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HUMAN RIGHTS COUNCIL

Sixth session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 25 September 2007, at 10 a.m.

President: Mr. COSTEA (Romania)

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

HUMAN RIGHTS BODIES AND MECHANISMS (agenda item 5) (continued)

Review, rationalization and improvement of mandates (continued) (A/HRC/4/3)

Mandate of the Independent Expert on the situation of human rights in Haiti

1. Mr. PIERRE (Observer for Haiti) said that Haiti was in favour of the continuation of the Independent Expert's mandate. The Independent Expert had always accomplished his task with professionalism, and the climate of trust that had been established between the Independent Expert and the Haitian authorities had enabled the Government to introduce a number of reforms. The Parliament had adopted a bill on judiciary regulations and the bill creating the Supreme Council of the Judiciary. In order to address the problem of extended pretrial detention, the prosecutor's office attached to the court of first instance had been modernized and a duty office had been set up. For minor offences, the "immediate appearance" procedure was being applied. The National Identification Office had been established, and an independent official had been placed at the head of the Institute of Forensic Medicine. The purge of the police force was continuing. A motorized unit composed of 1,000 policemen would be deployed in the Haitian capital to prevent petty crime. The security situation had markedly improved thanks to the operations conducted jointly by the United Nations Stabilization Mission in Haiti (MINUSTAH) and the Haitian National Police. The Government of Haiti was encouraging national and foreign businessmen to invest in Haiti as part of its efforts to combat poverty. Good governance was a government priority, and the head of State was leading a relentless fight against corruption and drug trafficking.
2. In the light of those considerations, the Government of Haiti considered it necessary to strengthen the Independent Expert's cooperation with the Haitian authorities involved in consolidating the rule of law.
3. The PRESIDENT drew the Council's attention to a letter that he had received the previous day from the Haitian Minister of Justice, in which the Minister highlighted the need to strengthen cooperation between the Independent Expert and the relevant Haitian authorities. The Council had before it an example of what a country-specific mandate could achieve in terms of cooperation and practical results.
4. Mr. JOINET (Independent Expert on the situation of human rights in Haiti) said that the renewal of his mandate had been supported not only by the Transitional Government of Prime Minister Latortue but also by the Government of President Aristide.
5. While some Council members might raise concerns regarding the partiality of special rapporteurs, judging from the Council's recent discussions on a code of conduct for special procedures mandate-holders, it appeared that the Council wished to place them under supervision. Other members might object that the country-specific mandates overlapped with the universal periodic review. However, the universal periodic review would be concerned only with reports, and not with investigations on the ground, and the entire review would take place within four hours. In other words, the special procedures complemented the universal periodic review.

6. Mr. SHALABY (Egypt), speaking on behalf of the Group of African States, said that, as the Council embarked on a discussion of the future of a number of technical cooperation mandates, it should bear in mind the principles established in Council resolution 5/1. The representative of Haiti had outlined a number of vital parameters for assessing the effectiveness of technical cooperation country mandates, namely: the express will of the country concerned to cooperate with the mandate and the mandate-holder; the obligation of the mandate-holder to respect the authorities of the country concerned; the relevance of the work of the mandate-holder and the recommendations issued within the context of the mandate; and clear and measurable positive results. The Independent Expert had worked within those parameters and his mandate would most likely be renewed; however, the Group of African States doubted whether the same held true of all other similar mandates.

7. A clear and in-depth evaluation must be conducted every time the Council considered the future of a technical cooperation country mandate and all other existing mandates. Whatever the outcome of mandate review, the Council should bear in mind that the objective of the exercise was to improve the human rights situation. The Council should not get bogged down in political manoeuvring, as if the existence or non-existence of a mandate was in itself the cardinal goal; such an approach had never yielded any benefits for the promotion and protection of human rights in any country.

8. Ms. VALENTE (Portugal), speaking on behalf of the European Union, said that, in spite of difficult circumstances, the Independent Expert on the situation of human rights in Haiti had managed to form a relationship of trust with the Haitian authorities, which had enabled the Government to institute a wide range of reforms. Through the Independent Expert, the Council had maintained a fruitful dialogue with the Haitian authorities, which had expressed their wish to see the mandate renewed. The European Union was also in favour of the renewal of the Independent Expert's mandate.

9. She asked the Independent Expert how the extension of his mandate could be used to implement the recommendations contained in his report (A/HRC/4/3). The Independent Expert should describe his relations with the media, and explain whether he had ever been exposed to any kind of pressure in the exercise of his mandate. Lastly, she wished to know what measures the Independent Expert could take to improve his mandate.

10. Mr. MATTÉI (France) said that the progress made in the area of human rights in Haiti was attributable to the return to constitutional legality and the Government's ambitious reform programme. He commended the efforts of the Haitian authorities to solve problems in the justice and police services; those efforts should be pursued and intensified. Progress had been made in preventing extended pretrial detention. Close cooperation between the Office of the Ombudsman and MINUSTAH Human Rights Section should be encouraged. The Council should encourage Haiti to continue its efforts to improve its human rights situation. His delegation was therefore in favour of renewing the Independent Expert's mandate.

11. Mr. PINO ÁLVAREZ (Cuba) said that Cuba supported the renewal of the Independent Expert's mandate. As a country that provided practical support to Haiti in the areas of health, economic development and education, Cuba considered that the mandate should pay greater

attention to promoting international cooperation and solidarity in order to enable the Haitian people to overcome their difficult humanitarian situation and to restore their economic, social and cultural rights.

12. Mr. CHOCANO (Peru) said that, as an active participant in institution-building in Haiti, Peru wished to stress the important progress that Haiti had made in establishing democratic institutions. Peru urged all countries to continue supporting the Haitian Government's efforts to improve its social and economic situation, and also to support renewal of the mandate of MINUSTAH. His delegation strongly supported the renewal of the Independent Expert's mandate.

13. Ms. OLIVERA (Mexico) welcomed the Haitian authorities' close cooperation with the Independent Expert, and the progress made in such areas as the status of women. Her delegation was in favour of renewing the mandate of the Independent Expert.

14. Mr. GRINIUS (Canada) said that the human rights situation in Haiti remained a major concern. As a country that supported the Haitian Government's efforts to improve the living conditions of its population, Canada was in favour of the extension of the Independent Expert's mandate.

15. Ms. KOHLI (Switzerland) said that her delegation fully supported the renewal of the Independent Expert's mandate. She encouraged the Haitian authorities to intensify their efforts to achieve stability and ensure good governance.

16. Ms. CHAVEZ BIETTI (Guatemala) said that Guatemala would continue to provide Haiti with practical support, and was in favour of renewing the mandate of the Independent Expert.

17. Mr. KHAN (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said that he wished to make a general statement on the review, rationalization and improvement of mandates. While the institution-building package adopted in June 2007 had settled a number of questions, the Council still needed to arrange for the ad hoc extension of special procedures until the review, rationalization and improvement process was completed; outline a time frame for that process; define review, rationalization and improvement in the light of the guidelines contained in Council resolution 5/1; set concrete goals for review, rationalization and improvement; hold structured discussions on the relevance, scope and content of mandates; and establish minimum criteria for reviewing all special procedures, on the understanding that each mandate should be considered on its own merits.

18. Several other matters needed to be clarified. The presentation of a report by a special procedure was not an interactive dialogue on the mandate itself, except where that was clearly stated and time was set aside for that purpose. Negotiations on a country-specific or thematic resolution containing one operative paragraph dealing with the continuation of the mandate was not a substitute for review, rationalization and improvement. The outcome of the review, rationalization and improvement process for all special procedures should be consolidated in order to ensure a balanced review of all special procedures.

19. Mr. WINTER (Uruguay) said that the Independent Expert had a vital role to play in improving the situation of human rights in Haiti, and Uruguay was in favour of renewing his mandate.
20. Mr. MARTABIT (Observer for Chile) said that his delegation strongly supported the renewal of the mandate of the Independent Expert.
21. Mr. FEYDER (Observer for Luxembourg) said that there appeared to be a clear consensus in the Council to renew the Independent Expert's mandate as a means of supporting democracy and institution-building in Haiti, particularly in the areas of law enforcement and the administration of justice. At the same time, it was important not to lose sight of development challenges. While it was true that there was no development without security, it was also true that there could be no security without development, and it might be useful to examine the international economic and trade environment, which created great difficulties for farmers and small businesses in Haiti. Other countries might wish to review the consistency of their own policies in that regard.
22. Mr. LOULICHKI (Observer for Morocco) said that the Council's discussion on Haiti showed how different each situation was. Each mandate must be considered on its merits and account should be taken of the wishes of the concerned State. He hoped that, just as there were cases where States accepted the renewal of a mandate, there would also be occasions where mandate-holders recommended the termination of their mandate.
23. Ms. ROSE (French National Consultative Committee on Human Rights), speaking also on behalf of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights and the Association francophone des commissions nationales des droits de l'homme (French-Language Association of National Human Rights Committees), said that the principal mission of national human rights institutions was to assist Governments in implementing human rights. The French National Consultative Committee on Human Rights was interested in the Independent Expert's suggestion that the Office of the Ombudsman in Haiti might take over the functions of the MINUSTAH Human Rights Section when that Mission's mandate came to an end. The members of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights stood ready to invest the time and resources necessary to put that proposal into effect. She wished to know what role the Independent Expert would play in the transfer of those functions.
24. Mr. ROBERSON (International Federation for Human Rights) said that the human rights situation in Haiti was still worrying. Summary executions, extended pretrial detention and prison deaths were commonplace, and armed gangs committed human rights violations with impunity. The situation of women still gave cause for concern. The Council should therefore renew the mandate of the Independent Expert.
25. Mr. MACHON (International Commission of Jurists) said that he was in favour of extending the Independent Expert's mandate, since it had been instrumental in improving the administration of justice in Haiti. However, the Haitian authorities still needed to address the question of impunity. He asked the Independent Expert to what extent the renewal of his mandate would make it possible to settle the question of whether funds frozen in Switzerland should be returned to the Duvalier family.

26. Mr. JOINET (Independent Expert appointed by the Secretary-General on the situation of human rights in Haiti), replying to the representative of Portugal, said that he had never been subjected to pressure, even under President Aristide's administration. He did not know whether any pressure had been brought to bear on the Haitian Government.

27. He attached great importance to the relationship between the Human Rights Section of MINUSTAH and the Office of the Ombudsman. The previous international mission to Haiti, the International Civilian Mission in Haiti, had left very abruptly at the end of its mandate, with no transfer of functions; that must not be allowed to happen again. On his first appointment as Independent Expert, he had requested that an office of the High Commissioner should be opened in Haiti and that the head of the Human Rights Section of MINUSTAH was appointed by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in order to ensure continuity when the mandate of MINUSTAH came to an end. The Office of the High Commissioner would thus be in a position to take over if the transfer of functions had not been effected.

28. With regard to the funds frozen in Switzerland, he said that those funds should be returned to Haiti in order to finance programmes to improve conditions in the shanty towns.

29. Mr. FLORENCIO (Brazil) said that the Brazilian military contingent in Haiti had helped to improve security in the slums of Port-au-Prince and had implemented a series of sectoral projects in areas of immediate social impact among the population. The social indicators in the Independent Expert's reports and his assessment of the serious security conditions in Haiti provided a framework for understanding the immense challenges in overcoming the critical situation in that country. Haiti was in special need of a new paradigm for international cooperation with emphasis on result-oriented projects to combat poverty and strengthen the State's capacity to provide services to the poor population. The root causes of the crisis in Haiti were not limited to security issues; rather, they lay in poverty, social injustice and the vulnerability of State institutions. Brazil fully supported the extension of the Independent Expert's mandate.

30. Mr. PIERRE (Observer for Haiti) thanked those who had spoken in favour of extending the Independent Expert's mandate, as well as the organizations and countries that provided financial and technical assistance to Haiti.

31. The PRESIDENT said that consultations would be held to arrive at a consensus decision on the extension of the Independent Expert's mandate.

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED FORMS OF INTOLERANCE: FOLLOW-UP TO AND IMPLEMENTATION OF THE DURBAN DECLARATION AND PROGRAMME OF ACTION (agenda item 9) (continued)

Durban Review Conference

32. Ms. AL-HAJJAJI (Chairperson of the Preparatory Committee for the Durban Review Conference) said that the first session of the Preparatory Committee for the Durban Review Conference, held from 27 to 31 August 2007, had established a good basis for preparing the

Review Conference and ensuring its success. After much work and deliberation, the Preparatory Committee had been able to agree on the following objectives for the Conference: to review progress and assess the implementation of the Durban Declaration and Programme of Action by all stakeholders at the national, regional and international levels and to identify concrete measures and initiatives for combating and eliminating all manifestations of racism, racial discrimination, xenophobia and related intolerance; to assess the effectiveness of the existing Durban follow-up mechanisms and other relevant United Nations mechanisms; to promote the universal ratification and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and proper consideration of the recommendations of the Committee on the Elimination of Racial Discrimination; and to identify and share good practices achieved in the fight against racism, racial discrimination, xenophobia and related intolerance.

33. The fight against racism and racial discrimination was essential to the consolidation of the rule of law, sustainable development, democracy and peace. Although six years had passed since the Durban Conference, racism, racial discrimination, xenophobia and related intolerance continued to be a root cause of human rights violations. The Durban Review Conference would unite the international community in a determined struggle against those social evils and it would enable all stakeholders to reflect on the reasons why all manifestations of racism had not yet been overcome. While the work ahead was daunting, the interest displayed in ensuring the success of the first session of the Preparatory Committee was encouraging.

Follow-up to and implementation of the Durban Declaration and Programme of Action

34. Mr. MARTABIT (Chairperson-Rapporteur of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action) said that, during the first part of its fifth session, held from 5 to 9 March 2007, the Working Group had devoted time to the analysis of national plans of action to combat racism. During the second part of its fifth session, held from 3 to 7 September 2007, the Working Group had focused on thematic analysis, including of studies by the Committee on the Elimination of Racial Discrimination and by the five experts appointed by OHCHR. The study by the Committee on the Elimination of Racial Discrimination dealt with obstacles to the effectiveness of its monitoring role and contained recommendations and proposals on increasing the effectiveness of its procedures. The study by the five experts dealt with complementary standards and the positive obligations of States, complementary standards and certain vulnerable groups, and complementary standards and manifestations of racism, racial discrimination, xenophobia and related intolerance.

35. Ms. KANG (Deputy High Commissioner for Human Rights), introducing the report of the United Nations High Commissioner for Human Rights on combating defamation of religions (A/HRC/6/4), said that ignorance continued to be one of the underlying causes of religious discrimination. All States should focus on implementing the recommendations made by human rights mechanisms and enhancing cooperation with stronger political will. Human rights education was an essential tool for the elimination of odious stereotypes. In broadening cultural horizons and knowledge of human rights, education could foster tolerance, respect and peaceful coexistence.

36. Mr. PEREIRA MARQUES (Observer for Portugal), speaking on behalf of the European Union; the candidate countries Turkey, Croatia and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Liechtenstein, Ukraine, Moldova and Georgia, said that, in order for the follow-up on the Durban Declaration and Programme of Action to be successful, the broad consensus achieved in Durban had to be maintained. The development of international complementary standards might need to be considered to address current challenges; such standards should be based on a comprehensive and consensual process of identification of gaps in international standards. Any complementary standards should address real needs of the fight against racism and bring a real added value to the protection and promotion of human rights in general.

37. The Council currently had a disproportionately high number of mechanisms that dealt with racism. Since preparatory work for the Durban Review Conference had begun, the number of meetings of the other mechanisms dealing with that issue should be reduced. That would improve management of the Council's general workload and ensure that all parties were fully committed to achieving meaningful results.

38. Mr. PINO ÁLVAREZ (Cuba) said that preparatory work for the Durban Review Conference had begun at a time when racism and xenophobia had become more prevalent in many parts of the world. That tendency had increased in the wake of the tragic events of 11 September 2001, and as a result of the increasing popularity of extreme right-wing parties that disseminated xenophobic ideas in many developed countries. Civilizations and religions were being discredited and demonized as a result of campaigns orchestrated by Northern powers. The targets and actions agreed in the Durban Declaration and Programme of Action must be fully implemented and additional measures must be found to address the new and more sinister forms of contemporary racism, racial discrimination, xenophobia and related intolerance. Several developed countries continued to oppose the holding of the Review Conference and were attempting to limit its scope and impact. The Council should ensure that adequate budgetary allocations were made for the preparatory process, including for national and regional initiatives, and for the Review Conference itself.

39. Mr. KHAN (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said that the High Commissioner's report on combating defamation of religions did not fully convey the fact that defamation of religions, particularly Islamophobia, was a growing phenomenon in several countries. Domestic legislation and the courts were unable to deal with the rising tide of defamation and hatred against Muslims in Western countries, especially since such trends were spreading to grass-roots communities.

40. He agreed that there was no need to establish hierarchies or prioritization among different forms of defamation, and that tolerance and intercultural dialogue should be promoted. However, in order to combat incitement of hatred and discrimination against Muslims, it was necessary to shift the focus from defamation of religions in general to Islamophobia in particular. Since terrorists were motivated by politics, not religion, terrorist-profiling by law enforcement agencies on the basis of ethnic and religious identities should be discontinued. In addition, the Council should examine carefully the Human Rights Committee's progress on drafting a revised general comment on article 20 of the International Covenant on Civil and Political Rights.

41. The publication of sacrilegious caricatures and sketches of the Prophet Muhammad, and far-right conservative campaigns against mosques and against the so-called “Islamization of Europe” were sowing the seeds of discord. The philosophy underlying such campaigns should not be allowed to become “received wisdom”. He endorsed the recommendation that inter- and intra-religious dialogue should be initiated at all levels.

42. The international community needed a framework to analyse domestic laws and understand their provisions. The Council should work with OHCHR to fill that vacuum. The Office of the High Commissioner could then disseminate guidelines for legislation aimed at combating the defamation of religions, which would facilitate the drafting of an international convention on that issue.

43. Mr. SHALABY (Egypt), speaking on behalf of the Group of African States, said that, throughout history, the African continent had been at the heart of the scourges of racism, racial discrimination, xenophobia and related intolerance. At the same time, Africa had been at the forefront of global efforts to eliminate racism in its various forms and manifestations. The Council had the necessary means to make an effective contribution to the global struggle against racism. There was an urgent need for political will on the part of all involved to make that goal a reality.

44. The follow-up mechanisms to ensure the effective implementation of the Durban Declaration and Programme of Action had made significant contributions to the struggle against racism. The Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action had advanced the discussion of the issue of complementary standards. However, many of the recommendations emanating from the Durban mechanisms had not been implemented, possibly owing to a lack of will. He expressed concern at the campaign to convince Member States that those mechanisms had not been effective. That was difficult to understand, since even a minimum level of engagement with those mechanisms could make a substantial difference to the Council’s efforts to combat racism.

45. In the wake of the events of 11 September 2001, core human rights norms and principles had been challenged, compromised and reinterpreted. A new and serious attempt at restoring what had been lost, and helping to maintain harmony, peace and stability in individual countries and the whole world, was surely worthwhile. Silence on manifestations of racial and religious hatred, whether in the form of sketches, racist websites or racist posters, was inadmissible.

46. Mr. FLORENCIO (Brazil), speaking on behalf of the Group of Latin American and Caribbean States, said that combating racism was a top priority for all countries of the region. Latin American and Caribbean States had participated in the constructive work of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action. The Working Group had adopted useful recommendations on such important issues as education, poverty and racism, and health and racism, and had held substantive discussions on complementary standards.

47. Ms. MTSHALI (South Africa) said that her delegation was concerned at the increase in contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance. The Durban Review Conference should provide a platform to share achievements, learn from best practices and develop strategies to confront the new challenges. That would be possible only if Member States demonstrated the necessary resolve and political will.

48. The decisions of the Preparatory Committee for the Durban Review Conference highlighted the need for adequate financial resources for the preparatory process, in particular to facilitate the participation of least developed countries and NGOs. The financial implications of establishing an open-ended intergovernmental working group, convening preparatory meetings, and the active participation of NGOs also required consideration. The High Commissioner should revive the voluntary fund and urge members to contribute to it. The Council should adopt a decision in which it invited the Preparatory Committee to submit its reports to the General Assembly.

The meeting rose at 1 p.m.