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SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 13 September 2007, at 9 a.m.

President: Mr. COSTEA (Romania)
later: Mr. Artucio RODRÍGUEZ (Uruguay)
(Vice-President)
later: Mr. COSTEA (Romania)
(President)

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The meeting was called to order at 9.30 a.m.

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT (agenda item 3) (continued) (A/HRC/6/15 and Add.1-3, A/HRC/6/17 and Corr.1 and Add.1-3, A/HRC/6/17/Add.4 and Corr.1; A/HRC/6/NI/1; A/HRC/6/NGO/50, 51, 53-55, 62-64)

1. The PRESIDENT invited further contributions to the interactive dialogue with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.
2. Mr. ROSALES (Observer for Argentina) asked the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people how he envisaged future developments in the Council's treatment of the topic. In particular, he wondered what his views were on the relationship between the mandate of the Special Rapporteur and whatever mechanism might succeed the Working Group on Indigenous Populations of the former Sub-Commission on the Promotion and Protection of Human Rights.
3. He asked the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for his views on the future of the mandate, and in particular on the challenges arising in the context of the review of the mandate during the current session of the Council.
4. Mr. VAYAS (Observer for Ecuador) said that Ecuador was especially proud of the growing involvement of its indigenous peoples in decision-making at all levels and their gradual transformation into genuine agents of social development, and he wished to thank the United Nations programmes, funds and agencies mentioned in the report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), for their contributions in that regard.
5. Mr. AIKIO (Observer for Finland) said that Finland appreciated the emphasis on economic, social and cultural rights in the report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15).
6. Referring to specific paragraphs in that document, he asked the Special Rapporteur to elaborate further on the need to pay special attention to the vulnerable and marginalized groups within the indigenous communities (para. 70). He also asked whether there had been any reactions to the proposal regarding a manual on the use of a rights-based approach in development activities involving indigenous peoples (para. 77).
7. Lastly, in the context of indigenous peoples' role in determining development priorities and strategies (para. 15), he asked the Special Rapporteur to give his assessment of progress in implementing the Millennium Development Goals in relation to indigenous peoples.

8. Mr. ÜZÜMCÜ (Observer for Turkey) noted that, in his report (A/HRC/6/17), the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism recalled some of his previous comments and recommendations on Turkey. His delegation would have expected, in accordance with established practice, to have been given the opportunity to present its views before publication of the report. For the sake of effective cooperation and constructive dialogue, it was important for special procedures mandate-holders to give first sight of their conclusions or recommendations to the countries concerned.

9. The report touched on a number of issues covered by other mandates. An integrated and consistent approach to human rights issues required effective coordination among mandate-holders in order to avoid such duplication.

10. His delegation would caution against exploring a rights-based approach to conditions conducive to terrorism. It was wishful thinking to assume that the world would be free of terrorism once social and economic rights were realized for all. Poverty and oppression could exist without terrorism and vice versa. No single mechanism could be used to analyse the conditions that gave rise to terrorism; a multi-disciplinary approach was needed.

11. Ms. PHUMAS (Observer for Thailand) said that, while Thailand believed in the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples, the lack of an agreed definition of “indigenous people” could be a source of misunderstanding and confusion. Every country had a different historical and cultural background and the experience of many Asian countries, including her own, was distinct from that of other regions.

12. The Declaration must not create any new rights. It should be interpreted in accordance with the principles of territorial integrity and political unity set forth in the Vienna Declaration and Programme of Action. Any benefits under the Declaration on the Rights of Indigenous Peoples should be interpreted in accordance with the legal order of the country concerned and the international human rights instruments to which it was a party.

13. Ms. ESCOBAR (Observer for Spain) said that Spain looked forward to welcoming the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in 2008. Spain had, unfortunately, had first-hand experience of terrorism. Its own efforts to combat terrorism were firmly based on respect for human rights and the law, as illustrated by the recent trial and sentencing of the perpetrators of the Madrid bombings of 11 March 2004, which had been conducted in accordance with all due process guarantees.

14. Mr. BHATTARAI (Observer for Nepal) said that, in its references to Nepal, the report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15/Add.3) appeared to ignore the views of the State and the efforts it had made for the well-being of indigenous populations. The report acknowledged the lack of systematic data yet jumped to the conclusion that there was exploitation, discrimination and marginalization.

15. Nepal was a diverse country that was passing through a transition to peace and inclusive democracy. It had taken a number of measures to ensure equity and equality and the effective enjoyment of human rights for all. It had taken steps to involve all sections of society in State structures and decision-making at all levels, and had put specific policies and mechanisms in place for the advancement of its indigenous peoples.

16. Mr. JAHROMI (Observer for the Islamic Republic of Iran) said that his delegation was pleased that the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism had been able to visit the United States of America and Israel. His delegation shared the Special Rapporteur's concern at the lack of judicial guarantees afforded to individuals being detained by the United States on suspicion of terrorist activities. He called on the United States Government to respect its obligations under international human rights and humanitarian law in Iraq and Afghanistan, and to close the Guantánamo Bay detention centre as promised. His delegation was also concerned at the continuation of secret flights over Europe to transfer terrorist suspects and he asked the Special Rapporteur to give adequate attention to such cases in the future.

17. His delegation shared the Special Rapporteur's view of the severe impact on Palestinians' rights and freedoms of the barrier erected by Israel in the Occupied Palestinian Territories. Other methods reportedly applied by the Israeli Government, such as the use of human shields, the demolition of houses and the killing of civilians, should be condemned by the international community.

18. Mr. LUVANDA (Observer for the United Republic of Tanzania) said that his delegation welcomed the comprehensive report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and shared his concern at the lack of a reply from the Tanzanian Government, to his communication dated 28 August 2007, concerning the Hadzabe community (A/HRC/6/15/Add.1, para. 375).

19. It was difficult to apply the term "indigenous people" to the Hadzabe community. The Constitution of Tanzania guaranteed equal enjoyment of all rights to all. Like any other local community, the Hadzabe deserved equal treatment and the Government was therefore striving to give them a decent life, away from the hunter-gatherer existence. All the actions being taken in the area where the Hadzabe lived were aimed at improving their life. As to the licence to hunt in that area, granted to a private company, it was subject to special conditions designed to protect the Hadzabe people.

20. Mr. JAYASOORIA (National Human Rights Commission of Malaysia) said that, in his report (A/HRC/6/15/Add.3), the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people had rightly linked the violations of the rights of forest communities to the disposition of their land, which represented not only their identity and roots but also their livelihood. Future reports should adopt a similar approach, particularly with regard to forest communities' access to public services and their inclusion in national poverty-eradication programmes.

21. The Millennium Development Goals had been used as a basis for ensuring access to minimum national development standards, but a disaggregated approach might provide a more accurate basis for comparison between indigenous and mainstream communities' degree of access to economic, social and cultural development programmes.
22. Ms. HEYER (Colombian Commission of Jurists) said that, in respect of the exploitation of natural resources, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people had highlighted flaws in the mechanisms for consultation with indigenous peoples established under Colombian law. The Colombian Commission of Jurists wished to draw the Council's attention to the Colombian Government's plans to revive the 60,000-hectare Urrá 2 dam project, which represented a further threat to the Embera Katio people, who had already been adversely affected by the first, 7,000-hectare, Urrá dam constructed in the 1990s.
23. The lack of prior consultation directly and indirectly violated many of the rights of the Embera Katio people and the Colombian Commission of Jurists called on the Government of Colombia to comply with the relevant rulings of the Constitutional Court, to honour the agreements reached with the Embera Katio people, including the undertaking not to build Urrá 2, and to observe the principles contained in the United Nations Declaration on the Rights of Indigenous Peoples.
24. Mr. REGINO (Netherlands Centre for Indigenous Peoples) said that the question of rights-based development had particular relevance for indigenous peoples around the world, since it was in the name of development that their cultures, lifestyles and world views had been destroyed and their lands and natural resources mined. It was a perspective in which indigenous peoples were viewed as objects and their lands, which they themselves held sacred, as mere commodities, thereby making possible the systematic violation of their collective and individual rights.
25. Development should be based on human rights and in particular the rights recognized in the United Nations Declaration on the Rights of Indigenous Peoples and other international human rights instruments. Specific mechanisms should be established to ensure the effective enjoyment of those rights, and he requested the Council, at its current session, to set up an expert group on indigenous peoples' rights with effective indigenous participation.
26. Mr. Artucio RODRÍGUEZ (Uruguay), Vice-President, took the Chair.
27. Mr. ALARCÓN (Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos) said that, in accordance with the principle of self-management, the resources in indigenous peoples' territories should be exploited by those peoples themselves to develop their own economies and overcome poverty through their own efforts, not through paternalistic outside intervention. Moreover, the elected governments of indigenous peoples, where they existed, should be allowed to participate in the work of intergovernmental organizations.

28. Ms. ROSE (South African Human Rights Commission) commended the South African Government on its work relating to terrorism and human rights, particularly its decision to handle most terrorism cases within the same criminal procedure framework as other criminal cases. However, the relevant legislation necessarily limited the rights of terrorism suspects and, as noted by the Special Rapporteur on the promotion and protection of human rights while countering terrorism, it needed to be carefully monitored and amended if it adversely affected human rights. The South African Human Rights Commission particularly hoped that the National Prosecuting Authority would refrain from relying on in camera criminal proceedings save where absolutely necessary.

29. The Commission was concerned about the treatment of terrorism suspects, particularly non-nationals. The potential for abuse of non-nationals in detention was particularly great owing to delays in the processing of immigration and asylum applications. Although South Africa deserved praise for its progressive asylum legislation, there was a backlog of asylum and immigration complaints and reports of corruption at the Department of Home Affairs. There was also a clear need for regular monitoring of Lindela, the main detention centre for non-nationals awaiting deportation, in order to prevent the ill-treatment of undocumented migrants, including terrorism suspects. She urged the Government to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to create a national preventive mechanism, as required by the Optional Protocol, which would be responsible for monitoring Lindela. Such action would also assist in protecting the rights of suspects held in prisons and, in particular, police detention facilities, since there was currently no monitoring process in place for persons deprived of their liberty. While the Judicial Inspectorate deserved recognition for its monitoring work, it did not meet the requirements of the Optional Protocol for a national preventive mechanism.

30. She urged the South African Parliament to enact legislation criminalizing all forms of torture and mistreatment and prohibiting the use of statements obtained under torture, as recommended by the Committee against Torture following its review of South Africa's initial report in November 2006.

31. Mr. GROVES (Heritage Foundation) said that article 2 of the International Covenant on Civil and Political Rights required the United States to guarantee the rights of all individuals "within its territory and subject to its jurisdiction" but the Special Rapporteur on the promotion and protection of human rights while countering terrorism construed article 2 in his report as having no territorial limitation, an approach that ignored the plain language of the article and its negotiating history. That interpretation had strongly influenced his analysis of United States counter-terrorism policy and practices.

32. During negotiations on the Covenant in 1950, the United States delegate Eleanor Roosevelt had maintained that the Covenant applied only to persons who were within the territory of a State party, a position that had prevailed in the subsequent vote. Yet the Human Rights Committee had ignored the intent of the Covenant's authors in its general comment No. 31 adopted in 2004.

33. While it was proper for the Special Rapporteur to rely on the Covenant in rendering his opinion on activities wholly within United States territory, it was not proper to rely on it in addressing United States detention policy in Cuba or its counter-terrorism practices in other parts

of the world. His interpretation of article 2 of the Covenant called into question the substance of the report's conclusions and might complicate United States cooperation on those important issues. He should focus instead on constructive engagement with the United States on activities occurring within its territory.

34. Mr. DAKWAR (American Civil Liberties Union) said that, over the past six years, the United States Government had progressively abandoned the bedrock principle of respect for the rule of law. Although senior United States officials had been directly and indirectly involved in the widespread and systemic abuse and torture of prisoners, not a single high-ranking military or civilian leader had been criminally investigated and charged for such crimes. The Government had not only rejected numerous domestic and international calls for independent investigations but had actually enacted laws, such as the Military Commission Act, designed to enable perpetrators of torture and other abuse to be absolved of legal accountability. It had also denied that forms of torture such as water-boarding constituted torture. While the Defense Department had made some improvements in the treatment of detainees, as reflected in the revised Army Field Manual, the President still insisted that the Central Intelligence Agency (CIA) was entitled to use secret detention, renditions and abusive interrogation techniques.

35. The New York Times had revealed the previous week that the CIA had destroyed videotapes of the interrogation of two prisoners in its secret detention programme in what appeared to have been a deliberate cover-up of brutal treatment of two alleged Al-Qaida operatives in secret prisons abroad. It was therefore essential to fight for the release of three secret Department of Justice memoranda written in May 2005 that outlined permissible CIA interrogation tactics. At least two of them were known to authorize techniques such as water-boarding, freezing temperatures and head slaps, with the promise of immunity for interrogators.

36. The United States currently held over 25,000 detainees in Iraq, Afghanistan, Guantánamo Bay and possibly elsewhere. Over 300 Muslim men had been held in Guantánamo for more than six years without legal recourse. Four had died in custody. Those still awaiting their day in court included a reporter for the Al-Jazeera television channel. To date only three detainees had been charged under the legally deficient system of military commissions.

37. He called on the United States Government to restore full respect for the rule of law and to implement the Special Rapporteur's recommendations.

38. Ms. SCANNELLA (Amnesty International) said that since 2001 the United States had been applying its unilateral interpretation of the law of war to justify, inter alia, the indefinite detention of persons designated as "enemy combatants" without charge or trial. The United States had undermined the absolute prohibition on torture and other ill-treatment, developed administrative review and military commission schemes that could rely on coerced evidence, and established a secret detention programme under which detainees had become the victims of enforced disappearance.

39. Many other States had unfortunately decided to conduct the "war on terror" at the expense of respect for human rights. In Pakistan, General Musharraf had imposed a state of emergency, suspended fundamental constitutional rights and prohibited judicial review of his orders or his Government's actions. He had summarily dismissed a number of judges, including the

Chief Justice of the Supreme Court. There had been mass arrests of human rights activists, lawyers and political activists, and independent television and radio channels had been prevented from broadcasting for weeks. Many people had been charged with serious criminal offences for peacefully exercising their right to freedom of expression and assembly.

40. She hoped that the United States authorities would benefit from the Special Rapporteur's analysis of situations of incompatibility between the country's international human rights obligations and its counter-terrorism law and practice. She also hoped that the Pakistani authorities would respond favourably to the Special Rapporteur's request to visit the country.

41. Mr. STAVENHAGEN (Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people) responding to the discussion, said that it was essential to develop appropriate methodological procedures for compiling reliable social, economic and cultural indicators related to the rights of indigenous peoples, that could be used to develop effective programmes and projects on their behalf. The need for such data was particularly great in cases where indigenous communities had been rendered virtually invisible, for instance in urban areas.

42. He had recommended to the Council that it give special attention to difficulties that countries might encounter in implementing the United Nations Declaration on the Rights of Indigenous Peoples, which was clearly a long-term project. It might consider establishing a special mechanism for the purpose, with which the Special Rapporteur would be closely associated. The process of implementation would involve joint efforts on the part of States, indigenous peoples and NGOs with international support. Human-rights-based development on behalf of indigenous peoples would require changes in legislation, the administration of justice, institutional structures and public policies.

43. A detailed and sophisticated methodology was required for application of the complex principle of free, prior and informed consent. He had frequently found during country visits that consultations with indigenous people were ineffective because of a failure to take account of their real needs.

44. The general considerations on the situation of human rights and fundamental freedoms of indigenous peoples in Asia contained in addendum 3 to his report had been prepared in response to a request from the Permanent Forum on Indigenous Issues. While he was aware that the definition of indigenous peoples was controversial in some Asian and other countries, in his capacity as Special Rapporteur he was required to accept self-definitions in a variety of national contexts. A number of Asian countries had adopted legislation on tribal peoples or other peoples that were identified or self-identified as indigenous, and the task of the Special Rapporteur was to promote best practices in that regard.

45. Mr. Costea, President, resumed the Chair.

46. Mr. SCHEININ (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) responding to the discussion, said that previous special rapporteurs had fought for years to set professional standards for visits to places of detention. One of the standards laid down in the resulting terms of reference (Commission on Human Rights document E/CN.4/1998/45, appendix V) was unhindered access to detainees,

including through unmonitored interviews. Some of his colleagues whose mandates focused on detention refused to visit countries where they were not guaranteed full compliance with their terms of reference. His own mandate was broader and allowed him to address the counter-terrorism law and practice of a country through meetings, written documents, public hearings and monitoring of court proceedings. Nevertheless, it would erode the special procedures system if he were to agree to tour terrorist detention facilities without being able to have private interviews with detainees.

47. Section IV of his report on economic, social and cultural rights in the context of countering terrorism (A/HRC/6/17) was based on a broad range of sources and he had avoided drawing conclusions on normative issues or making recommendations. While he acknowledged that there might be inaccuracies in the sources he had used, his intention had not been to draw conclusions about particular countries but rather to highlight the main issues. He agreed that cooperation with other bodies such as the Committee on Economic, Social and Cultural Rights would be useful and he had recommended in his report that the Committee consider drawing up a general comment on counter-terrorist measures.

48. His comments on Turkey broadly coincided with those contained in the report on his mission to Turkey in February 2006, which had been published following consultations with the Turkish Government. He looked forward to further positive cooperation with the Turkish authorities.

49. With regard to his recommendation in paragraph 73 of the report concerning the availability of judicial review in national procedures for the listing of individuals and entities as terrorist in the implementation of Security Council resolution 1267 (1999), he noted that the Security Council had itself affirmed in a number of resolutions that States should comply with human rights norms when implementing United Nations counter-terrorist measures.

Review, rationalization and improvement of mandates (continued)

50. The PRESIDENT invited the Council to consider the mandate of the Representative of the Secretary-General on the human rights of internally displaced persons.

51. Mr. PETRITSCH (Observer for Austria), speaking as a sponsor of the draft resolution relating to the mandate of the Representative of the Secretary-General (A/HRC/6/L.46), said that the current Representative and his predecessor had concisely highlighted the challenges facing internally displaced persons (IDPs), such as lack of shelter and food, loss of property and livelihood, discrimination and physical violence, lack of access to services and education, and problems of return and integration. Addressing those challenges required not only the implementation of normative standards but also coordinated national and international action and a continuous commitment by the international community to offer assistance to the States concerned.

52. Since its establishment in 1992, the mandate had significantly strengthened the international community's response to internal displacement. It had mobilized United Nations bodies involved in providing assistance and protection and led to the mainstreaming of the human rights of IDPs. It had also enhanced dialogue with Governments and relevant intergovernmental organizations.

53. The decision by the Commission on Human Rights to link the mandate with the Secretary-General had laid the basis for action across operational and organizational lines within the United Nations system. Access to key United Nations decision-making forums such as the Inter-Agency Standing Committee (IASC) had facilitated the Representative's human rights mainstreaming function. In 2006, at the request of the Commission on Human Rights, the Secretary-General had evaluated the effectiveness of the mandate and concluded that the new mechanism had been an important vehicle for contributing to greater protection of IDPs and that the Representative's human-rights-based approach both bilaterally and vis-à-vis United Nations actors had strengthened the effectiveness and commonality of the overall response to such situations. The General Assembly had also repeatedly underscored the importance of the mandate.

54. The Council had a responsibility to build on past achievements and to preserve procedures that had proved effective in addressing the problems of IDPs. Informal consultations in recent weeks had indicated that there was strong support for an extension of the mandate for three years, with terms of reference that built on its existing core components. Those components included the continuous need for dialogue with Governments and other relevant actors, the mainstreaming of the human rights of IDPs into all relevant parts of the United Nations system, and the strengthening of the international response to displacement. In addition, the mandate had contributed to the analysis of the causes of internal displacement, the needs and rights of those displaced, the links between the human rights of IDPs and natural disasters as well as peacebuilding, and the prerequisites for durable solutions. It had also sought to promote the Guiding Principles on Internal Displacement.

55. He asked the current mandate-holder what he considered to be the most important aspects of his mandate, how he had operationalized them during the previous three years and what he felt should be the order of priority for the next three years. He further asked what strategies and additional measures were necessary to address the needs of internally displaced women and children and other groups with special needs.

56. Mr. KÄLIN (Representative of the Secretary-General on the human rights of internally displaced persons) said that internal displacement had been a key concern for States and the Human Rights Council and its predecessor for the past 15 years. Despite progress made with regard to the normative framework for the protection of internally displaced persons (IDPs) and institutional responses at the national and international levels, their number had not decreased significantly. At present, some 24 million persons were displaced by conflict and at least as many had been displaced by natural disasters. Displacement did not only mean the loss of one's home and livelihood, but also created specific vulnerabilities and often intense suffering.

57. In order for internally displaced persons to enjoy their human rights fully, a strong normative framework was needed. In the discharge of his mandate, he had therefore placed particular emphasis on promoting the 1998 Guiding Principles on Internal Displacement and their incorporation into national laws and policies. Several countries he had visited had taken action to that effect. Those norms would remain ineffective, however, without strong political will. During his missions and follow-up visits, he had therefore engaged in dialogue with Governments, regional organizations, civil society and other relevant actors to promote the protection of the human rights of displaced persons.

58. He had done his utmost to assist States in their efforts to protect internally displaced persons by offering technical advice, training officials, providing Governments and other stakeholders with practical tools such as the publication entitled: Addressing Internal Displacement: A Framework for National Responsibility, and attracting support from humanitarian actors and donors.

59. Flexible responses to new challenges were crucial. He had focused on the situation of persons displaced by natural disasters, whose frequency was likely to increase as a consequence of climate change. While persons displaced in the context of a crisis received much understanding and support, more remained to be done to assist displaced populations in the aftermath of conflict.

60. The mandate as currently formulated provided sufficient flexibility for a range of interventions in defence of the human rights of IDPs. His efforts to mainstream issues relating to the human rights of IDPs throughout relevant parts of the United Nations system had been particularly fruitful. He had cooperated closely with relevant United Nations agencies, especially in the areas of advocacy and follow-up to his recommendations following country visits. Close cooperation with United Nations country teams had greatly enhanced the effectiveness of his mandate. Mainstreaming also meant enhancing the capacity of United Nations agencies to address the human rights challenges faced by the internally displaced. The Framework for Durable Solutions and the Operational Guidelines on Human Rights and Natural Disasters sought to provide guidance in that regard.

61. The human rights of IDPs continued to be disregarded and violated in all parts of the world. So long as that reality persisted, the mandate of Representative of the Secretary-General on the human rights of internally displaced persons remained a necessity.

62. Mr. XAVIER ESTEVES (Observer for Portugal), speaking on behalf of the European Union; the candidate countries Croatia, The former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Armenia, Georgia, Moldova, said that, in the light of the challenges posed by large-scale internal displacement throughout the world, the mainstreaming of the human rights of internally displaced persons, providing policy guidance and strengthening the international response capacity were crucially important.

63. In that connection, he invited the Representative to share his views on the mainstreaming element of his mandate and asked him to brief the Council on his experiences to date. The mandate had always had a specific focus on the United Nations system and dialogue with Governments. The Representative had also placed emphasis on coordination with regional organizations, and he asked in what way the promotion and protection of the human rights of internally displaced persons by those organizations was linked to his mandate. Internal displacement caused by natural disasters posed particular challenges and he enquired about the Representative's efforts to promote a human rights-based approach to humanitarian action in the context of natural disasters. He wished to know what role the mandate of the Representative could play in that regard in the future.

64. Mr. GAMALELDIN (Egypt), speaking on behalf of the Group of African States, welcomed the emphasis placed by the Representative of the Secretary-General on capacity-building and support for member States and his engagement with regional organizations, including his contribution to the preparation of the draft Convention for the Protection and Assistance of Internally Displaced Persons in Africa. His role in mainstreaming issues relating to internal displacement throughout the United Nations system and his efforts to address the needs of those displaced as a result of natural disasters were also commendable. The Group of African States appreciated the pragmatic and constructive approach of the Representative, given the sensitive nature of the issue.

65. By definition, internally displaced persons remained subject to the laws of their own countries, and the status of the Guiding Principles on Internal Displacement had had to be clarified accordingly. Any support to affected States must be provided on request only and must be based on respect for international and national legislation; the principles of impartiality, neutrality and humanity; and respect for the sovereignty of States and their primary role in facilitating humanitarian assistance within their territory. Support must also be in strict conformity with the guiding principles for humanitarian assistance contained in the annex to General Assembly resolution 46/182 of 1991. Only organizations whose impartiality and humanitarian motives were beyond doubt should be allowed to participate in relief activities.

66. The mandate of the Representative of the Secretary-General should include a reference to his important role in raising the awareness of member States, international organizations and other stakeholders and in building the necessary political will to provide adequate assistance, address the root causes of displacement and ensure a smooth transition from relief to rehabilitation and development. The mandate should further provide for the Representative to include in his reports to the Council an assessment of the extent to which the work of other United Nations agencies enhanced the effectiveness of his efforts on the ground.

67. Ms. JANJUA (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said that internally displaced persons, unless they were assisted through a clear strategy, were vulnerable to extreme poverty and social exclusion. The international humanitarian agencies currently engaged in addressing displacement acted on request and the principle whereby the primary responsibility for addressing internal displacement rested with the Governments concerned should be incorporated into all relevant mandates.

68. The current review of the mandate of the Representative of the Secretary-General on the human rights of displaced persons should take into account the need for consistency and uniformity in its nomenclature and ensure that there was no overlap with the work of other relevant actors. The mandate should continue to be concerned with promoting the human rights of internally displaced persons and strengthening the international response to displacement. The mandate-holder should assess the situation of persons who had been internally displaced as a result of policies implemented in occupied territories, including by examining the policies of occupying powers and making relevant recommendations for adoption by the Council.

69. Mr. QIAN Bo (China), speaking on behalf of the Group of Asian States, said that resolution 5/1 on institution-building of the United Nations Human Rights Council stated that “it should be considered desirable to have a uniform nomenclature of mandate-holders, titles of mandates, as well as a selection and appointment process, to make the whole system more

understandable". Some members of the Group of Asian States had expressed the hope that the issue of uniformity could be addressed in relation to the specific mandate of the Representative of the Secretary-General on the human rights of internally displaced persons.

70. Ms. SMITH (Canada) said that her delegation strongly supported the renewal of the mandate of the Representative of the Secretary-General on the human rights of internally displaced persons (IDPs). Although IDPs were particularly vulnerable, their needs were frequently not addressed. Concerted action was required to protect, assist and reintegrate displaced populations. The Representative of the Secretary-General must play a key role, together with humanitarian, human rights and development partners and member States, in assisting Governments in such efforts.

71. Important aspects of the Representative's mandate included the promotion and dissemination of the Guiding Principles on Internal Displacement; country missions to meet with the affected communities and engage in dialogue with Governments, NGOs and other actors; and the mainstreaming of issues related to internal displacement in the work of relevant United Nations bodies. The mandate was an essential one and should be extended.

72. Ms. ZOLOTOVA (Russian Federation) noted that the Representative of the Secretary-General on the human rights of internally displaced persons had been tireless in his efforts to raise the profile of the issue and assist countries in developing a legal and institutional basis for their assistance to such persons. Her delegation supported the extension of his mandate. It also commended the cooperation between the Representative of the Secretary-General and the United Nations system in general and other international and regional organizations, particularly the Inter-Agency Standing Committee. It was to be hoped that the Representative of the Secretary-General would maintain his even-handed approach, in accordance with the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council.

73. Council resolution 5/1 on institution-building stated that there should be a uniform nomenclature of mandate-holders, titles of mandates as well as a selection and appointment process, to make the whole system more understandable. Although each case was different, the fact remained that the position of a number of mandate-holders, including that of the Representative of the Secretary-General, was not in conformity with that provision.

74. Ms. KOHLI (Switzerland) said that the Guiding Principles on Internal Displacement were crucial to addressing the specific vulnerability of internally displaced persons. In addressing situations of displacement, both humanitarian and human rights issues came into play. The Representative of the Secretary-General must therefore establish links with humanitarian actors and human rights defenders and work closely with the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Office for the Coordination of Humanitarian Affairs (OCHA). In order to ease the plight of the 25 million internally displaced persons in the world, the Guiding Principles should be more widely distributed and implemented and the mandate of the Representative should be extended.

75. Mr. GROVER (India) said that it had emerged from the consultations facilitated by the delegation of Austria that there was broad support for extending the mandate. However, the title of the mandate-holder reflected the fact that he had been appointed by the Secretary-General,

unlike other special procedures mandate-holders. Extension of the mandate under the current arrangements would constitute a departure from the provisions contained in Human Rights Council resolution 5/1. The issue had implications beyond the mandate in question and the Council should take a considered decision. Possible solutions included changing the title to “Special Rapporteur” or including in the resolution providing for the extension of the mandate an explicit reference to the applicability of resolution 5/1 to the appointment process.

76. In response to delegations that had used the extension of the mandate of the Independent Expert appointed by the Secretary-General on the situation of human rights in Haiti as an example to the contrary, he said that that mandate had been extended on the basis of an agreement between the country concerned and the United Nations system and the Council had merely encouraged its continuation through a presidential statement.

77. Mr. AMIRBAYOV (Azerbaijan) said that his delegation associated itself with the statement made by the representative of Pakistan on behalf of the Organization of the Islamic Conference. The United Nations should intensify collaborative efforts aimed at identifying comprehensive solutions to internal displacement. As a country with one of the largest displaced populations in the world, Azerbaijan followed with interest the developments in regard to the so-called “cluster approach” designed by UNHCR.

78. The extension of the mandate of the Representative of the Secretary-General on the human rights of internally displaced persons would be a logical response to the magnitude of the problem. The Representative had been instrumental in raising awareness and incorporating the human rights of IDPs into the work of relevant United Nations bodies. An extension of the mandate would enable him to continue his efforts to strengthen the international response to internal displacement; engage in coordinated international advocacy and action to improve the protection of the human rights of internally displaced persons; mainstream their human rights within the United Nations system; examine situations of foreign occupation as a major cause of internal displacement; further disseminate the Guiding Principles on Internal Displacement; and focus on situations of protracted displacement. He asked the Representative to identify ways to keep protracted situations of displacement on the international agenda and encouraged him to continue his dialogue with all relevant actors.

79. Mr. RAHMAN (Bangladesh), recalling the Council’s endorsement of the principle of uniformity of nomenclature, titles and appointment processes for special procedures mandate-holders in resolution 5/1, enquired whether his title had afforded the Representative of the Secretary-General any particular benefits. Retention of the current title would have implications for the appointment process and his delegation was of the view that all mandate-holders should be appointed in accordance with the provisions of resolution 5/1. Clarification of the issue would prevent future misunderstandings.

80. Although situations of displacement gave rise to both humanitarian and human rights concerns, the Council should limit itself to addressing human rights-related issues. If there was any overlap between the work of the Representative and that of relevant United Nations agencies, the Council’s role in relation to internal displacement should be clarified.

81. Mr. PORQUET (Observer for Côte d'Ivoire) said that his Government had cooperated closely with the Representative of the Secretary-General on the human rights of internally displaced persons, whose mandate was an essential element of the defence of human rights and who had played a key role in the signing of the Ouagadougou agreement in March 2007. The capacity of special procedures mandate-holders to identify and address human rights issues must be preserved and greater resources must be made available to help States address internal displacement.
82. Mr. MUTOMB MUJING (Observer for the Democratic Republic of the Congo) said that some 4 million persons, accounting for 7 per cent of all internally displaced persons (IDPs) in Africa, had been displaced by armed conflict inside the Democratic Republic of the Congo. Their situation was further exacerbated by the already precarious socio-economic conditions. IDPs had the same right to assistance as refugees. However, the difficulties of a post-conflict situation, including the shortage of resources, hampered domestic efforts to provide the necessary assistance. The socio-economic reintegration of internally displaced persons was often virtually impossible, especially in countries that also faced the mass return of refugees. International solidarity was therefore a vital component of the response to internal displacement.
83. The mandate of the Representative of the Secretary-General should be extended and strengthened. For the sake of effectiveness, it might be useful to retain the current title.
84. Mr. MIKELADZE (Observer for Georgia) thanked the Representative for his contribution to the development of Georgia's strategy on internally displaced persons and the corresponding action plan. Hundreds of thousands of persons were displaced inside Georgia and the constructive engagement of the Representative with the Government, national stakeholders and NGOs had helped strengthen the international response to that situation. Based on that experience, his delegation strongly supported the Representative's mandate. In its implementation, emphasis should be placed on dialogue with all stakeholders and liaison with relevant United Nations agencies.
85. Internal displacement required long-term solutions involving assistance, protection, advocacy and capacity-building to meet new challenges.
86. Mr. HEINES (Observer for Norway) said that, since 1992, when the mandate had been established, the Representative of the Secretary-General had played a catalytic role in addressing an issue that was bound up with other complex issues, such as armed conflict, human rights violations, and denial of basic survival needs. Internally displaced persons had often been let down by their own Governments, yet, unlike refugees, they had no international organization to deal with their plight. Whereas other mandate-holders had often had difficulty in obtaining cooperation from countries suffering the most serious problems, the Representative of the Secretary-General and his predecessor had visited over 30 countries. That was a clear indication of both the importance and the success of their advocacy role. In view of the growing understanding for the need for humanitarian action and a more reliable system for providing protection and assistance, his delegation strongly supported the extension of the Representative's mandate.

87. Mr. JAZAÏRY (Observer for Algeria), after paying a tribute to the wisdom and commitment of the Representative of the Secretary-General, said that the argument presented by the observer for Austria to justify the mandate-holder's title - the importance of access and mainstreaming and the interdisciplinary nature of the Representative's work - applied to all special procedures mandate-holders, who were answerable to member States. Indeed, the mandate formed part of a member-driven exercise and should meet the concerns of the members. Moreover, it was particularly delicate, in that it was circumscribed by national sovereignty and domestic law. National visits should therefore take place at the request of member States.

88. It was important to examine how possible overlapping with other areas of human rights activity should be addressed and he hoped that the extension of the mandate would include some additional clarification in that regard. He added that the mandate should also cover the plight of internally displaced persons in lands under foreign occupation.

89. Mr. ANNAN (Observer for the Syrian Arab Republic) noted that the focus of the work of the Representative of the Secretary-General was on the humanitarian aspect of internal displacement. Equal emphasis should, however, be placed on the underlying causes of the phenomenon. In the Middle East, foreign occupation had created millions of internally displaced persons, including half a million Syrians expelled from the Syrian Golan, who, following Israel's demolition of 164 villages, were prevented from going home. It should therefore be part of the Representative's mandate to devise an effective strategy to prevent such events occurring.

90. Mr. ROSALES (Observer for Argentina) said that, in view of the challenges posed by natural disasters and by peace processes to the protection of internally displaced persons, his delegation favoured the extension of the mandate of the Representative of the Secretary-General. At the same time, there should be closer dialogue among those involved and technical assistance and cooperation should be provided.

91. Ms. ELOBIED (Observer for the Sudan) said that it was crucial to ensure protection for internally displaced persons. The main element in the success of her Government in dealing with such situations was cooperation between the Government, the International Organization for Migration (IOM), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations human rights mechanisms. Even though armed groups had attempted to sabotage the process, the Government of National Unity had been able to carry out its strategic plans, with the result that 400,000 internally displaced persons had returned to their homes.

92. Ms. PÉREZ GÓMEZ (Observer for Colombia) said that the problem of displaced persons was taken very seriously by her Government, which had recently made great strides both in preventing displacement and in caring for and resettling IDPs. The resources allotted to the problem had been significantly increased: for the period 2007-2010, the budget was US\$ 400 million. Challenges remained, however, especially with regard to social and economic stabilization and the sale and protection of property.

93. The work of the Representative of the Secretary-General was crucial in promoting greater awareness of displacement and the vulnerability of IDPs. The Representative should also bear in mind the need for coordination and the consent of the States concerned. All his activities should be in accordance with the Code of Conduct for Special Procedures Mandate-holders. Her delegation supported the extension of the Representative's mandate.

94. Ms. LINDHOLM-BILLING (Office of the United Nations High Commissioner for Refugees (UNHCR)) said that the country visits of the Representative of the Secretary-General were generally prepared in close consultation with UNHCR. Such visits helped to identify protection gaps and contribute to the protection of internally displaced persons. UNHCR, meanwhile, actively endorsed and implemented recommendations in the Representative's reports that fell within the mandate of UNHCR. Where appropriate, UNHCR and the Representative also undertook joint public advocacy activities and research projects. Experience had shown that Mr. Kälin's status as a Representative of the Secretary-General had given him the requisite access to the United Nations system and structures. For UNHCR, as a humanitarian agency that was becoming increasingly rights-conscious and cognizant of its responsibility to mainstream human rights into its work, the Representative's advice and efforts in that regard were highly appreciated. UNHCR therefore strongly supported the extension of his mandate.

95. Mr. KATEERA (Observer for Uganda) said that his delegation, as a sponsor of the draft resolution, commended the Representative of the Secretary-General for his efforts to alleviate the suffering of internally displaced persons in Africa - the continent with the highest proportion of IDPs worldwide.

96. Ms. KAYITESI (National Human Rights Commission of Rwanda) said that, at its conference in Kigali in October 2007, the Network of African National Human Rights Institutions, which she chaired, had discussed the question of the protection of refugees, internally displaced persons and stateless persons. At the conclusion of the conference, the African National Human Rights Institutions had issued the Kigali Declaration, in which they undertook to promote activities to help displaced persons in their own countries; ensure the establishment of a legal and political framework in their own countries, in conformity with the Guiding Principles on Internal Displacement; urge their respective States to ratify and implement international human rights treaties on displaced persons; and monitor camps for displaced persons in their countries and the places in which they were relocated. The Declaration urged the national human rights institutions to cooperate with the Representative of the Secretary-General with a view to improving the situation of internally displaced persons in Africa.

97. Mr. BEAU (Norwegian Refugee Council), speaking also on behalf of the Centre on Housing Rights and Evictions, said that almost 25 million people in some 50 countries were internally displaced by armed conflict, with over 2 million newly displaced in 2007 alone. Millions more were displaced by natural disasters and development projects. Such displacement was in itself a violation of human rights. Internally displaced persons were frequently denied the minimum levels of security and assistance. The threats to which they were exposed included rape, attacks on their camps, forcible recruitment, arbitrary arrest and detention. The absence of durable solutions to the phenomenon meant that 11 to 17 million people were trapped in protracted displacement situations. The extent of the crisis and its human impact called for particular attention from the Council, which should extend the mandate of the Representative of the Secretary-General, with the current terms of reference. The mandate-holder should continue to focus on the responsibility and capacity of national authorities by engaging in dialogue with them.

98. Ms. HEYER (Colombian Commission of Jurists) said that her delegation considered it crucial to confirm and extend the mandate of the Representative of the Secretary-General. The mandate had enabled the Representative to focus, in accordance with the Guiding Principles on

Internal Displacement, on the practical and legal protection of the rights of victims of displacement, for whom States must assume responsibility by adopting and implementing the relevant domestic legislation.

99. Mr. POYRAZ (International Human Rights Association of American Minorities) said that the Representative of the Secretary-General had done much to raise awareness about the plight of internally displaced persons, who were often confronted with extreme poverty, social and economic exclusion and human rights violations. Women and children who faced the threat of violence and abuse, sexual exploitation and forced labour, were the most vulnerable. The Council should extend and strengthen the Representative's mandate, which should have a gender-based perspective and should focus on developing strategies for preventing displacement. In that connection, he should pay special attention to the human rights of IDPs in territories under occupation, particularly Jammu and Kashmir, where large numbers of people had been forced to leave their homes because of the occupation policies of the Indian Government.

100. Ms. TAYKI (Commission to Study the Organization of Peace), speaking also on behalf of the World Peace Council, said that natural disasters and armed conflicts destroyed the social fabric of societies and rendered people homeless. Over the past decades, however, the growth of terrorism and random violence had had a direct impact by depriving people of their livelihoods and homes. Thus, although the massive earthquakes suffered in Jammu and Kashmir and in the Islamic Republic of Iran had left major scars on the psyche of the people of both regions, the situation was quite different where States housed extremist groups in the belief that they could be used to achieve those States' strategic objectives.

101. For example, when Pakistan had launched an army operation against India in Kargil, in Jammu and Kashmir, it had used its own armed forces, while claiming that the action had been initiated by non-military Islamic fighters. The plight of internally displaced persons should be addressed by ensuring that genuine grievances were dealt with not by force but by consideration and dialogue and by involving the entire international community in countering the threat posed by terrorism to specific communities and individuals in the name of religion.

102. Mr. KÄLIN (Representative of the Secretary-General on the human rights of internally displaced persons), responding to the specific questions put to him, said that the advantage of his title was that it was linked to his mainstreaming mandate within the United Nations system. Whereas other mandates focused on promoting one particular aspect of human rights, his title provided access to heads of United Nations agencies on a level of equality and facilitated his membership of the Inter-Agency Standing Committee, the body that brought together the various humanitarian agencies. The title also gave him authority in dealing with country teams. He saw no danger of duplication or overlap, since his activities complemented other humanitarian efforts. His task was to go to a country, identify protection gaps and give advice, always from a human rights perspective - specifically, economic, social and cultural rights - which differed markedly from the traditional humanitarian activities.

103. Mr. PETRITSCH (Observer for Austria) said that the draft resolution would ensure that the Council was able to address the complex problem of internal displacement and the human rights element thereof. Moreover, the institution-building package provided the opportunity to define and clarify the mandate of the Representative of the Secretary-General further. With regard to the question raised by some speakers concerning the future status of the mandate-holder, he

stressed that the conditions under which the mandate had been established in 1992 continued to exist. The mandate-holder would always be accountable to the Council just as he had always been to the Commission on Human Rights. Under the Commission, the mandate had had a unique mainstreaming function, for example through the mandate-holder's participation in the Inter-Agency Standing Committee. The mandate-holder had more than a monitoring role: he engaged in dialogue with Governments and other interested parties. A six-year term limit applied to all mandate-holders; and it had been the practice in the Council to allow other mandate-holders to complete their term. Extending the term of the Representative of the Secretary-General would put him on a par with the others. The text of the draft resolution had been extensively revised and further consultations would be held in the hope of reaching consensus.

The meeting rose at 12.30 p.m.