.*

**Agenda item 113: Programme of activities of the international decade of the world's indigenous people**  
*(continued)* (A/C.3/54/L.45)

*Draft resolution A/C.3/54/L.45*

1. **Ms. Geelan** (Denmark) introduced draft resolution A/C.3/54/L.45 on behalf of the original sponsors as well as Armenia, Guyana, New Zealand, Panama, Peru, the United Kingdom and the United States of America. She announced a correction to the last line of paragraph 8, inserting the word "possible" before the word "establishment". The draft resolution was an updated and slightly modified version of the resolution adopted at the previous session on the International Decade of the World's Indigenous People; it recorded the progress made since then in promoting the Decade.

**Agenda item 115: Right of peoples to self-determination** *(continued)* (A/C.3/54/L.29)

*Draft resolution A/C.3/54/L.29*

2. **The Chairman** invited the Committee to take a decision on draft resolution A/C.3/54/L.29, entitled "The right of the Palestinian people to self-determination", and said it had no programme-budget implications. The Arabic, French and Russian versions of the text had been reissued in order to incorporate some technical corrections. The sponsors had been joined by Brazil, the Congo, Gabon, India, Liberia, Suriname and Zambia.

3. **Ms. Korpi** (Finland) said that there still appeared to be problems with the French text and perhaps also with the text in other languages. She hoped that the necessary corrections would be made in the final report.

4. *A recorded vote was taken.*

5. *Draft resolution A/C.3/54/L.29 was adopted by 119 votes to 2, with 2 abstentions.*

6. **Mr. Sulaiman** (Syrian Arab Republic) welcomed the adoption of the draft resolution by an overwhelming majority. That showed that the international community intended to put an end to the suffering of the Palestinian people and to recognize their right to self-determination. His delegation had

voted in favour as a sign of full support for the struggle of the Palestinians. Israel was the main source of the difficulties in the peace process, which could not be brought to fruition unless that country complied with Security Council resolutions, withdrew from the occupied Arab territories and undertook to comply with the agreements already concluded.

7. **Ms. Buck** (Canada) said that her country had decided to maintain its vote in favour of the draft resolution. While recognizing the right of the Palestinian people to self-determination, Canada maintained its view that the option of a Palestinian State was a matter for negotiation. Canada therefore called on both Israel and the Palestinians to continue their efforts towards achieving peace by September 2000.

8. **Mr. Van-der-Wal** (Australia) said that, as in the previous year, Australia had voted in favour of the draft resolution. However, it considered that the words "which is not subject to any veto" in paragraph 2 were not only redundant — because the right of self-determination was guaranteed by the Charter of the United Nations — but also politically unhelpful in the context of the Middle East peace process, and the final-status talks in particular.

9. **Mr. Oron** (Israel) said that his country supported the right of self-determination and the right of peoples to govern themselves in every region, the Middle East included. In the Camp David Accords of 1978, Israel had recognized the legitimate rights of the Palestinian people and their just requirements. During the Oslo process, Israel and the Palestinians had also agreed to recognize their mutual legitimate and political rights. In the draft resolution just adopted, the merits of the principle of self-determination were not in question, but rather its political expression. Paragraph 1 of the draft resolution referred to the right of self-determination, "including the option of a State". Thus it implied a variety of other options, including the opposite one. Consequently, the paragraph was superfluous.

10. The challenge facing Israelis and Palestinians was to take the peace process forward to its conclusion and to resolve the permanent-status issues, including the political expression of Palestinian self-determination. The Sharm el-Sheikh Memorandum of 4 September 1999 stated that the two sides would make a determined effort to conclude a framework agreement

on permanent-status issues in five months from the resumption of the permanent-status negotiations, and a comprehensive agreement within one year of the resumption of those negotiations. All options were to remain open and any attempt, as in the draft resolution, to prejudice or pre-empt the results of the negotiation would impede attainment of the objectives of the draft resolution. Therefore, his delegation had voted against draft resolution A/C.3/54/L.29.

11. **Mr. Rogov** (Russian Federation) said that, as a sponsor of the Middle East peace process, his country supported the establishment of an independent Palestinian State through political negotiations, which were the only way to achieve the inalienable right of the Palestinian people to self-determination and guarantee the security of Israel. His country was ready to collaborate with the United States, Israel, and the Arab and European countries and also with all those who sought peace in the Middle East, and it had therefore voted in favour of the draft resolution.

12. **Ms. Korpi** (Finland), said, on behalf of the European Union, that the Union reaffirmed the unqualified Palestinian right to self-determination, including the option of a State. It appealed to the parties to strive for a negotiated solution based on existing agreements, without prejudice to that right, which was not subject to any veto. The European Union welcomed the signing on 4 September 1999 of the Sharm el-Sheikh Memorandum, which had opened the door to the resumption of negotiations on permanent status. The European Union called on the parties to implement promptly the interim measures and to complete negotiations in direct talks on the permanent-status issues, within the agreed time-frame set out in the Memorandum, and to refrain from all unilateral acts which could prejudice the final outcome.

13. **Mrs. Barghouti** (Observer for Palestine) expressed her appreciation to those delegations which had voted in favour of the draft resolution and to its 77 sponsors. Its adoption by an overwhelming majority was a very important step towards attaining the primary national objective of the Palestinian people, which was to exercise their right to self-determination, including the option of establishing a State. She regretted that the United States had again cast a negative vote and hoped that it would change its position in the future.

14. The fundamental problem of the Middle East peace process was Israel's opposition to the right of the Palestinian people to self-determination, which violated the principle of mutual recognition by the parties. It was impossible to recognize the other party and at the same time to deny its legitimate right to self-determination. Israel's policy was a grave obstacle to the peace process, which was used as a means of continuing to subjugate the Palestinian people, when what was needed was a mechanism to achieve genuine peace and coexistence. The right of the Palestinians to self-determination was not simply based on the agreements; rather it was natural and inalienable, and was enshrined in the Charter of the United Nations and other relevant instruments.

15. **Ms. Enkhtsetseg** (Mongolia), **Mr. Ndiaye** (Senegal), **Ms. Toé** (Burkina Faso), **Ms. Al-Moosa** (Oman), **Mr. Melik-Aslanov** (Azerbaijan), **Mrs. Brobbey** (Ghana), **Ms. Factanini** (San Marino), **Mr. Šimonović** (Croatia) and **Mr. Karnowski** (Poland) said that, if they had been present, they would have voted in favour of the draft resolution.

16. **Ms. Mazzei** (Venezuela) said that she had voted in favour of the draft resolution but her vote had not been recorded, owing to a technical problem.

#### **Agenda item 116: Human rights questions** (*continued*)

**(b) Implementation of human rights instruments** (*continued*) (A/54/93, 137, 216, 222 and Add.1, 303, 319, 336, 353, 360, 386, 399 and Add.1, 401, 439 and 491)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/54/188, 302, A/54/330-S/1999/958, A/54/331-S/1999/959, A/54/359, 361, 365, 366, 387, A/54/396-S/1999/1000 and Add.1, A/54/409, 422, 440, A/54/465-S/1999/1060, A/54/466, 467, A/54/482-S/1999/1076, A/54/493-S/1999/1085 and A/54/499; A/C.3/54/3 and 4)

*Report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan* (A/54/422)

17. **Mr. Hossain** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan), introducing his second report (A/54/422), said that, in his first report to the

Commission, he had pointed out that the people of Afghanistan had continued to be victims of gross violations of human rights and persistent breaches of international humanitarian law, and that they were virtual hostages in their own land, which was being ruled by externally armed groups without the participation or consent of the people. It was of critical importance to initiate a transition towards a broad-based, representative government which enjoyed the confidence of all segments of the population, including a significant proportion of the 3 million to 4 million Afghan refugees forced to live outside Afghanistan. It was, therefore, to be regretted that the meeting of the "six-plus-two" group held in Tashkent from 17 to 21 July 1999, which had been attended by the Secretary-General's Special Envoy and in which the Taliban movement and the United Front had participated, had failed to achieve progress, and that the more limited aim of reaching a ceasefire had not been achieved.

18. On 27 July 1999, the Taliban had launched a major offensive across the Shamali valley north of Kabul, with fighting extending into the provinces of Parwan, Kapisa and Kunduz. That offensive had followed the resumption of conflict in the central highlands. On 9 May 1999, the Taliban had retaken Bamyán, which had been taken by the opposition. Most of the population had evacuated the city and taken refuge in the mountains. After receiving reports of serious human rights violations in the central highlands, particularly in Bamyán, the Special Rapporteur had decided to seek first-hand information and had visited Quetta, in Pakistan, and Kandahar from 21 to 23 May 1999. In Quetta, he had interviewed newly arrived refugees from Hazarajat. The human rights violations reported to him by credible eyewitnesses had included forced displacement of the civilian population, deliberate burning of houses, summary execution of non-combatants, arbitrary detention and forced labour. Then, in Kandahar, he had met the Special Adviser to the Taliban leadership, to whom he had personally delivered an aide-mémoire with the request that action should be taken to stop the human rights violations described in it. An adequate response was still awaited.

19. The declaration signed by the participants in the Tashkent meeting had included a commitment to seek peaceful settlement of the conflict through negotiation and not to provide military support to any conflicting Afghan sides. Nevertheless, the forces engaged in the

offensive launched by the Taliban in the Shamali valley had reportedly included non-Afghans of different nationalities and that the commitment not to provide military support had not been respected, since significant logistical support and supplies were being delivered to those forces, enabling the Taliban to carry out a large-scale offensive with successive rounds of aerial bombardment. There was incontrovertible evidence of involuntary displacement of large numbers of civilians, especially women and children. There had been first-hand reports of the burning of houses and crops, forced deportation, family separation, separation and deportation of women, and arbitrary killing in southern Shamali.

20. The Taliban authorities had repeatedly urged that recognition should be extended to them, as in their view they controlled most of the territory and had substantially restored law and order. A broad-based, multi-ethnic, representative government that could legitimately seek and expect recognition would be one constituted in accordance with internationally recognized human rights norms as embodied in the International Covenant on Civil and Political Rights, to which Afghanistan was a party. The presence among the Taliban leadership of members of different ethnic groups or warring factions did not satisfy the requirement of the Covenant, since, to represent any group, representatives would have to be chosen in accordance with acceptable procedures, agreed through peaceful political negotiations.

21. Although the Taliban had established a degree of security in areas under their control, discriminatory restrictions had been imposed on women and girls in those areas through edicts issued and enforced mainly by the Ministry for the Prevention of Vice and the Promotion of Virtue. They had been enforced with varying degrees of rigour throughout the country and had been felt most profoundly in urban areas, where women used to have greater access to health facilities, employment opportunities and education. In addition to the continuing war and the policies directed towards the removal of women from public life, the situation of women in Afghanistan was also affected by poverty, low literacy rates, cultural traditions, lack of appreciation of their health needs and lack of adequate numbers of female health-care personnel. With regard to health, women of child-bearing age constituted the most vulnerable group. During the recently resumed conflict — which still continued — grave breaches of

humanitarian law had occurred. Those responsible should be warned of the criminal liability they were incurring by persistent breaches of international humanitarian law, which included aerial bombardment, laying of mines, summary execution, destruction of homes and sources of livelihood, and the abduction of and violence against women.

22. The peace process should be revived at the earliest opportunity with an agenda that would underscore the need for an agreement based on a broad-based, multi-ethnic, representative government acceptable to all segments of the Afghan population, including the 3 million to 4 million refugees living outside Afghanistan. The Taliban authorities, who appeared to be engaged in drafting a constitution, should understand that such a draft must be circulated among all segments of the population and could acquire legitimacy only if approved by properly chosen representatives of all the Afghan people. While the foregoing basic changes were in the process of being agreed and implemented, a human rights-based programme of humanitarian assistance should be given the highest priority in order to meet the basic needs essential for survival and the right to life, with simultaneous pursuit of strategic long-term objectives, namely, a state of peace and stability essential for the enjoyment and protection of human rights.

23. **Mr. Farhâdi** (Afghanistan) thanked the Special Rapporteur for his report. Although it referred to the presence of foreign forces in Afghanistan, it did not mention that they were mainly Pakistani army regulars and mercenaries, armed and dispatched by the Pakistani military intelligence. The Special Rapporteur, who could have visited many of those Pakistani prisoners in the custody of the armed forces, admitted the presence of foreign military personnel in Afghanistan, but did not say that the sending of armed men to an independent and sovereign country constituted a crime of aggression and that, in that case, the aggressor was Pakistan. With regard to crimes against humanity, genocide and ethnic cleansing perpetrated by the invading forces in Afghanistan, which were widely reflected in the report, the perpetrators of such acts must be brought to justice, and the international community must consider them as committing crimes against humanity. Anyone who, in the remotest sense, might be commanding, aiding and abetting the Taliban, such as the Pakistani intelligence service, should be mentioned clearly by name.

24. In Afghanistan, the Sunni and Shiite Muslim communities had co-existed harmoniously for centuries without violence. With the emergence of the Taliban, the Pakistan-based extremist groups had exported their anti-Shiite activities to Afghanistan for the purpose of disintegrating Afghan society. The Taliban and their Pakistani mentors in Afghanistan were propagating ethnic hatred and ethnic and religious extermination. Before the occupation of Kabul by the Taliban in September 1996, the Islamic State of Afghanistan had respected the human rights of women, who had been making a significant contribution to civil society. The Special Rapporteur had not travelled to the north of Afghanistan in the areas under the control of the Islamic State of Afghanistan, where he could have witnessed the respect and high regard for the rights of women and girls and their right to education and employment. Neither had he been able to see directly the plight of those who had been forced to leave their homes. He would also have witnessed the atrocities committed by the Pakistani-Taliban forces in their invasion of territories north of Kabul and the Shamali valley. Many journalists, non-governmental organizations and delegations visiting the area had shown pictures of those tragic scenes and reported on them.

25. The pro-Taliban Pakistani media always repeated the misconception that the Taliban had brought law and order to the territories that were militarily occupied. Sadly, people of good faith sometimes repeated that fabrication. In reality, the Afghan people were victims of persecution — virtually prisoners in their own land — and in no way enjoyed any of the rights and freedoms which other peoples of the globe enjoyed. Armed occupation did not guarantee legitimacy, freedom or security. Western observers had stated that the Taliban had brought peace to Pakistan in the same way as Hitler had brought peace to Warsaw. In fact, the human rights situation in Pakistan continued to worsen. The international community must provide assistance to the victims before the approach of the cold Afghan winter.

26. **Ms. Korpi** (Finland), speaking on behalf of the European Union, inquired what immediate measures were needed in order to enhance the situation of women in Afghanistan. She also asked about the situation of displaced persons and what the possibilities were of their returning home in the future.

27. **Mr. Hossain** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan) said that, in his report, he examined in depth the situation of women in Afghanistan. He recommended strict monitoring of the tangible progress made in specific spheres such as education, health and employment. However, the situation could improve only with the establishment of a representative, multi-ethnic and broad-based government that would review the edicts and laws in force and would reject those that were incompatible with international human rights standards, which Afghanistan must respect, inasmuch as it was a party to the relevant instruments. Furthermore, it was imperative that the displaced persons should receive humanitarian assistance before the onset of winter, since they did not have adequate shelter or clothing. In order for them to return to their homes, significant progress was needed in the consolidation of peace, since they had been forced to abandon their homes and it would be difficult for them to return and receive the necessary rehabilitation in the areas of conflict.

28. **Mr. Londono** (United States of America) inquired about the reaction of the Taliban to the repeated criticism voiced by the United Nations towards their human rights policy, especially with regard to women and children, and asked what additional measures the Special Rapporteur would recommend in order to induce them to change that policy. He also asked how humanitarian assistance could be prevented from being used to support the belligerent parties, whether politically or militarily. His delegation also wished to have data on the deliberate destruction of lives and civilian property during the latest Taliban offensives, on women who reportedly had been abducted or had disappeared in the areas of fighting, particularly in the Shamali valley, and on the humanitarian situation in the Panjshir valley.

29. **Mr. Hossain** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan) said that the Taliban desired to win the recognition of the international community and knew that the human rights situation was one of the thorniest issues to solve. However, the idea that the legal system which they imposed on the population through their edicts was divine law hampered understanding between the authorities and the defenders of human rights. Yet the latter had made some progress, such as the promulgation of an edict

which permitted needy widows to work, or the improvement made in women's health care. As to international humanitarian assistance, that was essential in order to avoid further suffering of the civilian population, but it must be delivered directly to the communities instead of being channelled through the central authorities. In addition, it was necessary to distinguish between essential supplies for the population's survival and such supplies as fuel which could be used for military purposes.

30. Regarding the destruction of lives and civilian property during the latest offensive, he said that he had interviewed many displaced persons and, together with the Special Rapporteur on violence against women, had compiled a detailed list that included the burning of houses, bombardments and forced displacement of people at only minutes' notice. The abduction of women was due largely to the custom of paying to acquire a wife, and was perpetrated mainly by young soldiers wishing to marry but lacking sufficient money. Clearly, women were one of the population groups who suffered most in such conflicts: they were raped, abducted and separated from the men in the family, who had died in combat or simply had fled. With reference to Panjshir, he said that he had been unable to visit the area because he had had to travel to Bamyan and Shamali, considered areas of priority. Nevertheless, according to information received from other sources, such as the Special Rapporteur on violence against women, there were hundreds of thousands of displaced persons, whose living conditions were becoming desperate owing to the arrival of winter, and they therefore urgently needed humanitarian assistance.

*Report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar (A/54/440)*

31. **Mr. Lallah** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar), introducing his report (A/54/440), said that, despite his persistent efforts and those of the Secretary-General and the High Commissioner for Human Rights, the Government of Myanmar had still not acceded to his request for a visit to the country in discharge of his mandate under successive resolutions of the General Assembly and of the Commission on Human Rights. Although the International Committee of the Red Cross (ICRC) had resumed its work, and several United Nations agencies

were continuing their humanitarian programmes, the situation in the country continued to raise concerns. Political repression kept growing, with the promulgation of repressive laws and a compliant judicial system. Persons participating in any type of political activity were given disproportionate sentences and everything possible was done to compel members of the National League for Democracy (NLD) to abandon their party, including routine violations of their liberty, physical integrity and basic freedoms. There had so far been no engagement in a genuine political dialogue, as urged by the General Assembly and the Commission on Human Rights.

32. In the ethnic areas, human rights violations, including the forcible and large-scale displacement of the population, remained constant; the old, the weak, women and children were not immune. In addition, the Government of Myanmar had failed to take measures to put an end to forced labour, as recommended by the International Labour Organization (ILO). He drew attention to the resolution adopted by the International Labour Conference and endorsed the recommendations contained therein. Although he was convinced that the Government of Myanmar was at war with its own people, he hoped that it would abandon its hostile policies and engage in a genuine political dialogue with the legitimate representatives whom the people had elected.

33. **Mr. Win** (Myanmar) reminded the Committee that, at the forty-eighth session of the Commission on Human Rights, in 1992, the Observer for Myanmar had declared that the decision to appoint a special rapporteur to examine the situation in his country was totally unacceptable, because Mrs. Sadoko Ogata, the Independent Expert sent to Myanmar in 1990 by the Commission on Human Rights, had recognized in her report that, in some aspects relating to human rights, Myanmar was a model society. The Government had allowed the Special Rapporteur to visit the country, five times but, despite statements to the local and foreign press in which the Special Rapporteur had admitted to positive developments in Myanmar, he had never reflected them in his official reports, thereby casting serious doubt on his neutrality. Thus, while the Government had not ruled out a further visit by the Special Rapporteur, that was because he represented a commission of the United Nations and not because it trusted his independence. In fact, his latest interim report remained as highly biased and derogatory as the

previous ones; particularly conspicuous was its lack of methodology and professionalism. In it, he had chosen to ignore the *Human Development Report, 1999*, according to which Myanmar had moved into the category of countries with medium development on the basis of its human development index. The growth rate for the gross domestic product continued to be one of the highest in South-East Asia, despite the slight drop over the past two years. All that indicated that the Government's efforts to promote the people's right to development had prevailed over the effects of the sanctions imposed by some Western Powers.

34. The negative predictions made by certain States and the Special Rapporteur about his country had not come true. Myanmar, which had been ravaged by armed insurgencies for decades, was undergoing rapid socio-economic development, which was also to the benefit of its ethnic nationalities and the rural population. Much of the latest report on human rights violations had been taken from previous reports. As usual, the report included seemingly realistic details designed to elicit sympathy for the imaginary victims, about whom there were no data making it possible to confirm or refute the veracity of the allegations. There was no reference to the visits by the International Committee of the Red Cross (ICRC), the work of the United Nations International Drug Control Programme, or the visits by the European Union troika mission or the Australian Commissioner on Human Rights earlier that year. The report also questioned the Government's right to interrogate the agents of armed terrorists, some of whom had recently occupied foreign diplomatic missions, violating the sovereignty of a friendly neighbouring country, which had drawn international condemnation. The Special Rapporteur had not produced a shred of evidence from any critical source to validate his conclusions. When he referred to minorities in Karen State, he probably meant the Karen National Union (KNU), which was an armed separatist group, and when he mentioned those in Shan State, he meant the drug-trafficking groups operating under the guise of democratic liberation movements. His only sources of information seemed to be the propaganda with which the insurgents sought to break up the Union of Myanmar, having seen that their attempts to do so by military means were leading to disaster. It was regrettable that, in his report, the Special Rapporteur had not recognized that the end of the armed insurgencies was due to the peace offer put forward by the Government, to which hundreds of KNU officers

and soldiers had responded. It should be emphasized that the Government of Myanmar did not rule by martial law.

35. The Special Rapporteur had totally ignored the presentations by the Myanmar delegation to the International Labour Organization (ILO), in which it had pointed out that the obligations undertaken by a State in signing a treaty should be carried out in accordance with the domestic legal system. In addition, ILO had been invited to send a delegation to Myanmar to take a first-hand look at the situation on the ground. Furthermore, with regard to the question of drugs, raw materials for manufacturing amphetamine drugs did not exist in Myanmar. The Government's war against the drug-trafficking bands had not been supported by Western countries, where the demand for drugs continued to grow. It was also deplorable that the Special Rapporteur used religious designations in order to distinguish the general population from the separatists. The people of Myanmar, be they Muslims, Christians or Buddhists, would find that divisive act most reprehensible because, as Mrs. Ogata had pointed out, Myanmar was a model society in that regard. Lastly, the conclusions and recommendations set forth in the interim report reflected the Special Rapporteur's determination to trivialize the positive, accentuate the negative and portray the Union of Myanmar in an entirely negative light in order to help maintain the unfair pressure that some powerful countries were exerting on it. The report contained no credible evidence or independent information relevant to the allegations made in it, and hardly any doubt remained that the report had been drafted with the single-minded intent to slander a Member State. His delegation, therefore, sincerely hoped that, in future the United Nations would not allow such an unfair and derogatory report to be submitted under its auspices.

36. **Mr. Tomseth** (United States of America) requested the Special Rapporteur to explain why his report stated that Myanmar was unwilling to establish a dialogue with the human rights mechanisms established by the United Nations for the protection of human rights. While it was a positive sign that the International Committee of the Red Cross (ICRC) and the Myanmar authorities had reached a verbal agreement for visiting the places of detention. In order to speak of progress, however, there must be an ongoing process, not only mere isolated acts. For that reason, some time would have to pass before it would

be possible to make a definitive evaluation. With regard to the ethnic minorities in Myanmar, the report did not describe in detail the situation in Arakan State, which refugees seemed to be leaving in larger numbers than those returning from Bangladesh.

37. **Mr. Umeda** (Japan) said that the report of the Special Rapporteur seemed to focus its analysis on civil and political rights and that, although he understood the difficulties making it impossible to visit Myanmar and collect sufficient information, the report would be more comprehensive if it also referred to economic, social and cultural rights. Furthermore, with regard to the 1930 Forced Labour Convention, it appeared that ILO had still not indicated whether the situation had improved after the Government of Myanmar, in May 1999, had halted enforcement of the Village Act and the Towns Act. In that regard, it should be asked whether it was not premature to take a definitive decision on the matter.

38. **Ms. Hamalainen** (Finland), speaking on behalf of the European Union, said that the Union regretted that the Special Rapporteur had not been allowed to visit Myanmar and hoped that he would be able to do so in the near future. With respect to the question of forced labour, she asked whether the Government of Myanmar had taken any measures since ILO had adopted its resolution on that matter. With regard to ethnic minorities, the European Union would like to know what could be done to improve their situation.

39. **Ms. Al-Hajjaji** (Libyan Arab Jamahiriya) expressed regret that she had not had more time to consider the report since it had been distributed only several hours earlier. Since Myanmar to date had not authorized visits by the Special Rapporteur, he had had to gather information in other countries from opposition sources or to move monitors towards the borders with Myanmar. For that reason, the information at his disposal was not very reliable and many countries criticized the contents of the report. The fact that a country did not authorize a visit by the Special Rapporteur could be due to such varied reasons as the desire to prevent interference, the fear that destabilization would result, or doubts about his impartiality. Unfortunately, the situation could last for years; and if the State in question did not authorize visits and did not cooperate with the Special Rapporteur, he would not be able to carry out his mission. In view of all those considerations, she wondered whether the States which did not authorize



visits by the Special Rapporteurs could propose other solutions.

40. **Mr. Lallah** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) said, in the first place, that his report was provisional in nature and should be read together with the report that he had submitted in April to the Commission on Human Rights. With regard to the question raised by the United States of America, he said that the lack of cooperation by Myanmar with the human rights mechanisms related precisely to the work of the Special Rapporteur, who, on several occasions, had requested, as had the Secretary-General and High Commissioner for Human Rights, that he be permitted to visit Myanmar. To date, the Government had not given its authorization and stated that it was continuing to consider the matter. The agreement reached between ICRC and the Government of Myanmar was positive, and it was hoped that that cooperation would be fruitful both at the current time and in the future. With regard to the ethnic minorities and the situation in Arakan State, he pointed out that he had not visited those frontier areas and that his information was based on the work of the Office of the United Nations High Commissioner for Refugees. Although it was true that many refugees had returned, it was possible that there were still thousands of them in Bangladesh, for which reason he wished to visit the area and determine why they were not returning.

41. He recognized that, as Japan had pointed out, his report did not refer to economic, social and cultural rights and that was due to the fact that he had not been able to consider the situation on the ground. It had been said that conditions had improved, although that could not be known for certain. As for the halting of the enforcement of the Village Act and the Towns Act, he pointed out that the report had been drawn up in July 1999 and that, at that stage, there had not been any information on the question. In that regard, he suggested dealing with that matter in the following year's report.

42. In response to the comments made by Finland, he said that he was unaware of practical measures which the Government of Myanmar might have taken since ILO had adopted its resolution and that that question would also be included in the following year's report. He felt that the question raised by the representative of the Libyan Arab Jamahiriya was very interesting since it referred to the human rights mechanism itself, and

further pointed out that country visits were extremely useful. In accordance with Articles 55 and 56 of the Charter of the United Nations, Member States were obliged to cooperate with human rights mechanisms. States which did not provide their cooperation were denying the enjoyment of human rights, which was one of the objectives of the international community.

43. **Mr. Win** (Myanmar) said that his Government did not exclude the possibility that the Special Rapporteur might visit the country in order to determine the facts in a concrete manner. Nevertheless, the statements contained in the report were identical to those made by armed insurgents in their propaganda from abroad. For that reason, Myanmar would like the Special Rapporteur to indicate the source of that information since that was the reason why he had still not been authorized to visit the country. Furthermore, the provisions relating to the villages and towns which had been in contravention of ILO Forced Labour Convention had been repealed on 14 May 1999. Since that decision had been officially communicated to ILO in June, the Special Rapporteur should have been aware of it in July. It was extremely important for Myanmar to ensure that the autonomy of its legal system was maintained and that its sovereignty was not violated. With regard to the question of the refugees belonging to ethnic minorities, as they were called in the report, the cause of the problem was not the Government, but separatist guerrillas, who in the past 50 years had confronted all Governments. The current Government, which had extended a hand to them and offered peace, had induced 40 per cent of the insurgents to lay down their arms and return to the country in order to contribute to its development. Referring to the situation on the frontier between Bangladesh and Myanmar, he informed the Committee that both Governments were attempting to solve the problem in a friendly manner and pointed out that, at the current time, of the 200,000 illegal immigrants, only 2,000 were awaiting repatriation on the other side of the frontier.

44. **Mr. Lallah** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) denied the insinuations that his report was based on opposition propaganda and pointed out that, at the current time, there were more than 100,000 refugees on the frontier between Myanmar and Thailand. Obviously, all of them could not be guerrillas, since, as he himself had been able to

verify in some camps, their numbers included ordinary people, among whom there were women and children. The report was based on real testimony provided by those refugees; if that appeared to be propaganda, that had not been his intention.

45. **Mr. Win** (Myanmar) said that the refugees situated on the frontier between Myanmar and Thailand were victims of the separatist movement, not of the Government of Myanmar, where six races and 132 ethnic groups lived together. Furthermore, some of those refugees had returned to the country in order to contribute to its development. The solution, therefore, was to put an end to the separatist wars and the activities of the insurgents so that the refugees could return. Unfortunately, in spite of the fact that the Government had done everything possible, the refugees were still unable to return.

*Report of the Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in the Democratic Republic of the Congo (A/54/361)*

46. **Mr. Garretón** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo) said that, during the course of the year, he had carried out two missions to the Democratic Republic of the Congo, following the lifting by the Government, after more than two years, of its prohibition preventing him from entering the country. During the visit, he had had lengthy meetings with the President of the Republic and other authorities. In addition, he had travelled to the areas controlled by the Rassemblement congolais pour la démocratie (RCD), where he had met with its principal leaders and had enjoyed the greatest possible freedom in order to carry out his mandate.

47. The armed conflict unleashed by the RCD on 2 August 1998 had spread rapidly. It was estimated that that group controlled more than half of the country at the current time and that the second major rebel faction, the Mouvement de libération du Congo (MLC), controlled 10 per cent of the territory. In addition to those forces, there were approximately 18 armed groups and five foreign armies that had been deployed to the request of the Government, as well as three others, which the Security Council had described as "uninvited". In view of that large-scale military presence, the violence continued to be extreme, particularly in the territories which most of the Congolese people considered to be under the control of

the "Rwandan soldiers". Although the previous report had described the situation in the Democratic Republic of the Congo as an internal conflict with the participation of foreign forces, recent events, particularly the direct clashes between the Rwandan and Ugandan armies in Congolese territory, indicated that the country was in the midst of several superimposed conflicts, some of them internal and others international. As usual, most of the victims of the conflict were civilians.

48. Although the signing of the Lusaka Ceasefire Agreement on 10 July 1999 was one of the most important events of the year, most of the Congolese interviewed considered that the international community had done nothing to halt the conflict. That criticism was unfair because it did not recognize the efforts by some African countries, such as Zambia, South Africa and the Libyan Arab Jamahiriya, as well as the United Nations and the Organization of African Unity, to find a peaceful solution. The difficulties impeding the peace process had been due rather to the unrealistic demands and reluctance of some parties to the conflict. Furthermore, no party was respecting the ceasefire since they were continuing to arm themselves and consolidate their military positions.

49. During his August visit, the Special Rapporteur had determined that the situation of human rights, in both the west as well as the east of the country, had seriously deteriorated compared to the situation that he had observed in February. There was no freedom of expression and human rights defenders were subjected to relentless repression, particularly those suspected of having provided information to the relevant bodies, which constituted a blatant violation of Commission on Human Rights resolution 1999/16. In the territories controlled by the Government, more than 100 persons condemned by the Military Court, whose statutes were not in keeping with the provisions of international instruments, had been executed in 1999; arbitrary detention for political reasons were continuing; torture was frequently practised; persons were prohibited from leaving the country, and freedom of assembly, association and expression was restricted. In the rebel controlled areas, the situation was even more serious since no political activity was authorized and the few dissident newspapers and radio stations that had existed had been closed down. There had also been reports of numerous cases of torture and the disappearance of persons. The situation of the members

of human rights defense groups was particularly grave. In the area controlled by the RCD, several members of non-governmental organizations had recently been forced into exile because of the continuing harassment and death threats to which they had been subjected. The continuation of the conflict was increasing the number of violations of international humanitarian law. The two bands recruited children as soldiers, the Government bombed civilian population centres, and the rebels massacred non-combatant civilians.

50. In the west of the country, President Laurent-Désiré Kabila continued to exercise the absolute power that he had unilaterally seized, which left very little room for the emergence of democracy. The enactment of a decree law regulating the organization of political activities and parties had led to the dissolution of all the parties that had previously existed legally, and almost impossible and even humiliating conditions for being reconstituted had been imposed on them. Although President Kabila had assured the Special Rapporteur that there were no political prisoners in the Democratic Republic of the Congo, opponents were subjected to unrelenting persecution and frequent arbitrary detention. Although the Lusaka Peace Agreement provided that the armed opposition and *les forces vives* of the nation should participate in the national dialogue and the inter-Congolese political negotiations, the Government was continuing to refer to the national debate which it itself had called for, laying down an agenda and specific rules, and the preparation of which had not made any headway owing essentially to the lack of interest on the part of the Congolese.

51. The report of the Special Rapporteur contained a number of recommendations addressed to the parties to the conflict. Furthermore, the international community was called upon to ensure that the sale of arms and the military assistance to the combatants were halted; in that regard, there was an urgent need to deploy a United Nations peacekeeping operation and to guarantee that it had a human rights component. Lastly, the international community should express itself more clearly concerning the legal status of the armies participating in the conflict and maintain a unswerving position on the principle of immutability of the borders of the Democratic Republic of the Congo.

52. **Mr. Basele** (Democratic Republic of the Congo) said that the report and statement by the Special Rapporteur reflected to a certain extent the situation

that the Democratic Republic of the Congo was undergoing owing to the war of aggression launched against it by its three eastern neighbours. The report indicated major progress which had not appeared in previous ones. While the report mentioned the positive developments in the territory controlled by the Government, it pointed out that the human rights situation had seriously deteriorated in the provinces occupied by the aggressors, who massacred civilians, ordered deportations and committed other violations of international humanitarian law. The international community and the United Nations, in particular, therefore, must endeavour to ensure that the Rwandans, Ugandans and Burundians left the territory of the Democratic Republic of the Congo so that human rights could be promoted throughout its territory.

53. **Mr. Beyendeza** (Uganda) said that the report of the Special Rapporteur stated in a very general manner that Ugandan soldiers were attacking the population of the Democratic Republic of the Congo, but it did not provide specific details which could corroborate that claim. The armed forces of Uganda in the Democratic Republic of the Congo had clear and precise instructions to take due account of the aspects connected with the human rights of the civilian population, and the soldiers had demonstrated that they were the only disciplined ones in that part of the country. The impression reflected in the report should be corrected. The implementation of the Lusaka Agreement would have made it possible to prevent some of the violations that had been committed, and therefore, the Special Rapporteur should have encouraged efforts to maintain the momentum in the Peace Agreement process.

54. **Ms. Al-Hajjaji** (Libyan Arab Jamahiriya) said that her country had provided its assistance in order to consolidate peace and security in the Democratic Republic of the Congo. She regretted that a peaceful solution had not been found and assured the Committee that her Government would continue to do everything possible to achieve peace and security in that country.

55. **Mr. Rytovuori** (Finland) said that his delegation would like to know what the human rights situation was and what the function of the Minister of Human Rights was in that regard. Referring to the Lusaka Agreement, he enquired what the possibilities were of implementing it and what the major difficulties had been in appointing a facilitator for the Agreement. The report pointed out that civilians who cooperated with

the United Nations were the victims of harassment or intimidation. He wished to know the reasons for that problem. Lastly, he asked about the current situation of women in the Democratic Republic of the Congo.

56. **Mr. Garretón** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo), responding to the comments made by the representative of the Democratic Republic of the Congo, said that he always sought to carry out his work with the greatest possible objectivity. Referring to the observations made by the delegation of Uganda, he pointed out that his report was dated 17 September and dealt with events that had occurred up to 7 September. For that reason, he had not had sufficient time to carry out an evaluation of the Lusaka Agreement. With regard to the alleged attacks committed by Ugandan soldiers, it was not a function of the Special Rapporteur to deal with the military aspects of the conflict, but rather its consequences; nevertheless, there was evidence of participation by Ugandan forces, the most serious demonstration of which was the confrontation between the soldiers of Uganda and Rwanda that had taken place in Kisangani on 14 August. As for the comment made by the representative of the Libyan Arab Jamahiriya, he said that any peace initiative was commendable and that that country's attempt to bring the positions closer together had been very interesting. Nevertheless, some of the parties had not supported the Sirte Agreement. For that reason, he called upon the Libyan Government and all African States to support the Lusaka Agreement and cooperate in appointing facilitators that were acceptable to all parties.

57. In reply to the questions raised by the representative of Finland, he said that the Minister of Human Rights was truly interested in establishing favourable conditions to guarantee respect for human rights and that he would undoubtedly attempt to ensure that his Government took positive steps in that regard. In fact, he had already sought to have the Democratic Republic of the Congo sign Protocols I and II to the Geneva Covenants, but, unfortunately, a group in the Government had prevented that from being done. With regard to the future of the Lusaka Agreement, the situation was very alarming since the parties did not seem committed to making progress in its implementation. If President Kabila wished to obtain the support of the entire population, he had to initiate a national debate that incorporated the pluralist vision of

Lusaka and involved the participation of the entire opposition. The situation of the human rights defenders and the persons who collaborated with the United Nations was extremely delicate. Many of them had received death threats, some had been forced to leave the country, and others had been arrested. Lastly, Congolese women were in a cultural and legal situation which many countries, not only African countries, shared, and which obviously had been aggravated by the war and the economic crisis.

#### **Other matters**

58. **Ms. de Armas García** (Cuba) asked why the consideration of draft resolution A/C.3/54/L.27, entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" was being delayed and stressed the need to take steps in that regard as speedily as possible.

59. **Ms. Newell** (Secretary of the Committee) said that the Committee was waiting for the Programme Planning and Budget Division to respond concerning the draft resolution's programme budget implications.

*The meeting rose at 6 p.m.*