



General Assembly

Distr.
GENERAL

A/HRC/4/SR.16
1 May 2007

Original: ENGLISH

HUMAN RIGHTS COUNCIL

Fourth session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 March 2007, at 10 a.m.

President: Mr. DE ALBA (Mexico)
later: Mr. HUSÁK (Czech Republic)
(Vice-President)

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

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

Interactive dialogue on:

Report of the Representative of the Secretary-General on human rights of internally displaced persons (continued) (A/HRC/4/38 and Add.1-5)

Report of the Special Rapporteur on violence against women, its causes and consequences (continued) (A/HRC/4/34 and Add.1-4; A/HRC/4/G/10)

Report of the Special Rapporteur on the sale of children, child prostitution and child pornography (continued) (A/HRC/4/31 and Add.1 and 2; HRC/4/NGO/3)

1. Mr. BESSEDIK (Algeria) called for the universal signature and ratification of the Convention on the Rights of the Child and commended the report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31) because it did not politicize human rights, but described a bitter reality.
2. His Government had ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol on the involvement of children in armed conflict. It was also determined to do everything it could to ensure that children received appropriate education enabling them to assert their civic, social and economic rights.
3. Turning to the report of the Special Rapporteur on violence against women, its causes and consequences (A/HRC/4/34), he said that his Government had ratified the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Political Rights of Women. Since women's fundamental rights were human rights, his Government sought to ensure women's full enjoyment of their rights, as was fitting in a modern progressive State, the final goal being a partnership between men and women that was based on equality. To that end, priority was being given to harmonizing national laws with the relevant international human rights instruments.
4. Advances in democratic practices had given women a key position in Algerian society. Women's rights to education, training, work and political action were guaranteed by the Constitution. More women were participating in civilian and military activities, and there were women ministers, members of parliament, judges and diplomats. Nevertheless, the Government would continue to promote women's rights and remove the remaining obstacles to their enjoyment. Women must also be encouraged to play a greater role in economic and political life and in civil society, especially in rural and remote regions. It was in that spirit that a new Family Code had been adopted, which established equality between spouses, setting out rights and duties for each in keeping with the requirements of the Constitution and Algeria's international commitments.

5. He drew attention to the difficult situation of women living under occupation in Africa and the Middle East and deplored the impunity of those who were persecuting them. The statement made by the representative of the Netherlands had shown that violence against women had nothing to do with underdevelopment and was certainly not inherent in non-Western cultures. All the same, poverty was the worst form of violence against women, and concerted efforts must be made to tackle it.

6. His delegation wholeheartedly supported the statement made by the observer for Côte d'Ivoire concerning the report of the Representative of the Secretary-General on human rights of internally displaced persons (A/HRC/4/38).

7. Ms. OSTERMEIER (Observer for the United States of America) said that violence against women and girls undermined any country's efforts to build a stable, secure and productive society. Such violence was indefensible, regardless of a country's regional affiliation or cultural traditions. Her Government therefore considered that addressing domestic violence, trafficking in women and sexual exploitation was a priority wherever those phenomena occurred.

8. It was a matter of deep concern that rape had been used as a weapon of war by Governments in recent conflicts. The sexual and gender-based violence perpetrated by the janjaweed and government soldiers in Darfur had had a devastating impact on Sudanese women and girls. Rape, torture, violence and forced labour were being employed in Burma to subjugate the Karen people. The United States called on the Burmese regime to fulfil its responsibility of protecting its own people from such crimes.

9. Lastly, she asked the Special Rapporteur on violence against women to what degree the legalization of prostitution led to trafficking in women and girls.

10. Mr. ZHAO Xing (China) said that Chinese legislation prohibited the forced donation and sale of organs of executed prisoners; such organs could be used only in strict compliance with the law.

11. Under the Chinese Constitution, only adults over the age of 18 could be sentenced to death and executed; the death penalty did not apply to anyone under that age. The relevant resolutions of the Human Rights Council enjoined the Special Rapporteur on the sale of children, child prostitution and child pornography to conduct studies into those topics alone. The sale of executed prisoners' organs, which had been mentioned in the Special Rapporteur's report (A/HRC/4/31), had nothing to do with his mandate.

12. Ms. WALKER (Canada) said that culture must never be used as an excuse for any act of violence. In that connection, it was important to acknowledge the crucial work being done by local women's groups, which challenged culture in order to eradicate violence against women and girls. She welcomed the reference in the report of the Special Rapporteur on violence against women (A/HRC/4/34) to the need to broaden the understanding of due diligence beyond the obligations of individual States, particularly in the light of the work being undertaken by such women's groups. However, she wished to know if the Special Rapporteur could provide any examples of mechanisms to involve non-State actors in the exercise of due diligence in order to address the causes and consequences of violence against women.

13. The advocacy role of the Representative of the Secretary-General on human rights of internally displaced persons remained essential, and the Representative was to be commended for the advances he had secured in promoting the integration of internally displaced persons (IDPs) in national legislation and policies, using the Guiding Principles on Internal Displacement as a framework. His dialogue with Governments merited encouragement. She wished to know what he considered to be the main challenges to the effective implementation of IDP policies at the national level.

14. She welcomed the desire of the Representative of the Secretary-General to visit Sri Lanka and the Sudan, where IDPs were facing a protection crisis. Given the ongoing violence in Iraq, it would also be interesting to learn what measures he thought the United Nations system and civil society actors could take to augment IDP coping mechanisms and facilitate the eventual return of IDPs to their homes.

15. Ms. CROSS (United Kingdom) asked the Representative of the Secretary-General on human rights of internally displaced persons to provide an update on the situation of IDPs in Colombia and to suggest priority areas where the Colombian Administration could improve their human rights.

16. She also wished to know how the Special Rapporteur on violence against women thought that her mandate could be strengthened.

17. Ms. HO POH YEOK (Malaysia) said that gender-based violence could certainly not be condoned. Her country, which had a multiracial society, had undertaken limited research on the links between culture and violence against women. She therefore welcomed any suggestions the Special Rapporteur on violence against women might have as to the best practices for eliminating violence against women in such a society. In compliance with articles 5 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women, her Government recognized the importance of lifelong education and awareness campaigns to change the mindsets of people of all ages. A campaign to eliminate violence against women had been launched in July 2001 and a group of community volunteers had been established to provide guidance for victims of violence. There were currently 300 such volunteers working all over the country.

18. As violence against women also occurred in families, newlyweds in Malaysia were issued with a “smart start” package which offered advice on building a strong and happy family. In addition, a children’s book explaining the principles of the Convention on the Elimination of All Forms of Discrimination against Women and introducing young people to the concept of gender equality would be published in the near future.

19. Mr. MIYAGAWA (Japan) said that the illegal trafficking of children’s organs and tissues and the abduction of children were very serious issues. His Government had therefore prohibited the sale of human organs for transplantation as part of its efforts to eradicate the sale of children’s organs. Japanese legislation also punished the sale or purchase of children for prostitution, as well as the abduction and kidnapping of children.

20. Legal measures alone would not, however, be enough to stamp out such practices; educational programmes and awareness-raising activities were equally essential. Accordingly,

Japanese schools had been encouraged to include crime prevention in their curricula as a means of teaching children how to foresee and evade potential dangers. Yet the illegal trafficking of children's organs and tissues and the abduction of children could not be prevented solely by national measures; cooperation between the countries concerned was equally vital. He therefore asked the Special Rapporteur on the sale of children how bilateral and regional cooperation could be facilitated between supplier and demander countries.

21. The approach taken by the Special Rapporteur on violence against women, namely her exposition of the relationship between violence against women and culture, was intriguing. Violence against women could not be justified, and he wished to emphasize that in 1993 the Government of Japan had extended its sincere apologies to all comfort women and had expressed its remorse for their suffering.

22. Mr. NORDLANDER (Observer for Sweden) asked the Representative of the Secretary-General on human rights of internally displaced persons if he could confirm reports that the Sri Lankan Government had threatened more than 700 IDPs who had been sent back to Trincomalee from Batticaloa with the withdrawal of humanitarian and other essential supplies, and that an increasing number of IDPs and staff members of non-governmental organizations (NGOs) were being robbed, abducted and killed in and around IDP camps, probably by the paramilitary Karuna Group.

23. Mr. AHMED (Bangladesh) said that he particularly appreciated the examples cited by the Special Rapporteur on violence against women in support of her argument that dominant cultural patterns might lead to serious violations of women's rights. Violations of women's rights should be regarded as human rights violations.

24. Bangladesh had made tremendous strides in the emancipation and empowerment of women. While it was a party to the Convention on the Elimination of All Forms of Discrimination against Women, it nonetheless believed that States should be allowed enough time and given appropriate assistance to make the requisite alterations in their social and cultural patterns. Social and cultural attitudes towards women had shifted considerably in Bangladesh. Economic, social and cultural progress had been achieved thanks to the support of the Government, NGOs, civil society and the private sector. The Government, which was firmly committed to preventing violence against all women, was passing legislation to promote women's rights. Great emphasis had been placed on a comprehensive approach to women's empowerment, since it was the key to counteracting violence against women. In fact the empowerment of women in Bangladesh through microcredit had become a model for many developing countries.

25. Mr. CHAGRAOUI (Tunisia) said that the conclusions of the report of the Special Rapporteur on violence against women, its causes and consequences (A/HRC/4/34) were an incentive to the international community to redouble its efforts to stem such violence, which was an affront to the dignity of women.

26. In order to combat violations of women's rights, the Tunisian authorities had adopted a comprehensive strategy which encompassed legislation, awareness-raising programmes and appropriate sentences for offenders. The Personal Status Code, which dated from 1956, had set the scene for the emancipation of Tunisian women and for initiatives to promote women's rights.

Criminal Code provisions on domestic violence made it possible to combine severe punishment with a spirit of reconciliation. The Children's Code protected minors against all forms of aggression and ill-treatment. A new law on sexual harassment, adopted in 2004, sought to preserve women's dignity.

27. Civil society had been associated in all efforts to protect women's physical safety. Women's organizations were active in the struggle against gender-based violence. Women's counselling centres and shelters had been set up to dispense legal, medical, social, economic and psychological assistance.

28. The burgeoning risk of violence against women meant that the Human Rights Council should devote particular attention to all aspects of that subject and should attempt to find solutions to them.

29. Mr. LOULICHKI (Morocco) said that legislative and administrative measures would not be enough to combat the scourge of violence against women; the struggle must also be pursued in the educational and cultural fields, for the values and prejudices that shaped behaviour were acquired in the family and at school. Only an educational system advocating equality, non-discrimination, tolerance and respect for diversity could counter harmful stereotypes. Awareness-raising through the media, the involvement of national and local NGOs, and the participation of other elements of civil society were crucial if misconceptions were to be erased and a culture of equality fostered. Of course, the authorities could not shoulder that responsibility on their own: civil society's contribution was vital.

30. The protection and promotion of women's rights was a priority for the Moroccan Government. It had not only ratified the main international instruments on the subject but had also brought its domestic laws into line with its commitments under those instruments. It had reformed the Family Code in order to establish equal rights and duties for men and women in the family and in society. It had adopted a national strategy to counter violence against women which had been prepared with the help of various national and international actors and United Nations bodies. It had made sexual harassment at work a punishable offence. It had revised all school textbooks to remove any discriminatory references to women. It had recently set up a national observatory to counteract violence against women and had established counselling centres and a free telephone hotline for women who were victims of violence.

31. His Government attached particular importance to the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography. The recommendations contained in his report (A/HRC/4/31) were vital to any strategy to combat the sale of children's organs and the abduction of children at the national and international levels. In most cases both scourges were linked to international organized crime networks, making effective cooperation necessary not only between government authorities and civil society, but also between States at the regional and subregional levels. The Moroccan Government had ratified the Convention on the Rights of the Child and the two Optional Protocols thereto. In July 2006 it had submitted its first report under the Optional Protocol on the sale of children, child prostitution and child pornography. In August of that year it had launched a national action to promote all rights of the child which had placed special emphasis on the protection, rehabilitation and social reintegration of child victims of violence. As a follow-up to the World Congresses against the Commercial

Sexual Exploitation of Children held in Stockholm and Yokohama, his Government had convened a regional meeting on the subject in Rabat; the final declaration of that meeting had formed a contribution to the special session of the General Assembly.

32. Mr. VARELA QUIRÓS (Observer for Costa Rica) said that the report submitted by the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31) highlighted the grave dangers faced by children, who were society's most vulnerable members, yet nevertheless constituted the world's future. It was hard to imagine what future lay ahead, however, when organized gangs of criminals trafficked in children as if they were commodities in order to use their organs for transplants, to turn them into prostitutes or to exploit them to produce pornography. Meanwhile, in many conflict zones, children were forced to take part in wars. Such practices were intolerable and must be strongly condemned.

33. His delegation strongly supported the recommendations made in the Special Rapporteur's report and encouraged the Special Rapporteur to denounce the practices he had described in it. His Government had already adopted legislative and judicial measures to stamp out trafficking in children and child prostitution and pornography. It had also submitted reports to the Committee on the Rights of the Child under both Optional Protocols to the Convention on the Rights of the Child.

34. Mr. CABRERA (Ecuador) said that the advice that the Representative of the Secretary-General on human rights of internally displaced persons had given to Governments to help them fully implement their obligations to protect and assist persons fleeing from violence and disasters was most helpful. The Ecuadorian Government also welcomed the fact that, in his report on his mission to Colombia (A/HRC/4/38/Add.3), the Representative of the Secretary-General had recommended that villagers affected by crop spraying in Colombia should be consulted before coca eradication activities were undertaken and that donors should try to reconcile humanitarian assistance with the fight against drug trafficking, since crop spraying had a direct impact on human rights. The Representative of the Secretary-General had drawn attention to subjects which were not receiving the attention and priority they deserved, although they could contribute to real and lasting peace. It was therefore to be hoped that the parties concerned would follow up the conclusions and recommendations of the Representative of the Secretary-General in a responsible manner and with the requisite speed.

35. Ms. ELAMIN (Observer for the Sudan) said that after the signing of the Comprehensive Peace Agreement the Sudanese Government had taken action to help IDPs voluntarily return to their home districts. It had drawn up a joint plan with international organizations and the international community for the provision of material assistance to IDPs. A voluntary return programme for IDPs and refugees had been agreed between the Government of National Unity, the Government of Southern Sudan and the United Nations. The Government had done its utmost to improve the situation of IDPs under the extremely difficult post-war circumstances and to restore stability in the areas to which IDPs were returning. The Government was also seeking to promote tribal reconciliation in the Nuba Mountains, southern Sudan and Darfur and was working with the security agencies to ensure safe passage for humanitarian relief.

36. Mr. FLORÊNCIA (Brazil) said that Brazil had recently made considerable strides in protecting women against violence. The so-called "Maria da Penha Law" had been enacted by

Congress in August 2006, providing the judicial system with an effective instrument for prosecuting perpetrators of domestic violence against women. The Law complied fully with the recommendations of the Committee on the Elimination of Discrimination against Women of the Inter-American Commission on Human Rights.

37. A Special Secretariat for Women's Policies had been established and the National Council for Women's Rights, created 22 years earlier, had been reformed in order to involve women from all social and economic strata. In 2004 the first national conference on women's policies had been held in Brasilia and attended by more than 2,000 delegates. The centres for women's complaints on domestic violence and abuse established in the 1990s had become increasingly effective as women felt more confident about filing complaints. Public and private medical institutions were also required by law to report cases of violence against women. The information thus obtained was used to improve relevant databases. A call centre for women established in 2005 would also permit more detailed social, economic and cultural analysis of the phenomenon of violence against women.

38. A new programme on gender and diversity in the schools, coordinated by the Special Secretariat for Women's Policies, focused on capacity-building for teachers in the areas of gender, sexuality and racial equality. Some 1,200 teachers in six Brazilian cities were taking part in the programme.

39. Mr. FERNANDO (Sri Lanka) said that Sri Lanka was working closely with the Representative of the Secretary-General on human rights of internally displaced persons to finalize the details of his impending visit to the country. He assured the Council that the Government was taking all necessary steps on behalf of IDPs and working closely with United Nations agencies and other international organizations in that regard. The Ministry of Disaster Management and Human Rights was currently formulating guidelines for confidence-building and stabilization measures for IDPs with the assistance of the Office of the United Nations High Commissioner for Refugees (UNHCR). Those guidelines would serve as the basis for a results-oriented programme of action that would take a two-pronged approach. The first objective was to use protection, monitoring and intervention to stabilize the IDP population and build confidence among communities and between communities and the civil administration, the armed forces and law enforcement agencies. The second objective was to restore infrastructure and services so that IDPs could return voluntarily and resettle in their places of origin. The Government would take the lead in efforts to achieve the first objective, ensuring that the armed forces and law enforcement agencies provided protection and other assistance to the displaced population. Action to achieve the second objective would involve humanitarian actors, UNHCR, the Government and non-State actors involved in the conflict. It was expected that the number of IDPs who voluntarily returned to their homes would increase as confidence-building measures began to have a positive impact.

40. Mr. GALLON (Colombian Commission of Jurists) noted that the Representative of the Secretary-General on human rights of internally displaced persons concluded in his report on his visit to Colombia that all parties to the conflict and armed groups were responsible to a greater or lesser degree for forced displacement and that no party was respecting the right and obligation of civilians not to take part in hostilities (A/HRC/4/38/Add.3, para. 16). The Representative had been struck by the fact that the activities of the armed forces of Colombia were never considered as a potential source of displacement in government policies and projects (para. 38). Moreover,

he contrasted the ground-breaking efforts of the Constitutional Court with the failure of the authorities to implement the measures it had been requesting since 2004 (para. 22). The Representative of the Secretary-General had been disturbed by reports that many demobilized paramilitaries were being allocated land that had been illegally seized from displaced persons and were, in general, receiving more assistance than their victims (para. 57). He urged the Council to ensure that the Representative's recommendations were implemented with due dispatch.

41. The Special Rapporteur on violence against women had noted in her report that armed conflict, the war on terror and militarist cultures often reinforced dominant cultural paradigms that discriminated against women and cited by way of example the case of Colombia, where paramilitary groups had imposed strict codes of conduct on women (A/HRC/4/34, para. 63). Colombian women were affected by a government security policy that involved the civilian population and gave primacy to military authority over civilian institutions. Such a policy increased the risk of gender-based violence and ignored the progress that women in Colombia had made in asserting their rights.

42. Ms. PARKER (International Educational Development) welcomed the planned visit by the Representative of the Secretary-General on human rights of internally displaced persons to Sri Lanka, where the Tamil people were being subjected to ethnic cleansing and genocide. As a result of the tsunami and the armed conflict there might be as many as 500,000 IDPs in the north-eastern part of the country, where there were also serious food shortages. Government forces had carried out military operations against IDPs, and international aid to IDPs had been severely restricted. For instance, the United States authorities had prohibited the United States Red Cross from distributing post-tsunami aid. If the Sri Lankan Government was really taking care of IDPs as it claimed, it should open up land routes and allow full and unfettered access to victims. The recent understandings between the United States and Sri Lankan Governments concerning the opening of United States military bases in Tamil areas would entail even further displacement of Tamils.

43. She enquired about the dates of the Representative's forthcoming visit and asked whether a joint mission with other mandate-holders was contemplated and what steps the Council planned to take to ensure that the Representative of the Secretary-General was given unfettered access to all affected areas.

44. Ms. DUTALEB (Union de l'action féminine) said that women's rights were often abused and denied in the name of culture or custom. Women's NGOs in Morocco and members of civil society had been challenging cultural prejudices that prevented the promotion of the rights of women for more than 30 years. Their efforts had led to the formulation of a national strategy against violence and to a number of reforms, especially amendments to the Family Code, the Criminal Code and the Labour Code, which now contained minimum guarantees of justice, equality and protection for victims of violence.

45. However, cultural criteria continued to be invoked as grounds for discrimination against women, as the Special Rapporteur on violence against women had noted in her report (A/HRC/4/34). Moreover, many States were reluctant to withdraw their reservations to the

Convention on the Elimination of All Forms of Discrimination against Women and to ratify its Optional Protocol. She urged the Special Rapporteur to undertake wide-ranging consultations of NGOs in the course of her work.

46. Ms. KARIMI (International Commission of Jurists) expressed concern about reports of abductions of IDPs and threats to humanitarian actors in eastern Sri Lanka. According to the Office for the Coordination of Humanitarian Affairs, there were over 150,000 IDPs in Batticaloa district alone. Children living in IDP camps in that district were being traumatized by the heavy shelling that was taking place dangerously close to schools. The fundamental principle of distinction between civilian and military targets was not being respected, leading to unnecessary civilian deaths and injuries, including among IDPs. In some areas civilians were reportedly being forced to return to their homes under threat of withdrawal of humanitarian aid and without guarantees of security and adequate infrastructure upon their return. She welcomed assurances from the Government that UNHCR would be closely involved in any further return of IDPs and encouraged the Representative of the Secretary-General on human rights of internally displaced persons to look into the matter when he visited Sri Lanka.

47. As access to civilians trapped in or fleeing from conflict areas was extremely limited, she urged all parties to the conflict to grant international and national humanitarian agencies free access to those areas. She also urged the Representative of the Secretary-General to make recommendations to the Council on ways to address crises in which IDPs were facing serious human rights violations and hoped that his visit to Sri Lanka would take place without delay, as domestic mechanisms were unable to cope with the systemic human rights problems that gave rise to the IDP situation.

48. Noting that the Representative had described the situation of IDPs in Colombia as one of the most serious in the world (A/HRC/4/38/Add.3, para. 9), she welcomed the efforts of the Colombian Constitutional Court to secure respect for the rights of IDPs. She expressed concern, however, at the continuing failure to implement Colombian legislation aimed at protecting IDPs.

49. Ms. NUTT (Human Rights Advocates) recalled that Security Council resolution 1325 (2000) called on parties to armed conflicts to take special measures to protect women and girls from gender-based violence. It had recently been alleged that peacekeepers in Haiti had sexually abused girls as young as 11, that peacekeepers in the Sudan had paid 12-year-old children for sex and that some of the staff of the United Nations Mission in Liberia had been involved in sexual exploitation and abuse. In 2003 the United Nations had instituted a zero-tolerance policy regarding sexual exploitation and abuse by its peacekeepers. However, the Organization relied on troop-contributing countries to prosecute allegations. It had been proposed in the General Assembly that the United Nations should issue a note verbale stating that the deployment of peacekeeping forces was contingent on compliance with the zero-tolerance policy. Countries deploying contingents would be bound under international law to abide by that policy. A similar approach would be equally effective in the fight against peacekeeper involvement in trafficking. She asked whether the Special Rapporteur on violence against women had any suggestions on how to encourage the domestic prosecution of sexual exploitation, abuse and trafficking by peacekeeping forces.

50. Mr. DJAMIN (Forum-Asia), speaking also on behalf of Pax Romana, the International Movement Against All Forms of Discrimination and Racism (IMADR), the International NGO

Forum on Indonesian Development, Human Rights Working Group - Indonesia, the Centre for Policy Alternatives, INFORM, Law and Society Trust and Rights Now, asked the Representative of the Secretary-General on human rights of internally displaced persons how the benchmarks he proposed in his report (A/HCR/4/38, paras. 36-43) regarding the voluntary and safe return and resettlement of IDPs could be implemented in circumstances such as those prevailing in Sri Lanka. He also enquired about progress in the production of a handbook for parliamentarians and policy-makers on national implementation of the Guiding Principles on Internal Displacement in countries such as Indonesia. Where Governments failed to act on the Representative's recommendations, what follow-up action could he take? Lastly, he asked the Representative to comment on how national human rights institutions could best work with governmental and United Nations agencies in emergencies to protect the human rights of IDPs.

51. Mr. GILLIOZ (Human Rights Watch) welcomed the planned visit to Sri Lanka by the Representative of the Secretary-General on human rights of internally displaced persons and the commitment of the Government to cooperate with him. More than 220,000 people had been displaced in Sri Lanka over the past year. The forced return of displaced persons from at least eight sites in Batticaloa district was a particularly pressing issue. Government officials and military personnel had threatened to withdraw humanitarian aid, food and other essential supplies in order to induce individuals to return home. In some cases the security forces had stated that they would not be responsible for the security of IDPs who stayed behind. The Karuna Group had been working with the Sri Lankan army to intimidate IDPs. IDPs had expressed grave concern about returning home, owing to the possibility of renewed fighting between the Government and the Liberation Tigers of Tamil Eelam (LTTE) and reprisals by the military after LTTE attacks. Forced returnees were having to cope with shortages of food, water and shelter in Trincomalee.

52. He urged the Council to call on the Sri Lankan Government to stop forced returns of IDPs and to support the establishment of a United Nations human rights monitoring mission in the country. He asked the Representative of the Secretary-General to describe the steps he planned to take to investigate the situation in Sri Lanka and urged him to make further recommendations to the Council on ways of addressing the IDP crisis in that country.

53. Ms. MEHRA (Asia Pacific Forum on Women, Law and Development) said that violence against women continued to be one of the most visible manifestations of the unequal and unjust power relations between men and women. In his in-depth study on all forms of violence against women (A/61/122/Add.1) the Secretary-General had highlighted the pervasiveness of such violence around the globe, the inadequacy of national responses and the impunity that perpetrators all too often enjoyed. The report of the Special Rapporteur on violence against women, its causes and consequences (A/HRC/4/34) rightly emphasized that States could not invoke cultural factors under international law to justify any act of violence or deny, trivialize or otherwise play down the harm caused by violence against women.

54. Many States members of the Council failed to address grave violations of the human rights of women and many perpetuated violence against women by invoking cultural relativism. She wished to remind them of their obligation to ensure that justice for violence against women was not delayed, denied or outsourced to community justice mechanisms. States were also obligated to exercise due diligence to prevent, investigate, prosecute and punish violence against women,

to compensate the victims and to provide services for women survivors. They were furthermore obliged to protect women human rights defenders who faced discrimination, intimidation, attacks and killings by both State and non-State actors for fighting against oppressive cultural norms.

55. She urged the Council to promote the implementation of the recommendations contained in the reports of the Secretary-General and the Special Rapporteur. She also called on the Council to: ensure that its special procedures continued their vital work, with increased opportunities for country visits and the consideration of individual communications; ensure that women's human rights concerns were fully integrated into the universal periodic review; and include the human rights of women as a regular item on its agenda.

56. Mr. BOUH (Interfaith International) said that Moroccan Saharan women in the camps in Tindouf in south-western Algeria suffered continuous exploitation and were sometimes forced into polygamy, even though they were presented to foreign visitors as a model of emancipation. The suffering caused to both sexes by the decade-long conflict would continue until a final settlement was reached. Humanitarian aid was hijacked and sold in other countries of the region. Yet even as it complained of famine in the camps, Polisario spent enormous sums of money on festivals and military parades.

57. Morocco had just taken a courageous initiative aimed at granting the Saharan population substantial autonomy, in keeping with international law and General Assembly resolutions. Self-determination was not synonymous with independence or separatism but often led to autonomy or integration. The overwhelming majority of Saharans in Morocco's southern provinces fully supported autonomy through their representative body, the Royal Advisory Council on Saharan Affairs. He appealed for a lifting of the blockade on the Tindouf camps so that the unfortunate women living there could return to Morocco.

58. Mr. YOUNG (Tchad Agir pour l'Environnement) said that his organization was concerned about the impoverishment of widows and divorced women in both urban and rural areas. It was customary, especially in Africa, to disinherit women as soon as their spouses left them or died. Moreover, if they wished to start a business they were denied access to credit.

59. He also expressed concern about the conditions of detention of prisoners in Colombia and called for the release of Ingrid Betancourt.

60. Ms. BARROSO (Woman's International League for Peace and Freedom) commended the Special Rapporteur on violence against women for highlighting in her report (A/HRC/4/34) cultural norms that defined gender relations in Western countries and were often accepted without question. All forms of cultural essentialism undermined human rights. In the United Kingdom, one in four women were affected by partner violence, conviction rates in rape cases had fallen sharply in the past 20 years and women asylum-seekers had little protection from the State if they were victims of domestic violence. Choosing to divorce or separate left their status and right to remain uncertain.

61. She welcomed the Special Rapporteur's participation in an NGO-led regional consultation organized by the National Alliance for Women's Organizations in London in January 2007. She urged the Government of the United Kingdom to continue to interact with the Special Rapporteur in follow-up consultations.

62. Member States should review discriminatory legislation and criminal justice procedures that could exacerbate violence against women. In that connection, she requested the Special Rapporteur to recommend that Member States should integrate education and awareness campaigns on violence against women in their school curricula. She would also welcome further recommendations on preventive strategies that took into account structural violence in both the public and private spheres.

63. Mr. KÄLIN (Representative of the Secretary-General on human rights of internally displaced persons) thanked speakers for their constructive comments, which reflected the fruitful relationship between his mandate and many of the Governments he was dealing with.

64. He had taken note of the comments made by the observer for Côte d'Ivoire. He warmly welcomed the Ouagadougou Agreement and was pleased that it reflected many of his recommendations.

65. The representative of Germany had asked what the international community could do about land disputes. In his view, it could and should offer technical assistance in the reform of land law, which frequently failed to recognize traditional non-formalized types of property, a situation that caused problems in the context of displacement. Support should also be given for the establishment of dispute settlement procedures that were simple, efficient and likely to relieve courts of some of their existing burden.

66. To ensure that IDPs were able to exercise their political rights, electoral laws should be adapted to allow them to vote even if they were absent from their place of residence and unable to return. In addition, measures should be taken to enable IDPs to register as voters, and elections should be organized in such a way as to ensure de facto access to ballot boxes for IDPs.

67. Two speakers had asked how the benchmarks on durable solutions could be applied. The Working Group of the Inter-Agency Standing Committee had decided the previous day to pilot and field-test the benchmarks in one country. He would report to the Council on the lessons learned.

68. Some of the measures that should be taken to prevent violations of the human rights of victims of natural disasters included the preparation of evacuation plans, the keeping of copies of registers in safe places, arrangements for training and capacity-building, and monitoring of the situation by national human rights institutions. He was planning specific activities in conjunction with the Office for the Coordination of Humanitarian Affairs, but donor support was still required.

69. He thanked the Democratic Republic of the Congo for renewing its invitation. He would contact the country's Permanent Mission in Geneva in the near future.

70. Replying to the representative of Switzerland, he said that he was encouraged by the first steps taken by OHCHR to implement the protection cluster; however, he worried about the reluctance of some Governments to agree to a more active role for UNHCR in that regard.

71. In reply to the observer for Norway, he said that at least a dozen of the approximately 50 countries affected by internal displacement had implemented the Guiding Principles on Internal Displacement at the domestic level.

72. He wished to assure the observer for Serbia that the terminology used in the title he had mentioned was a technical oversight. A corrigendum was being prepared and would be issued shortly.

73. With regard to obstacles preventing return to Kosovo province, he maintained that the observations contained in his report (E/CN.4/2006/71/Add.5) remained valid, as did the conclusions and recommendations of the Human Rights Committee.

74. In reply to the representative of Canada, he said that the main challenges to the effective implementation of IDP policies at the national level were usually a combination of inadequate capacity and a lack of resources or political will to prioritize IDP issues.

75. With regard to measures that the United Nations and NGOs could take on behalf of Iraq, he noted that a study was currently being undertaken through the Brookings-Bern Project on Internal Displacement with the assistance of a network of researchers in Iraq to identify possible measures. He hoped that the study would be completed shortly.

76. Turning to questions regarding Sri Lanka, he drew attention to the last part of his oral presentation the previous day, in which he had made a number of recommendations and appeals. His mission to Sri Lanka was currently scheduled to take place in late November, but he would be prepared to visit the country earlier if the opportunity arose.

77. The priorities in Colombia were to implement the 2004 Constitutional Court judgement, to strengthen early warning mechanisms, especially in the context of renewed paramilitary activities, and to address the issue of urban displacement.

78. Ms. ERTÜRK (Special Rapporteur on violence against women, its causes and consequences) thanked the Governments of Turkey, the Netherlands and Sweden for their constructive responses to her findings and recommendations. The measures taken to improve the human rights situation of women in those countries were encouraging and illustrated the importance of her mandate. Member States' strong endorsement of the mandate should translate into firm support from the Council.

79. By 15 February 2007, 52 per cent of Governments had responded to communications concerning violence against women, whereas only 32 per cent had responded for special procedures as a whole. She urged the Council to address the low response rate to communications sent by special procedures, which seriously undermined their effectiveness. One possibility would be to publish communications at each session of the Council, rather than annually.

80. It was important to recall that it was people in situations of unequal power, and not cultural paradigms, that abused, tortured or killed women. Gender-based violence was often linked to poverty, dispossession, conflict, dislocation and HIV/AIDS. In both her latest report to the Council (A/HRC/4/34, para. 63) and earlier reports she had described how conflict and occupation exacerbated violence against women. The aim of the report was to encourage dialogue about preconceived notions of culture, with a view to expanding the definition of

culture and fostering greater understanding. In order to respond to cultural paradigms that discriminated against women, States must operate a zero-tolerance policy for violence, thereby cancelling out any justification, cultural or otherwise.

81. The Council could strengthen her mandate by holding an annual discussion on human rights violations against women across all mandates, by adopting a strong resolution on violence against women, its causes and consequences, and by incorporating a gender perspective in the universal periodic review mechanism. At the level of the United Nations system as a whole, close cooperation should be established between the Commission on the Status of Women, the Special Rapporteur on violence against women and the Committee on the Elimination of Discrimination against Women. Innovative engagement with civil society would also enhance the work of United Nations bodies.

82. Addressing violence against women required an intersectoral approach that made it possible to capture multiple layers of discrimination faced by different groups of women and identify risk factors and protection gaps. In multicultural, multiracial societies, equal participation of all segments of society facilitated social inclusion and counteracted violence and human rights violations.

83. While she had not yet undertaken any missions in the Asia-Pacific region, she actively cooperated with the Asia Pacific Forum on Law, Women and Development and had participated in various regional consultations. She commended the Australian Government for providing financial support for those consultations and encouraged Governments of other regions to follow suit.

84. Mr. Husák (Vice-President) took the Chair.

85. Mr. PETIT (Special Rapporteur on the sale of children, child prostitution and child pornography) noted that in paragraph 10 of his report on his mission to Ukraine (A/HRC/4/31/Add.2) he had stated that that country had not ratified the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing that Convention. That statement was incorrect and would be amended.

86. The lack of specific data in that mission report, which had been criticized by the representative of Ukraine, was due mainly to the lack of available statistics on issues pertaining to his mandate during the current transition phase. Refuting the claim that the report provided little information about sources, he pointed to the extensive footnotes, which contained precisely such information. Ukraine should guard against underestimating the volume of trafficking in persons: according to data provided by the International Organization for Migration, some 3,000 victims of trafficking, or approximately 2 persons a day, had received reintegration assistance since 2000. Given that not all victims received assistance, the actual number of such persons was likely to be much greater. As to the doubts expressed about his working methods, he said that the report was based on a systematic analysis of the situation, using quantitative and qualitative data.

87. The report acknowledged progress made with regard to adoption, but also recognized that procedures remained lengthy and complicated.

88. In response to the suggestion by the representative of Ukraine that he had overstepped his mandate by raising the issue of corruption, he said that the Ukrainian authorities themselves had highlighted the need to combat corruption. Also, corruption directly affected such matters as adoption procedures, police efforts to combat trafficking and the adoption of social policies, and was thus highly relevant to his mandate.

89. He thanked the representative of China for raising the issue of organ donation by prisoners on death row, which required in-depth examination, since such prisoners were clearly not in a position to dispose freely of their organs.

90. The delegation of Germany had asked what could be done to assist and reintegrate victims of trafficking. Countries with sufficient human and financial resources should consider setting up permanent mechanisms, while poor countries might wish to explore the possibility of setting up networks of trained volunteers to respond to emergency situations.

91. Police guidelines containing clear instructions for rapid and adequate responses to the disappearance of persons should be developed. Coordination with civil society and volunteer organizations was crucial in that regard.

92. Military personnel, including units engaged in peacekeeping operations, should be trained in human rights and engage in open discussions about sexuality in order to address the problem of prostitution and sexual abuse associated with military engagement.

Introduction of reports followed by an interactive dialogue:

Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination
(A/HRC/4/42 and Add.1 and 2; A/HRC/4/G/6, 9 and 10)

Report of the Special Rapporteur on the right to education (A/HRC/4/29 and Add.1-3)

Report of the Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights (A/HRC/4/10)

93. Mr. GÓMEZ del PRADO (Chairperson-Rapporteur of the Working Group on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination), introducing the report of the Working Group (A/HRC/4/42 and Add.1 and 2), said that the Working Group had introduced a system of individual communications that enabled it to receive and consider allegations of human rights violations involving private military and security companies. Unlike other special procedures, the Working Group dealt with both perpetrators and victims of alleged human rights violations. Its multifaceted mandate touched on many aspects of the new concept of “human security” and related to a wide range of violations, including violations of the right to life, economic and social rights, indigenous rights, the right to health, labour rights, the right to freedom of expression and the right of peoples to self-determination. Cases before the Working Group concerned issues

such as mercenary and terrorist activities, allegations of torture carried out by private companies and the involvement of child soldiers in mercenary activities in low-level conflicts around the world.

94. The Working Group's missions to Honduras, Peru and Ecuador had enabled it to collect data on new manifestations and trends in mercenarism and activities of private military and security companies and their effects on the enjoyment of human rights. While traditional forms of mercenarism had not disappeared entirely, the new modalities involved an emerging and flourishing industry of private military and security companies that sought chiefly to maximize profits. With the privatization of war, private and independent contractors had become some industrialized countries' main export commodity to armed conflict zones. Private companies also recruited and trained nationals of developing countries with high unemployment rates, low wages and a history of migration to serve in armed conflict zones. In some cases, staff of private military and security companies enjoyed total impunity, which meant that certain States might resort to private contractors to avoid incurring direct legal liability. A specific ban on the involvement of private military or security companies in armed conflicts was thus vital.

95. The tendency of Governments to ignore the new forms of mercenarism was one of the main obstacles to addressing the problem. Mercenarism was commonly viewed as belonging to the decolonization period and thus was no longer relevant, which was one reason that few States had acceded to the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries or taken any domestic action to address new forms of mercenarism. Developing norms or guidelines to close the current protection gap was of paramount importance. The Working Group therefore recommended that a high-level round table should be organized under the auspices of the United Nations to consider the question of State monopoly on the use of force, which would help clarify the obligations of different actors, including non-State actors, in respect of human rights.

96. In the meantime, the Working Group would continue to study emerging trends in mercenarism and the activities of private military and security companies, monitor human rights violations associated with those phenomena through its individual complaints mechanism and promote ratification of the 1989 Convention. In the absence of a treaty-monitoring body, the Working Group was the only United Nations mechanism that monitored human rights violations relating to mercenarism and promoted universal ratification of the Convention. He suggested that the Office of the United Nations High Commissioner for Human Rights (OHCHR) could develop model ratification legislation to facilitate accession to the Convention and help States parties to bring their domestic legislation in line with that instrument. OHCHR could also publish a compendium of relevant national, regional and international instruments to promote ratification.

97. While there was little awareness of the impact that new forms of mercenarism and the activities of private military and security companies had on the enjoyment of human rights, the missions of the Working Group, media reports, debate in academic circles and the work of certain NGOs had alerted stakeholders to the existence of those phenomena. The Working Group was pleased to report that Peru had acceded to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries and that Honduras and Ecuador were in the process of becoming parties. Draft legislation had also been prepared to prohibit the hiring of Peruvians to provide security services in armed conflict zones.

98. The Working Group was concerned that the Honduran Government was not taking steps to prevent private companies based in Honduras from recruiting and training Honduran and Chilean nationals for service in armed conflict zones; it was also concerned at the number and size of registered and unregistered private security companies operating in Honduras. Virtual private armies appeared to operate entirely outside the control of the authorities. The Working Group was particularly alarmed by the measures taken on 29 August 2006, when some 30,000 private security guards had reportedly been authorized to help the police and the armed forces fight crime by measures such as opening fire on lawbreakers.

99. The Working Group recommended that Honduras should carry out a study of the manner in which law enforcement agencies and institutions performed their duties and make the necessary changes to guarantee law and order, protect persons and property, and strengthen the rule of law. The provisions of the Police Act and the Regulations on Registering, Monitoring, Supervision and Oversight of Private Security should be strictly applied. The Honduran Government should ensure that private security companies were certified, check their reliability and verify that staff were adequately trained. It should establish an authority to monitor the activities of such companies and receive complaints. Steps should also be taken to prohibit the export of private military or security services to other countries.

100. Turning to the report of the Working Group's mission to Ecuador (A/HRC/4/42/Add.2), he said that the Working Group had been disturbed to learn that the Ecuadorian police reportedly charged a fee for the security services they provided to private individuals and bodies. Such use of public resources for private and commercial ends violated the principle of non-discrimination whereby the State must provide equal services to all citizens, and not only to those who could pay. The Working Group was also concerned about the reported involvement of a transnational private security company in Manta in counter-insurgency and anti-drug activities; the alleged establishment by a United States citizen of an unregistered phantom company that recruited Ecuadorians and Colombians to provide security services in Iraq; and reports that certain sectors of the military viewed indigenous peoples' struggle for land and a clean environment as sabotage.

101. The Working Group recommended that the Ecuadorian Government should develop national legislation to monitor and control the activities of national and transnational private military and security companies; conclude the investigation of the Epi Security and Investigations company in Manta; and implement the recommendations of the national Office of the Ombudsman and the Ecuadorian Congress concerning the protection of border populations from aerial spraying.

102. Mr. MUDHO (Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights), introducing his report (A/HRC/4/10), said that since the submission of his previous report in September 2006 he had continued his analysis of recent foreign debt initiatives, including the Multilateral Debt Relief Initiative, and their impact on the enjoyment of economic, social and cultural rights. In response to a request from the Commission on Human Rights, he had also prepared draft general guidelines aimed at ensuring that the design and implementation of debt and economic reform programmes were consistent with a country's human rights obligations; those guidelines would be circulated to the Council shortly.

103. The Bretton Woods institutions had developed a new concept of debt sustainability to avoid the accumulation of unsustainable debt. Despite its laudable objectives, the concept continued to focus on a country's financial ability to service debt, rather than its sustained financial ability to pursue and achieve wider human rights and development objectives. The draft general guidelines must therefore seek to promote an alternative concept of debt sustainability whereby a debt situation was considered unsustainable whenever a country lacked the resources to service its debt and comply with its human rights obligations at the same time.

104. The implementation of a human rights-based debt sustainability concept required clear indicators and benchmarks that identified a minimum level of human rights fulfilment and the resources required for the corresponding action, taking account of country-specific situations. Both creditors and borrowers should participate in the analysis of a country's debt sustainability. Pending the establishment of country-specific frameworks for human rights-driven debt sustainability analyses, however, policy-makers should be provided with an operational option for the transition period. It might be useful, for example, to consider a debt situation unsustainable if a country was not able to service its debt and concurrently achieve the Millennium Development Goals.

105. Borrowing countries had a primary responsibility to ensure that the credits and resources released by debt relief were used in a way that promoted human rights. To that end, human rights should be incorporated into the budget process, and technical support should be coupled with new loan agreements in order to strengthen the debt management capacity of borrowing countries. Recent debt relief initiatives had probably been too insignificant to have a measurable impact, even if optimal use of resources had been made. Finding solutions to the debt problems of poor countries was a pressing issue, and he therefore welcomed the recent decision of the Governors of the Inter-American Development Bank to join the Multilateral Debt Relief Initiative.

106. A solution must also be found to the problem of illegitimate debt. Creditors to developing countries should develop transparent criteria for determining debt illegitimacy. Loans granted primarily in the interest of the creditor country and loan agreements that were decided unfairly or whose objectives undermined human rights principles, for example, were illegitimate and should be considered for immediate cancellation. He welcomed the decision of Norway to cancel US\$ 80 million in debt owed by five developing countries, which had been granted primarily to bolster the creditor country's troubled shipbuilding industry.

107. While some policy elements promoted by international financial institutions in the context of economic reform programmes were conducive to the enjoyment of human rights, efforts must be made to ensure that the fundamental rights of debtor country populations were given priority over the implementation of structural adjustment programmes and economic reforms. The impact of economic reform policies depended largely on the country-specific context, and a global assessment of the human rights impact of such policies would thus be of limited use. In order to ensure a human rights-based approach to economic reforms, both the design and implementation as well as the outcome of policies must be consistent with human rights principles. Transparency, participation, consultation and accountability were of paramount importance in that regard.

108. Mr. MUÑOZ (Special Rapporteur on the right to education), introducing his report (A/HRC/4/29 and Add.1-3), said that his main report (A/HRC/4/21) focused on the right of persons with disabilities to education, since he gave priority in his work to groups that suffered discrimination, and persons with disabilities were among the groups most affected by discrimination in the form of educational exclusion. It was estimated that 120 to 150 million children throughout the world had some disability and that 90 per cent lived in poverty in a developing country. Another 15 to 20 per cent of all children had special needs at some point during their schooling.

109. Insufficient records on the education of persons with disabilities made it impossible to know the exact number excluded from the educational system. However, while the primary school enrolment rate had risen in the developing world, currently standing at 86 per cent in all regions, estimates of the number of children with disabilities attending school in developing countries varied between under 1 per cent and 5 per cent. The way to deal with such exclusion was through the educational paradigm known as inclusive education. Such education was based on the principle that, wherever possible, all children should study together, without differentiation. Inclusive education recognized that every child had specific characteristics, interests, abilities and needs, and that children with special educational needs should have access to the general educational system and benefit from child-centred teaching. Educational systems should therefore stop thinking of persons with disabilities as a problem to be solved but should adopt a positive attitude to the diversity of their pupils, seeing individual differences as an opportunity to enrich the education of all children.

110. Opposed to that approach was the special education paradigm, which involved segregated education and the formation of two separate educational systems: one for persons with disabilities and one for those without. Special schools, which were based on the conviction that persons with disabilities could not be educated, were often inflexible, taking no account of the specific needs of individual children and failing to provide optimum results. Mainstream schools were thus reluctant to take children with disabilities and, indeed, excluded those that were difficult to teach. The practice of teaching children with disabilities separately could increase their social marginalization.

111. Human rights standards imposed three major obligations on States with regard to education. First, a State should not hinder the enjoyment of the right to education. Secondly, it should provide protection against discrimination in education and ensure that males and females enjoyed equal access. Thirdly, it should make optimum use of available resources in order to ensure the full realization of the right to education. Clearly, there could be inconsistencies in policies and legislation on inclusive education. A single Government institution - the Ministry of Education - should therefore be responsible for the implementation of such policies and legislation. Obstacles to effective enjoyment of the right to education included the existence of negative attitudes towards persons with disabilities, insufficient attention to the specific needs of women with disabilities, inadequate skills among teachers and administrators, the inaccessibility of education, particularly physical access to buildings and access to learning materials, resource constraints and insufficient attention to the special education needs of learners in mainstream education.

112. In order to compile up-to-date information on the situation, he had sent out a detailed questionnaire to Governments, United Nations agencies, NGOs and independent experts. It was

clear from the responses received that the vast majority of the countries surveyed had mixed arrangements, in which special education schools coexisted with the inclusion of students with disabilities in mainstream schools. There was practically no systematic evaluation of the quality or relevance of the education of persons with disabilities. In many of the countries considered in the report, public debt and inadequate investment limited access to education for persons with disabilities. There was also very little statistical information on school abandonment or dropout rates for children and young people with disabilities, and there were practically no statistics comparing those rates with those on students without disabilities. Nevertheless, preliminary data indicated that the dropout rate among children with disabilities was comparatively higher.

113. In most countries, neither persons with disabilities nor their families or representatives contributed to the design of specific educational programmes or curriculum guidelines, or else their participation was restricted to orientation courses, collective learning or recreational activities. The report included a number of recommendations to States. He would also recommend that the Council should seek information on the problems facing States in the early ratification of the Convention on the Rights of Persons with Disabilities and urge all the human rights mechanisms to include the situation of persons with disabilities in their work.

114. During his mission to Germany, which was discussed in document A/HRC/4/29/Add.3, he had been glad to see the authorities' commitment to education and their willingness to identify and rectify obstacles to the right to education. The situation was complicated by the country's historical traditions and the variations from Land to Land. The lower secondary school level was very fragmented and the impact that such a system had on academic results was a sensitive topic. According to one study, Germany had the highest correlation among industrialized countries between social situation and academic results. The tripartite structure was part of Germany's strong educational tradition, but there were also strong grounds for believing that the educational structure had a major impact on academic achievement and teaching quality. In his view, the fragmentation of the system and the classification of students tended to accentuate social disparities. He had observed that the people most affected by the system were those living in poor conditions, those of migrant origin and persons with disabilities. Efforts to improve the quality of education should guarantee equitable and egalitarian conditions of schooling, which meant not only the opportunity to attend school but also support for basic social and educational needs. He therefore urged the Government to promote and extend the national debate on the relationship between the existing educational structure and the phenomenon of exclusion or marginalization, especially among children of migrant origin or children with disabilities. Such a debate might also consider whether it was appropriate to retain both a dual and a tripartite system.

115. During his mission to Morocco, he had noted the very positive institutional and legislative measures taken to promote the right to education. He welcomed the recent establishment of the High Council on Education, in which both students and teachers were to participate. Great efforts had been made to combat illiteracy and extend primary education, which, according to official data, had risen from 40 per cent in 1960 to 93 per cent in 2006. He commended the introduction into the curriculum and gradual implementation in schools of the Amazigh language and culture and the establishment of the Royal Institute for Amazigh Culture. The new phenomenon of child labour, however, constituted a major obstacle to the full enjoyment by children of their right to education. Factors including poverty, the difficult social and economic

conditions of Moroccan families, traditional and cultural practices and the failure to implement existing legislation prohibiting the employment of children under 15 prevented children from attending school. Lastly, he recommended that the authorities should focus on ensuring equal access by girls and boys to school, in order to incorporate a gender perspective at all levels of the education system and promote the principle of equal rights for men and women.

116. Ms. PONCE (Observer for Honduras) said that some of the concerns expressed in the report of the Working Group on mercenaries were misplaced. Her Government was, in keeping with the Constitution, committed to the right to self-determination and non-intervention. That was why the Public Prosecutor's Office was investigating the question of how Honduran and Chilean mercenaries had been recruited for military service in Iraq. Following the Working Group's helpful report, the Government would also investigate whether mercenaries had been used in internal conflicts. A committee had been set up to look into the Working Group's comments and was focusing on two questions in particular. First, it was considering the question of Hondurans sent to Iraq. The Government lacked the resources to check the facts itself but would gladly accept any information obtained by the Working Group. Secondly, the committee would consider the Working Group's concerns about unregistered private security companies that might engage in internal conflict. The existing regulations were clearly insufficient, and legislation would be drafted to take account of the Working Group's recommendations. With regard to the murder of Dionisio Diaz García, the human rights lawyer who had been involved in the defence of security guards dismissed from private security companies, she said that the case was under investigation and proceedings had already been brought against one person. The Government would keep the Working Group informed.

117. Mr. MONTALVO (Ecuador) said that his delegation had prepared a written response to the report of the Working Group on mercenaries, which would shortly be issued, as a document of the Council. However, he wished to clarify one or two points. First, Ecuador had started to implement not just one of the Working Group's extremely useful recommendations but all of them, in one way or another. Legislative and constitutional reform was under way with a view to incorporating international standards, as were judicial investigations characterized by due process; recommendations regarding the spraying that took place along the country's northern border were being followed, and preventive action was being taken with regard to the peasant councils. Lastly, human rights institutions and mechanisms had been significantly strengthened. Both the National Police and the Army operated within constitutional and legal limits. The Government would, however, take the Working Group's concerns into account, which would undoubtedly serve to improve the country's efforts in the area of human rights.

118. It was important to draw a distinction between Ecuadorian institutions and those of other countries. As his delegation had stated before, there were certain actions described in the report that occurred within Ecuadorian territory yet were not the responsibility of his country. Moreover, not only was Ecuador not the author of the deeds observed by the Working Group, it was in fact the victim. For example, the Working Group had referred to the Manta base and the operations of DynCorp International, as well as to the existence of a phantom company called EPI Security and Investigations, which had no legal status in Ecuador. It was telling that, as the Working Group had established, the foreign transnational corporation that was performing functions that were the exclusive prerogative of the State was the same one that was carrying out the spraying on the country's northern border. On the Working Group's recommendation, Ecuador would therefore take positive steps to protect its citizens' rights with regard to such

spraying. As for the Manta base, the President and the Minister for Foreign Affairs had recently confirmed that the agreement concluded with the United States of America would not be extended beyond its termination in 2009.

119. The Working Group had criticized the lack of complaints against the activities of private military or security companies in Ecuador as a possible indication that the public did not understand human rights procedures. The probable explanation, however, was that there was nothing to complain about. His country would nevertheless continue to conduct its many education, training and dissemination programmes on human rights, in accordance with the National Plan.

120. Mr. LOULICHKI (Morocco) said that his delegation would study the recommendations contained in the preliminary note of the Special Rapporteur on the right to education on his mission to Morocco (A/HRC/4/29/Add.2) and would issue an official response as soon as possible. Morocco attached great importance to the right to education, which was why it had established the High Council on Education, reformed school curricula, undertaken to provide information technology for all schools by 2008 and promoted the teaching of human rights in schools. It had also developed the National Observatory on the Rights of the Child and established the Children's Parliament. Textbooks had been rewritten to promote gender issues and other human rights issues. Morocco also supported linguistic diversity and was determined to reduce illiteracy by 20 per cent by 2010.

121. A number of steps had been taken to deal with the problem of school dropouts, especially in rural areas. First, the countryside was being opened up through the introduction of electricity. Secondly, a support structure was being put in place for needy children, in the form of boarding schools, school transport and accommodation, especially for girls. Arrangements were also being made to integrate children with disabilities. He recalled in that connection that Morocco had supported the Convention on the Rights of Persons with Disabilities from the outset.

122. Mr. REYES RODRÍGUEZ (Cuba) said that his country had recently ratified the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. It had done so with particular satisfaction, given the disastrous impact that the use of mercenaries and related practices, such as terrorism, had had on the Cuban people. The Working Group on mercenaries had done excellent work in monitoring the human rights impact of the activities of private military and security corporations, which were increasingly used to prop up regimes of foreign occupation and imperial conquest. Of particular concern was the presence of some 50,000 such modern mercenaries as support for the forces of the imperialist coalition that had invaded Iraq. Some of those mercenaries had been directly involved in the most egregious forms of torture carried out at the Abu Ghraib prison. His delegation encouraged the Working Group to continue to follow up more traditional forms of mercenary use and, in particular, to take up some of the recommendations made by Mr. Bernales Ballesteros when he had been Special Rapporteur on the topic.

123. The Working Group should also look into the activities of anti-Cuban terrorist groups operating with impunity in United States territory who had recruited mercenaries to carry out death missions against the Cuban people. Document E/CN.4/2000/14 documented terrorist activities against Cuban hotels by Central American mercenaries recruited by the infamous

terrorist Luis Posada Carriles, who had also been responsible for blowing up an aircraft carrying 73 civilians in 1976. The United States Government, which was holding Posada Carriles, had not complied with its obligation to extradite him to Venezuela or to charge him with terrorism. In those circumstances, the Working Group should visit the United States as soon as possible.

124. His delegation commended the report of the Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights, and welcomed his undertaking to draw up guidelines that States and private, public, national and international financial institutions would be obliged to respect. It was clear that imposing an unsustainable burden of external debt on developing countries had failed and that the structural adjustment policies imposed by international financial institutions were themselves violations of the most basic rights of many peoples of the South. The developing countries were funding the wealth and luxury of the North. The Independent Expert's mandate was therefore vital.

125. As for the report of the Special Rapporteur on the right to education, the Cuban education system - and particularly its special education programmes - was genuinely inclusive and guaranteed enjoyment of that right to persons of any age with any form of disability. Education for all had been a basic premise of the Cuban revolution.

126. Mr. GOLTYAEV (Russian Federation) welcomed the balanced and realistic report of the Working Group on mercenaries and said that his delegation shared the Working Group's view that the transfer by States of some of their functions to private organizations should not absolve States from responsibility under international law. The Working Group should develop the topic further. He also commended the attention that the Working Group paid to the responsibility of mercenaries, as non-State actors, for human rights violations and to the threat that the activities of such people posed to the independence and territorial integrity of States. His delegation trusted that the work of the Working Group would help to change the minds of those who still maintained that human rights could be violated only by States or their official representatives and denied that non-State actors could be held liable. The Working Group's mandate should be retained.

127. Ms. SIEFKER-EBERLE (Germany), speaking on behalf of the European Union, recalled that European Union States had been involved in the conception and drafting of the Convention on the Rights of Persons with Disabilities. She also commended the contribution made by NGOs during negotiations on the Convention.

128. With regard to the report by the Special Rapporteur on the right to education on his visit to Germany (A/HRC/4/29/Add.3), she asked the Special Rapporteur to elaborate on the importance of contacts between independent mechanisms at national level and the United Nations monitoring system in relation to the promotion and protection of the rights of children with disabilities. Secondly, she noted that several countries had not put in place adequate national monitoring mechanisms with regard to children with disabilities, and she wondered what role should be played by civil society and NGOs in implementing such mechanisms. Thirdly, she asked what he considered the most realistic strategies to bring about the introduction of inclusive education.

129. Ms. BRITO MANEIRA (Observer for Portugal) said that the Special Rapporteur on the right to education had referred several times to the importance of collecting data on literacy levels, disaggregated by disability, for the formulation and implementation of national policies. She asked whether he had any specific recommendations concerning the definition of an international standard. If so, she wondered whether he could identify any conflict between established legal safeguards, including national data protection legislation, and internationally accepted human rights norms or the ethical principles governing the collection and use of such statistics. Lastly, she noted that the preliminary note on his mission to Morocco had highlighted a process of educational decentralization that gave administrative and financial autonomy to regional educational institutions, which were entitled to tailor 20 per cent of their curriculum to regional cultural specificities (A/HRC/4/29/Add.2, para. 7). She asked whether he thought such decentralization a solution applicable to all States.

The meeting rose at 1.10 p.m.