



General Assembly

Sixty-first session

Official Records

Distr.: General
17 November 2006

Original: English

Third Committee

Summary record of the 25th meeting

Held at Headquarters, New York, on Friday, 20 October 2006, at 10 a.m.

Chairman: Mr. Al Bayati (Iraq)

Contents

Agenda item 67: Promotion and protection of human rights (*continued*)

- (b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)
- (c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

06-58087 (E)



The meeting was called to order at 10.20 a.m.

Agenda item 67: Promotion and protection of human rights (*continued*) (A/61/36, 97, 220 and 280)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/61/211, 267, 281, 287, 289, 306, 311, 312, 324, 325, 338, 340, 348, 352, 353, 384, 464, 465, 476, 506 and 513)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/61/276, 349, 360, 369, 374, 469, 470, 475, 489, 504 and 526)

1. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that the creation of the new Human Rights Council represented a major achievement, but it was only a first step. The emerging challenge was to re-establish the credibility of the United Nations itself to protect human rights effectively, consistently and fairly. The system of special procedures provided a tangible indication that Governments took seriously their commitment to accountability, and provided the Council with factual information, collected on the ground and often at significant risk, on issues and situations of major importance.

2. In his interim report on extrajudicial, summary and arbitrary executions (A/61/311) he pointed to one of the ways in which the system risked being undermined: 19 of the 22 States to which he had directed requests to visit had either failed to respond or had been unable to make any concrete arrangements. Yet eight of those 19 countries were members of the Human Rights Council and had specifically undertaken to uphold the highest standards in promotion and protection of human rights and to fully cooperate with the Council. The General Assembly should call on those States to uphold their commitments. He was deeply troubled that, a great deal of energy within the Council was being devoted to endeavours designed to change the rules of the game in such a way that the special procedures would be severely constrained.

3. The concept of “early warning” had received enormous attention and support in recent years. It was intended to make possible a response that would be prompt enough to prevent what would otherwise

become an intractable crisis with an intolerable human toll. The practice, however, sometimes appeared to be one of alarm followed by silence followed by disaster.

4. The alarm was currently sounding for Sri Lanka. Sadly, there was a perception that Sri Lanka was not on the brink of a new crisis; that perception was inaccurate while real progress had been made over the past four years, and was still possible, the opportunity would not be available for much longer. The issue had been placed before the Human Rights Council for action. The first challenge was to acknowledge the need for significantly more sustained and high-level involvement in efforts to pressure the parties to move towards a peaceful resolution of the conflict. The second was to accept that there was no national institution capable of monitoring human rights throughout Sri Lanka. The third was to establish an effective international human rights monitoring presence, which could make a real contribution.

5. The discourse of human rights was central to the parties’ own understanding of the origins of the conflict. Moreover a sustainable peace settlement would prove elusive until the parties demonstrated genuine respect for the human rights of all. The international community had a recognized and powerful role in what was a struggle for legitimacy, not for territory. Currently, the parties felt that they were able to violate human rights and humanitarian law without losing international legitimacy as long as they committed abuses in a manner that permitted them maximum deniability. Monitoring could foreclose that strategy and push the parties to show actual rather than simulated respect for human rights. In paragraph 67 of his report, he had recommended the establishment of a full-fledged international human rights monitoring mission in Sri Lanka.

6. Turning to Nigeria, he had urged the Government to commute the death sentence of all those who had spent more than five years on death row, on the grounds that the system of capital punishment had essentially broken down. He had been pleased to learn that about 20 per cent of the prisoners had had their sentences commuted; he called on the Government to take action on the other recommendations contained in paragraph 9 of his report.

7. Finally, with regard to lethal force, much of his report dealt with the understanding of the norms and standards which underpinned the prohibition of

extrajudicial executions and of their application in particular contexts. It devoted considerable attention to the legal framework within which consideration should be given to the use of lethal force by law enforcement officials.

8. **Mr. Kerr** (Australia) asked for explanation of the statement that the Human Rights Council was changing the rules of the game, and what actions the Committee and the General Assembly could take to prevent the Council from being discredited.

9. **Ms. Kalamäki** (Finland), speaking on behalf of the European Union, asked what steps the General Assembly could take to deal with the lack of response — especially from members of the Human Rights Council — to the Special Rapporteur's requests.

10. With regard to Sri Lanka, she asked the Special Rapporteur to elaborate on the principles that should guide a national commission of inquiry if one were to be set up, on the continued relevance of the other recommendations contained in his report and on any plans for follow-up. To achieve a lasting settlement of the conflict, it was important for the legitimate interests and aspirations of all communities to be considered. There appeared to be increasing concern among Muslims that the new agreement between Government and the opposition was to their disadvantage. She asked how a holistic approach to the peace process could address those concerns.

11. On Nigeria, she asked whether there had been any further contact with the Government concerning implementation of the recommendations in the report. She also requested the Special Rapporteur to elaborate on the allegations of extrajudicial killings during the armed conflict in Lebanon.

12. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions), replying to the representative of Australia, said that the special procedures system had begun 25 years earlier to counter the perception that the United Nations was ignoring specific human rights violations. The only proposals currently being pushed by the Human Rights Council seemed designed to constrain that system. The States that were the system's strongest supporters seemed unwilling to take the strong countermeasures needed to ensure the integrity of the system.

13. Turning to the questions raised by the representative of Finland, he said that there were

legitimate reasons why a Government might not issue an invitation to a Special Rapporteur, yet most of the Governments concerned had simply refused to cooperate with the Human Rights Council. The General Assembly could address the situation by calling on Council members to meet their obligations.

14. A national commission of enquiry could find an excellent model in the one established in Nigeria to handle the "Apo 6" inquiry. Its final report had been published and the Government had quickly taken up its recommendations. The Muslim community in Sri Lanka had not been involved in the peace negotiations, but their participation was indispensable.

15. With regard to Nigeria, in his recent contacts he had reaffirmed his recommendation that stoning should be prohibited as punishment for adultery and homosexuality, but there had been no further response from the Government.

16. His report made clear that both international human rights and humanitarian law were applicable to the situation in Lebanon and Israel. Four special rapporteurs had produced a joint report that indicated the links between both bodies of law in that situation. A strong case could also be made that war crimes had been committed both by Hizbollah and by Israel.

17. **Mr. Pinheiro** (Special Rapporteur on the situation of human rights in Myanmar), introducing his report (A/61/369) said that he had not been permitted to conduct a fact-finding mission to Myanmar since November 2003, but had continued to fulfil his mandate to the best of his ability based on information collected from a variety of independent and reliable sources. The Government of Myanmar had recently replied to a number of official communications, which he considered a positive indication of its will to cooperate with the Human Rights Council.

18. In the past two years, the reform process proposed in the seven-point road map for national reconciliation and democratic transition had been strictly limited and delineated. The work of the National Convention had been adversely affected, but he acknowledged with satisfaction the recent resumption of its work.

19. The persecution of members of opposition political parties and human rights defenders showed that the road map for democracy faced too many obstacles to bring about genuine transition, however.

The house arrest of Daw Aung Sang Suu Kyi had been prolonged in spite of international appeals, including by the Secretary-General. At the end of August 2006, there were an estimated 1,185 political prisoners in custody, and he had also recently learned of the deaths of democracy advocates and human rights defenders. It was deplorable that the International Committee of the Red Cross (ICRC) had been unable to visit all places of detention, and he renewed his appeal to the Myanmar authorities to allow ICRC to conduct its activities in accordance with its rules and principles.

20. The capacity of law enforcement institutions and the independence and impartiality of the judiciary had been hampered by sustained practices of impunity, and the continued misuse of the legal system affected the exercise of fundamental freedoms. To be credible, the implementation of the road map should be based on access to basic freedoms by all citizens, but in the past three years, those freedoms had been curtailed rather than expanded. It was a matter of grave concern that the exercise of fundamental freedoms had been criminalized.

21. However, he welcomed progress in the area of forced labour. Three cases filed against people arrested for lodging complaints against forced labour practices had been resolved by the Government in collaboration with the International Labour Organization (ILO). He also welcomed the six-month moratorium declared on that type of prosecution.

22. He was very concerned by the ongoing military campaign in ethnic areas of eastern Myanmar and its effects on human rights, especially on the civilians targeted during the attacks. Numerous cases of forced eviction, relocation and resettlement, internal displacement and forced migration had been reported. As the Government would not allow him access he could not verify the reports, but would welcome any clarification from the Government of Myanmar.

23. According to numerous reports, there had been marked signs of deterioration in the economic and social sectors that could aggravate the humanitarian situation. Although the economy was expected to grow, largely due to rising revenues from offshore gas fields, the people would continue to face serious hardship. Humanitarian assistance could not be held hostage by politics, and must be guided solely by the best interests of the people. He joined the Special Rapporteur on the right to health in deploring the decision of the Global

Fund to Fight AIDS, Tuberculosis and Malaria to suspend its programme in the country, but welcomed the launching of the Three-Disease Fund, which would provide roughly equivalent funding.

24. He noted that the Security Council had added Myanmar to its agenda, and urged coordination among Member States in their contributions to its political transition towards democracy. Joint initiatives on issues of common concern, such as the environment, economic growth and development, education, medicine and engineering and technology could facilitate progress and should be explored.

25. **Mr. Mra** (Myanmar), welcomed the changes the Special Rapporteur had made in his oral report, noting that the written report contained many inaccuracies. Given its tone and tenor, the report must have emanated from anti-government sources. Indeed, the reports of the Special Rapporteur had ceased to be objective and constructive, and had given way to unfounded allegations against the National Convention process.

26. The National Convention continued to pursue the “seven-point road map for national reconciliation and democratic transition”, and had completed three quarters of its work. The National Convention’s composition was all-inclusive, contrary to allegations. The alleged ongoing military campaign in eastern Myanmar and the claims relating to the humanitarian situation, forced evictions and displacement of ethnic minority villages were totally unfounded. He stressed that Myanmar was not a country in armed conflict; the return of 17 major armed groups to the legal fold had led to the establishment of peace and stability in the country. Counter-insurgency campaigns were restricted to a few localities and conducted only against those insurgents engaged in acts of terrorism. Insurgents had fled across the border.

27. The claim that ethnic groups were subjected to harassment and persecution was completely unfounded. In fact, it was the Government’s policy to promote unity among such groups. Every effort was made to promote and protect people’s human rights. The claim in the report that rates of HIV/AIDS and tuberculosis infection were among the highest in Asia was also incorrect. The country had won recognition and approval for its successful endeavour to suppress the outbreak of H5N1 avian influenza.

28. While rejecting the many unfounded allegations and unrealistic recommendations of the Special Rapporteur's intrusive and highly politicized report, his country remained committed to continued cooperation with the United Nations in its efforts to promote human rights guided by principles of impartiality, objectivity, non-selectivity and non-politicization.

29. **Ms. Laurenson** (New Zealand) expressed concern at a number of areas of the Special Rapporteur's report, and supported his calls for the release of all political prisoners, the provision of adequate health care to prisoners and the lifting of constraints on political actors. She supported his appeal for the provision of humanitarian assistance, in particular that the International Committee of the Red Cross be authorized to continue to carry out its work. She asked what the Committee and Human Rights Council could do to support efforts to foster a debate on political transition, in particular to support the effective participation in that debate of all political actors and ethnic groups.

30. **Ms. Kalamäki** (Finland), speaking on behalf of the European Union, stressed the importance of full, unconditional cooperation between States and the special procedures system. The European Union urged the Government to cease its harassment of politicians and human rights defenders, to lift restrictions on freedom of speech and assembly and to accelerate the democratization process. Given the extremely difficult socio-economic conditions experienced by many sectors of the population, she asked the Special Rapporteur whether he foresaw a humanitarian crisis in the country, and whether the launching of the Three-Disease Fund had provided for relief in the health situation. The European Union would like to know if there were any indications that the Government was to increase democracy and inclusiveness in the resumed work of the National Convention, and would welcome updated information on the situation concerning the counter-insurgency military operations targeting civilians in Northern Karen.

31. **Ms. Blitt** (Canada) expressed concern at the continued deterioration of the situation described by the Rapporteur, in particular the lack of respect for human rights and fundamental freedoms. She asked what specific action the international community could take to assist in the promotion of human rights and democratic development in Burma. Canada had recently accepted 800 Karen refugees for resettlement

in Canada, while Burma had made little progress towards implementing a genuinely inclusive process for national reconciliation. She asked how the Government could be encouraged to engage with ethnic minorities in an authentic national reconciliation process.

32. **Mr. Mra** (Myanmar), speaking on a point of order, requested that his country's proper name be used when discussing the human rights situation in Myanmar.

33. **Ms. Otani** (Japan) asked the Special Rapporteur what he expected from the planned second visit to Myanmar by Mr. Gambari, Under-Secretary-General in terms of improvement of the human rights situation on the ground. She would welcome his views regarding the mandates — particularly the country mandates — of the special procedures, which were under ongoing review by the Human Rights Council.

34. **Ms. Zhang Dan** (China) commended the Government on its efforts to promote and protect human rights. The Government had promoted international cooperation in a spirit of openness and frankness, and the international community should use dialogue and communication, rather than confrontation and political pressure. Greater understanding and tolerance were required in order to resolve divergences in the area of human rights.

35. **Mr. Vohidov** (Uzbekistan) noted that the sources of information in the report were very limited, as the Special Rapporteur had chosen not to include any information from the Government. Supposedly because he had been unable to visit the country since 2003. In the view of his delegation, the reason the Special Rapporteur had not been invited was that States no longer trusted the United Nations human rights mechanisms. The overall tone of the report was accusatory, critical and one-sided. It was necessary to cooperate with the Myanmar authorities.

36. **Mr. Pinheiro** (Special Rapporteur on the situation of human rights in Myanmar), in reply to the representative of New Zealand, said that he would welcome greater follow-up by the Committee to the recommendations of the Special Rapporteur. In reply to the representative of Finland, he said that he expected the deterioration of the humanitarian situation in Myanmar owing to the withdrawal of the Global Fund to Fight AIDS, Tuberculosis and Malaria to be curtailed by the implementation of the Three-Disease

Fund. He was unable to say whether the situation would deteriorate further, without carrying out more sophisticated assessment and that was impossible without full access to the country by United Nations agencies. In his view, the work of the National Convention was not inclusive, as was shown by the fact that none of the proposals by the military groups involved had been taken on board in the Convention's work. Updated information on the situation in Northern Karen was needed, and it was unfair simply to state that the allegations in his report were inaccurate. Had he been allowed access to the country he could have provided a more comprehensive report.

37. In reply to the representative of Canada regarding specific action to be taken by the international community to promote democracy, he said it was important to continue all efforts at diplomacy, dialogue and cooperation in Myanmar, and to try to convince the Government of the advantages of an inclusive process. That was not an impossible task, as could be shown by the successful examples of political transition in Asia.

38. In reply to the representative of China, he stressed that his work of diplomacy had never involved confrontation and political pressure. In reply to the representative of Japan, he welcomed the forthcoming visit by the Under-Secretary-General; all visits to the country, including by special rapporteurs and United Nations agencies, constituted positive steps. In his view, the special procedures were one of the jewels in the crown of the former Commission on Human Rights, and the work of the Special Rapporteurs must continue. He urged Member States not to renounce the country Special Rapporteurs, as that would mean renouncing an important tool for international cooperation.

39. In reply to the representative of Uzbekistan he described the extensive work carried out as part of his mandate and said that he had not ignored information from the Government; rather, the Government had not shared information with him. He had seen no evidence of Member States having lost confidence in the special procedures. If that had been the case, the mandates of the Special Rapporteurs would surely not have been extended. The point of a report was to criticize, but in the context of dialogue with the Member State in question. He would welcome that dialogue, and would cooperate fully with Myanmar if allowed into the country.

40. **Mr. Muntarbhorn** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea), introducing his report (A/61/349), called on the authorities of the Democratic People's Republic of Korea to become more accountable, and asked the whole of the United Nations system to take appropriate and effective measures in that regard.

41. Concerning the right to food and to life he said that the country had faced severe food shortages since the mid-1990s and in recent years had had to rely on donations of food and other humanitarian aid. In 2005 the authorities had indicated that they no longer wished to accept food aid from outside the country and many non-governmental organizations had been asked to leave the country. Nevertheless, in early 2006 WFP had sought approval for its protracted relief and recovery operation to assist vulnerable groups, particularly women and children. The situation had worsened in 2006 following the missile tests and reported nuclear test, which had caused various contributors to stop providing humanitarian aid. Some donors had resumed providing humanitarian aid following the devastating floods of July and August 2006. However, WFP reported that its food stock would last only until the end of 2006 and that only a small percentage of the budget requested from potential contributors was being met.

42. Regarding the right to security of the person, humane treatment, non-discrimination and access to justice, he said that, as noted in paragraphs 14 and 15 of the report, there continued to be many reports of transgressions in those areas. The judicial system lacked independence and was heavily influenced by the regime in power. The ordinary courts were opaque in nature, added to which was the parallel functioning of a quasi-penal regime of "people's courts" and "people's trials". The regime did not comply with guarantees on the rule of law that should ensure judicial independence, natural justice, respect for the rights of the accused and access to lawyers. The treatment of prisoners gave rise to continuing concern, given the reports of torture as well as inhuman and degrading treatment (para. 16). The abduction of foreigners by agents of the Democratic People's Republic of Korea had affected several countries. A number of cases involving Japanese nationals had yet to be resolved.

43. The issue of freedom of movement, asylum and refugee protection — another key human rights

issue — was dealt with in detail in paragraphs 20, 21 and 22 of the report. As regards the right to self-determination and to political participation as well as to freedom of expression, belief and opinion, as stated in paragraph 29 there had been no ostensible improvement in that regard. The media were State-controlled and it was illegal to listen to foreign radio and television or to own computers without official permission. While it was officially claimed that there was freedom of religion, the reality suggested otherwise. Women's rights, child rights, the rights of older persons and the rights of those with disabilities were also areas that required more specific attention. During the preceding year, he had contacted the authorities to seek leniency for those who had sought asylum in other countries and been returned and to advocate for improved treatment of prisoners. The Democratic People's Republic of Korea had been uncooperative in its responses.

44. Finally, he expressed concern regarding the human rights situation in the Democratic People's Republic of Korea and recommended that the authorities take the measures outlined in paragraph 61 of the report. The international community should also provide support with regard to the recommendations.

45. **Mr. Sin** Song Chol (Democratic People's Republic of Korea) reiterated the principled position that his Government did not and would never accept the mandate of the Special Rapporteur, because resolutions directed against the Democratic People's Republic of Korea were political documents that served United States policy and had nothing to do with genuine human rights. It was therefore not even necessary to argue on the contents of the report. The human rights issue had deviated from its initial lofty purpose and was now sacrificed to the power and arbitrariness of countries that sought to politicize the issue in the interest of their hypocritical objectives. The people of the Democratic People's Republic of Korea would never change their faith in the socialist system. He urged the Special Rapporteur to grasp the background of the resolutions in question and to behave with discretion accordingly.

46. **Mr. Shin** Dong-ik (Republic of Korea) said that his delegation supported the Special Rapporteur's approach and recommendations as constructive and balanced. The Democratic People's Republic of Korea should heed the voices of the international community and the recommendations of the Special Rapporteur

and make a sincere effort to improve human rights standards for its citizens.

47. **Mr. Shinyo** (Japan) said that he appreciated the Special Rapporteur's vigorous efforts to improve human rights in the Democratic People's Republic of Korea. The latter should allow the Special Rapporteur to visit the country without delay and should implement General Assembly resolution 60/173 and Security Council resolution 1718 (2006), which underlined "the importance that the DPRK respond to other security and humanitarian concerns of the international community". The international community must work in concert on human rights issues in the Democratic People's Republic of Korea, including the abduction issue, which affected not only Japan but also South Korea and Thailand. He asked the Special Rapporteur what was the most useful thing that the international community could do to improve the human rights situation in the Democratic People's Republic of Korea.

48. **Ms. Leikas** (Finland), speaking on behalf of the European Union, asked the Special Rapporteur to elaborate on what could be done to improve the judicial system in the Democratic People's Republic of Korea as well as on any possibilities for international assistance. She wondered what measures had been taken on freedom of expression and asked what the role of the international community was on that issue. Finally, she asked how the rights of women and children could be promoted.

49. **Mr. Ceinos-Cox** (United States of America) said that the mandates given to Special Rapporteurs by the international community were a means to establish dialogue and cooperation with the parties to which they were assigned. He asked how dialogue and cooperation with Member States could be improved, and what other mechanisms could be used when delegations, as in the case at hand, ignored the existing mechanisms.

50. **Ms. Laurenson** (New Zealand) welcomed the special attention given to persons with disabilities and said that her delegation was deeply concerned by the need for food and other assistance from outside the Democratic People's Republic of Korea. Regarding the Special Rapporteur's suggestion concerning a rights-based approach, she wondered how such an approach could be incorporated into the programme in process.

51. **Mr. Binette** (Canada) urged the Democratic People's Republic of Korea to cooperate fully with the

Special Rapporteur. His delegation had been especially disturbed to hear about the maltreatment of repatriated defectors, the regular use of public executions to intimidate the population and reports that women prisoners were forced to undergo abortions. He asked whether there was any truth to the reports that some food aid was not being properly distributed and whether there were specific groups in the country that were particularly affected by the food shortage.

52. **Mr. Muntarbhorn** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea) responding to the representative of Japan said that there were actions that could improve the human rights situation. There was still a need for humanitarian and food aid but monitoring was necessary to ensure that it reached the right groups. Security Council resolution 1718 (2006) opened the door to aid, but the nuclear test had impeded the will of some donor countries to provide that aid. In the matter of asylum and refugees, he said that while international burden-sharing could help the countries of first asylum it was also necessary to deal with the causes that prompted people to seek asylum. With some political will, he believed that reform of the prison system should be possible. It was also necessary to understand the need for security on the Korean peninsula. Above all, the entire United Nations system must be engaged in a holistic way to uphold democracy, peace, human rights, security and sustainable development.

53. In response to the question from the representative of Finland about strengthening the judiciary, he said that guidance already existed in the form of the International Covenant on Civil and Political Rights, to which the Democratic People's Republic of Korea was a party. What was lacking was a degree of political will. The same applied to the issue of freedom of information. He had emphasized that people should not be punished for dissidence and that the system should be liberalized so that all people would have access to information. De facto discrimination pervaded the system. Above all, it was imperative to improve food security, to remove discrimination against refugees and to ensure that people were able to exercise their civil and political rights.

54. Responding to the representative of the United States, he noted that there were also special rapporteurs on women's issues and on torture. He also pointed out that the Democratic People's Republic of Korea was a

party to four of the core international human rights treaties, each of which had its own treaty body. Those bodies should be more involved and, indeed, all United Nations bodies, including the General Assembly and the Security Council, should be involved.

55. In response to the question from New Zealand, he said that a rights-based approach to humanitarian assistance would be a policy of "no access — no food". In other words, assistance must be accessible to target groups, otherwise no food would be provided.

56. Finally, answering the question put by the representative of Canada, he said that there were a variety of views on the subject. Some people believed that little or no food aid was being diverted. However, the only way to be sure that the aid was properly distributed, was by monitoring the distribution.

The meeting rose at 12.20 p.m.