



# General Assembly

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## Human Rights Council

### Fifth session

#### Summary record of the 4th meeting

Held at the Palais des Nations, Geneva, on Tuesday, 12 June 2007, at 12 p.m.

*President:* Mr. de Alba ..... (Mexico)

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*The meeting was called to order at 12 p.m.*

**Implementation of General Assembly resolution 60/251 of 15 March 2006 entitled  
“Human Rights Council”** (continued)

*Report of the Special Rapporteur on the situation of human rights in Belarus (A/HRC/4/16;  
A/HRC/5/NGO/22)*

1. **Mr. Severin** (Special Rapporteur on the situation of human rights in Belarus), presenting the main points from his report contained in document A/HRC/4/16, said that, for the third consecutive year, he had been obliged to carry out his mandate without the cooperation of the Government of Belarus. Therefore, his report was based on his visits to the Russian Federation in 2006 and consultations held in Geneva, Strasbourg and Brussels with representatives of permanent missions and non-governmental organizations, the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and the media. He had tried to verify as much as possible the information obtained. The report illustrated once again that Belarus faced serious problems in fulfilling its obligations under the international human rights instruments to which it was a party. It had not submitted reports to the relevant treaty bodies and continued to ignore recommendations made by special procedures mandate holders. The political system in Belarus seemed to be incompatible with the concept of human rights as enshrined in the Charter of the United Nations. When submitting its unsuccessful candidacy for membership of the Human Rights Council, the Government of Belarus had committed itself to engage constructively with human rights mechanisms, but his efforts to engage in constructive dialogue with the Government had been fruitless; his latest request to visit the country, like his previous requests and communications, remained unanswered.

2. He urged the Government of Belarus to accept and act upon the recommendations in his report, all of which remained valid. Indeed, the human rights situation in Belarus had deteriorated during 2006: there had been systematic violations of civil and political rights, human rights protection mechanisms remained extremely weak and there were no human rights institutions. The judicial system was still subservient to the executive branch and there was no independent legislative branch. The presidential election of 19 March 2006, in which the incumbent, President Lukashenko, had claimed victory with over 80 per cent of the vote, allegedly failed to comply with standards for democratic elections. In April 2006, the Council of the European Union had extended a visa ban on 35 officials from Belarus, including the President. Belarus was the last country in Europe to apply the death penalty. The situation in the country was still characterized by harsh conditions of pretrial detention, while torture and other inhuman treatment had been witnessed. There was excessive use of force by the police. It was alleged that judges almost never referred to the Constitution or international treaties when they handed down rulings and that the decisions of the Constitutional Court were often ignored. Trials were often held behind closed doors without adequate justification and representatives of human rights organizations were denied access to courts to monitor hearings. Punishments were often totally disproportionate: it was reported that, before and after the presidential election, over 150 people had been summarily put on trial without access to a defence lawyer. In 2006, 15 communications had been sent to the Government by different special procedures but only 4 replies had been received.

3. He had been informed of several occasions on which freedom of opinion and expression had been violated. Severe restrictions had been imposed on the freedom of the media. In 2006, the press freedom index established by Reporters without Borders had ranked Belarus 151st out of 168 countries. The Government of Belarus reportedly retained control of the broadcast media, printing plants and newspaper distribution networks, using its monopoly to limit public access to information. Before and after the presidential election

in 2006, there had been several reports that members of independent organizations and the political opposition had been persecuted by the authorities. Four opposition leaders had been arrested in 2005 and sentenced to 15 days' imprisonment on charges of organizing and participating in an unauthorized protest rally. Presidential candidate Alyaksandr Kazulin had been sentenced to 5 ½ years' imprisonment. The European Parliament had awarded the 2006 Sakharov Prize for Freedom of Thought to Aleksandr Milinkievich, another imprisoned presidential candidate, in recognition of his personal efforts in campaigning for greater democratic freedom and human rights in Belarus.

4. The situation regarding freedom of religion had not improved since the previous year. Trade union freedoms were severely restricted and both the trade unions and some newspapers and non-governmental organizations experienced difficulties in finding premises and therefore could not secure the legal addresses required for their registration. Roma were frequently victims of police violence.

5. On the positive side, Belarus had ratified the Charter of the United Nations and six of the seven core human rights treaties. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict had entered into force for Belarus in November 2006. The Government had extended an invitation to the Special Rapporteur on trafficking in persons to visit Belarus in 2007. Some political prisoners had been released and there had been reports of better treatment of some non-governmental organizations and newspapers. However, those developments by themselves did not indicate a change in attitude by the Government. The mandate of the Special Rapporteur on the situation of human rights in Belarus sent a message of solidarity to the Belarusian victims of human rights violations and human rights defenders and indicated clearly what measures were expected to be taken to ensure the compliance of Belarus with its obligations in the field of human rights and international law. He reiterated his recommendation that the time, scope and means of his mandate should be extended.

6. **Mr. Aleinik** (Observer for Belarus) said that, once again, the report of the Special Rapporteur contained distortions, false allegations and absurd conclusions. The report was at odds with that of many other international organizations and United Nations bodies on the human rights situation in his country. It was obvious that the expert who had compiled the report was politically motivated and had a direct interest in creating a negative image of Belarus.

7. Rather than refuting each of the clearly inaccurate allegations in the Special Rapporteur's statement, he wished to comment on the mandate in the context of improving the institutions of the Human Rights Council. The Special Rapporteur was carrying out political orders, as evidenced by his consultations in Washington and with the European Union and other States that had sponsored his mandate: he required their moral support to justify the existence of his mandate. The Special Rapporteur had used his mandate to interfere in the internal affairs of a sovereign State, as evidenced in his recommendation that the Government of Belarus should be changed, that there should be a radical restructuring of Belarusian society, that its socio-economic development model should be modified and that financial and technical assistance should be given to militant non-governmental organizations. The Special Rapporteur had declared his mandate to be political and had recommended that its scope should be extended. He was attempting to carry out the functions of the Human Rights Council single-handedly and had appealed to other States Members of the United Nations to limit trade with Belarus. The actions of the Special Rapporteur set a dangerous precedent of political bias.

8. The Council had a unique opportunity to take a fresh look at the legacy of the Commission on Human Rights, and could distance itself from confrontation once and for all; there was no place for politically motivated mandate holders in the work of the Council.

It should concentrate instead on institution-building and on introducing new mechanisms and procedures, including a code of conduct for special procedures mandate holders.

9. **Mr. Malginov** (Russian Federation) said that his delegation had repeatedly pointed out that cooperation between States and United Nations human rights monitoring mechanisms should be carried out on an equal and mutually respectful basis. The special rapporteurs should be professional, objective and impartial specialists who engaged in dialogue with national authorities and institutions as well as with constructive elements in civil society in order to promote and protect human rights. Unfortunately, the Special Rapporteur on the human rights situation in Belarus had not been successful in carrying out his task: his report was biased and would not encourage or promote human rights. His clear lack of respect for the country and his appeal for outside interference in its political affairs were inappropriate. Calling for sanctions or boycotts in order to bring political pressure to bear on a country was not justified from a human rights perspective. Indeed, Member States had sought to end the politicization of human rights issues by abolishing the Commission on Human Rights. In view of the report of the Special Rapporteur, he was forced to conclude that there was a need to adopt a code of conduct for special procedures mandate holders and to consider abolishing the system of country-specific mandates; he would certainly be in favour of abolishing the country mandate in respect of Belarus. Finally, he wished to point out that the Special Rapporteur had not visited the Russian Federation in his official capacity.

10. **Mr. Jazairi** (Algeria) said that he would speak briefly and distribute a written text of his views. The author of the report seemed to have difficulty in distancing himself from the subject matter of his mandate and there appeared to be a conflict of interest. The author's statement that the "the mandate of a special rapporteur has no limits" was inappropriate and seemed to be contradicted by his later statement that he wished the scope of the mandate to be extended. At a previous session, the Special Rapporteur had stated incorrectly that the United Nations had banned the sale of conventional weapons to certain countries and he had failed to correct that statement in his present report. In conclusion, there was no better involuntary advocate for the suppression of country mandates than the Special Rapporteur on the situation of human rights in Belarus.

11. **Mr. Staniulis** (Observer for Lithuania) said it was regrettable that the lack of cooperation the Special Rapporteur had received from the Government of Belarus had limited his ability to fulfil his mandate. The reluctance of the Belarusian authorities to cooperate with thematic mandate holders and with other United Nations human rights mechanisms was reflected in the failure by Belarus to submit periodic reports on its implementation of United Nations human rights conventions. He wished to know if, in the view of the Special Rapporteur, Belarusian students who had studied abroad and gained first-hand experience of human rights protection systems in other countries would be able to contribute to the improvement of the human rights situation and to promote democratic values in Belarus.

12. **Ms. Siefker-Eberle** (Germany), speaking on behalf of the European Union, said that she remained very concerned about the serious infringements of human rights in Belarus mentioned in the report. She noted with great regret that the Government of Belarus had not agreed to the Special Rapporteur's request to visit the country and had not assisted him in fulfilling his mandate. She called on the Government of Belarus to unconditionally cooperate with the Special Rapporteur and to no longer ignore the recommendations in his report.

13. The European Union had offered Belarus closer cooperation on the basis of the shared values to which Belarus had committed itself as a member of various international organizations, and the Government of Belarus had recently indicated its interest in improving relations with the European Union. While repeatedly criticizing the

imprisonment of members of the opposition and the repression of young political activists, the European Union had encouraged the Government of Belarus to move towards more democratic values and to respect human rights. In the light of those developments, she wished to know whether the Special Rapporteur had received any indications that the Government of Belarus would cooperate with him in future and under what circumstances it would consider such a change in course.

14. **Mr. Nordlander** (Observer for Sweden) said that he strongly supported the mandate of the Special Rapporteur on the situation of human rights in Belarus and appreciated the report he had provided. It was clear that the human rights situation in Belarus merited the further attention of the Council. He sought the views of the Special Rapporteur on the proposal to abolish the death penalty, which the Government of Belarus had indicated it was considering in 2006, and on the widespread police brutality and violence against inmates in prisons in Belarus.

15. **Mr. Misztal** (Poland) said that the Special Rapporteur was to be commended for his work, which had been carried out in difficult conditions. It was disappointing that the Government of Belarus had not been willing to cooperate with him. Given that the promotion of human rights could best be achieved through the education of young people, he wished to know to what extent freedom of opinion and expression was a reality in higher education institutions in Belarus. He would also be interested in hearing the opinion of the Special Rapporteur on the impact of the propaganda and State ideology disseminated to university students. Noting that the report mentioned the severe restrictions on trade unions in Belarus, and that the Government had made no real progress in implementing the recommendations of the ILO Commission of Inquiry on that subject, he sought the Special Rapporteur's assessment of the situation with regard to trade union rights in Belarus. Also noting that the Government of Belarus had increased its repression of young activists, he asked how young people perceived their country. He also wished to know what the Government should do to improve the access of the Belarusian people to independent information. Finally, although it might be concluded from some of the remarks of previous speakers that the human rights problems in Belarus stemmed from the person and activities of the Special Rapporteur, he pointed out that in fact they stemmed from the violation of human rights by the authorities in Minsk.

16. **Mr. Fernández Palacios** (Cuba) said that the tenor of the current discussion illustrated the urgent need to adopt a code of conduct for special procedures mandate holders. The mandate imposed on Belarus was an example of political manipulation and should be discontinued. The Human Rights Council should move forward in a spirit of cooperation and genuine dialogue, in accordance with General Assembly resolution 60/251. He did not accept the Special Rapporteur's calling into question of the principles on which the Council had been founded, in particular the requirement to respect the sovereignty of States. Nor was it appropriate to recommend regime change in Belarus. It was time to leave behind the harmful practices of the Commission on Human Rights: the work of the Council should be free of political manipulation and double standards.

17. **Mr. Choe Myong Nam** (Observer for the Democratic People's Republic of Korea) said that he was concerned about the continuing politicization of country-specific reports and, accordingly, he opposed the report on Belarus. Politicizing country-specific mandates was an obstacle to the realization of genuine human rights protection because it hampered constructive dialogue and cooperation between all concerned parties. Furthermore, pursuing such mandates inevitably resulted in distrust and division among countries. With the advent of a new mechanism such as the Human Rights Council, attention should be paid to institution-building and action should be taken to terminate country-specific mandates.

18. **Ms. Mtshali** (South Africa) said that, since its inaugural session in June 2006, the Council had focused on establishing human rights mechanisms and had dealt with

substantive human rights issues. She commended the Council for addressing matters of substance despite the urgency of completing the institution-building exercise within one year of its establishment as instructed in General Assembly resolution 60/251. She remained concerned about country-specific mandates: their role in contributing to the demise of the Commission was an established fact. If the Council was to function in a spirit of cooperation and dialogue, it should terminate all country mandates and not allow politicization, selectivity and double standards to influence its work. Country mandates accounted in large part for the existing mistrust and general negative atmosphere; the Council should be guided instead by the principles of universality and objectivity. She would prefer there to be a minimum requirement of a two-thirds majority in any decisions taken by the Council on country situations. The human rights record of specific Member States could be monitored through the universal periodic review mechanism and special sessions of the Council.

19. **Ms. Nelson** (Canada) said that in 2006, as in previous years, the human rights situation in Belarus had deteriorated and, for the third consecutive year, the Government of Belarus had refused to cooperate with the Special Rapporteur. She agreed with the Special Rapporteur that Belarus should respect democratic principles, and called on the Government of Belarus to live up to its human rights obligations. She sought clarification on the Special Rapporteur's recommendation for an international conference to be held on the human rights situation in Belarus.

20. **Ms. Janjua** (Pakistan) said that the Special Rapporteur's report confirmed her concern that well-meaning initiatives to monitor the human rights situation in a particular country could stray into areas such as election to the Council and regime change. She was doubtful that the Council would be willing to agree to the Special Rapporteur's request to extend his mandate not only in time, but also in scope and means, especially given his assertion that the mandate of a special rapporteur had "no limits", as that could lead to a chaotic situation. Furthermore, the reference in the report to an "international, democratic and civilized community" was misplaced and divisive, in that it suggested that Member States could be categorized as "civilized" or "uncivilized". Unfortunately, the Special Rapporteur seemed to have a Eurocentric vision of the world, although a civilized world did exist outside of Europe. The proposal to hold an international conference had already been deemed unrealistic from a cost perspective. Finally, the Council should ensure that the highest levels of impartiality and objectivity were maintained, especially in the extremely sensitive area of human rights situations.

21. **Mr. Chander** (India) said that he had found the report by the Special Rapporteur to be imprecise and intrusive; his comments had gone far beyond the scope of his mandate and did not contribute to the spirit of dialogue and cooperation that should inform the work of the Council. The steps suggested by the Special Rapporteur would only further alienate the Government of Belarus without in any way contributing to the promotion and protection of human rights in that country. He reiterated his reservations concerning the indiscriminate use of country-specific resolutions against the wishes of the country concerned.

22. **Ms. Vadiati** (Observer for the Islamic Republic of Iran) said that the practice of adopting country-specific resolutions had undermined the credibility of the Commission on Human Rights and the politicization of the mandates of the special rapporteurs had helped to bring about its demise. It was somewhat surprising that the Special Rapporteur should continue to insist that his mandate had no limits, given that it had the support of only a few Member States. The Council had a unique opportunity to examine human rights situations in a new way, to abandon confrontation and to create a genuine system for the promotion and protection of all human rights. She reiterated her Government's call for the discontinuation of all country-specific mandates, including that of Belarus.

23. **Mr. Salazar** (Observer for the Bolivarian Republic of Venezuela) said that politically motivated mandates should no longer be part of the Council's agenda. He shared the views expressed by previous speakers that the Special Rapporteur had exceeded the scope of his mandate; it was not acceptable that, in his conclusions and recommendations, the Special Rapporteur had called into question the sovereignty of Belarus. Venezuela enjoyed excellent political and trade relations with Belarus that were of benefit to the citizens of both countries. He was in favour of abolishing the mandate of the Special Rapporteur on the situation of human rights in Belarus and supported the proposal to adopt a code of conduct for mandate holders.

24. **Ms. Stirobora** (Czech Republic) said that the situation of human rights in Belarus continued to be a cause for deep concern. She regretted that the Government of Belarus had refused to allow the Special Rapporteur to examine conditions in the country. She fully supported the mandate of the Special Rapporteur and encouraged Belarus to extend its full cooperation to him. The Special Rapporteur had suggested measures that could be taken to improve the situation of civil and political rights in Belarus, which had worsened in recent years. She wished to know if the Special Rapporteur had any thoughts on how individual States might support the democratic movement and human rights defenders in Belarus. The report also mentioned that the Government of Belarus retained control of the broadcast media, printing plants and newspaper distribution networks in order to limit public access to independent information. She wished to know whether that situation had improved recently and whether the Special Rapporteur believed that it might improve in the year ahead.

25. **Ms. Ann** (Observer for the United States of America) commended the Special Rapporteur for his continued efforts to reach out to the people and Government of Belarus in order to assess the human rights situation. She regretted the obstructionist tactics employed by the Lukashenko regime and called upon the Government of Belarus to begin cooperating with the Special Rapporteur. She encouraged the Council to extend the mandates of all special procedures so that the Special Rapporteur could continue his excellent work. As had been amply noted in his report, the human rights situation in Belarus continued to deteriorate and it was therefore imperative that the international community should support the Special Rapporteur and those individuals and institutions that struggled to protect human rights and fundamental freedoms in Belarus. She would like to know what immediate concrete steps the Special Rapporteur thought the international community could take to protect the human rights of the Belarusian people.

26. **Mr. Siahaan** (Indonesia) said that one of the goals in creating country-specific mandates had been to help the countries concerned to fulfil their human rights obligations through dialogue and cooperation. However, that ideal had not always been realized in practice. Once again, there appeared to be a divide between the Special Rapporteur and the delegation of Belarus. The significant contradictions in their views on human rights appeared to indicate a politicization of positions. Indonesia, like other developing countries, was averse to country-specific mandates: nonetheless, where they existed, the two sides should engage in dialogue and cooperation in a balanced, fair and transparent manner.

27. **Mr. Palon** (Malaysia) said that the approach taken by the Special Rapporteur mirrored that taken in his previous report. Unfortunately, the atmosphere of constructive dialogue and the promotion and protection of human rights that should resonate at a crucial period of institution-building within the Council was not reflected in the highly controversial and politicized mandate concerning Belarus. A positive and collaborative attitude was essential to the effective promotion of human rights. He hoped that a message of positive engagement would find its rightful place in the Council; the days of naming and shaming should be left in the past. The Council would be undermined if its mechanisms did not adhere to fundamental principles. He underscored the importance of adopting a code of

conduct for special procedures mandate holders so that the system could function in a productive manner.

28. **Ms. Dong Zihua** (China) said that the Special Rapporteur was critical of the situation of human rights in Belarus but his report lacked objectivity and fairness: it should have shown both the positive and the negative aspects of the situation, balancing criticism and encouragement. Furthermore, the recommendation to change the political system in Belarus was akin to proposing regime change under the pretext of promoting human rights and therefore went beyond the Special Rapporteur's mandate. It was an approach that was reminiscent of the politicization of human rights issues that had taken place in the Commission on Human Rights. She supported the call for a minimum requirement of a two-thirds majority for the adoption of country-specific resolutions.

29. **Mr. Rahman** (Bangladesh) said it was regrettable that, despite strong criticism of his earlier reports, the Special Rapporteur continued to make sweeping statements that exceeded the scope of his mandate. A special rapporteur was expected to act with professionalism, integrity and, above all, fairness; they were qualities that were not reflected in the present report. The Special Rapporteur continued to recommend measures that were outside the scope of human rights norms. It was distressing when mandate holders chose to go beyond the specific tasks allocated to them and, for that reason, Bangladesh was deeply interested in the reform of the procedure, particularly through the adoption of a robust code of conduct for mandate holders. Given that new mechanisms were being developed, he supported the view that country-specific mandates should be discontinued.

30. **Ms. El Obied** (Observer for the Sudan) said that it was very important to avoid the politicization of human rights issues and to move away from a naming and shaming approach. There should be transparency in the reporting process and the Council should receive balanced and credible information from all sides. She was in full agreement with the request by the representative of Belarus for the mandate of the Special Rapporteur not to be extended.

31. **Mr. Obidov** (Observer for Uzbekistan) said that General Assembly resolution 60/251, which had been drafted with a view to overcoming the problems encountered in the Commission on Human Rights, required the working methods of the Council to be fair and to enable genuine dialogue. The Council was expected to encourage interactive dialogue and to undertake universal periodic reviews in a manner which ensured universality of coverage and equal treatment with respect to all States. A politically motivated approach to human rights situations seriously undermined the principles of objectivity and non-selectivity and was harmful to the promotion of human rights.

32. **Mr. Severin** (Special Rapporteur on the situation of human rights in Belarus), responding to the comments on his report, said that human rights were absolute rights and all special rapporteurs had an absolute obligation to look into all details that might affect the situation of human rights. For the sake of the victims of human rights violations, it was not sufficient to carry out an assessment of the situation: special rapporteurs should also suggest improvements. He wished to remind the Council that cartoonists had suffered harassment because they had drawn the President of Belarus. He had mentioned some positive events in his report and he believed that they should be welcomed and built on, but he could not confirm that they were significant or irreversible. As far as concrete steps to improve the situation were concerned, some were recommended in his report, but their effectiveness was undermined by the inevitable political clash resulting from different understandings of human rights. He had tried to engage the Government of Belarus in dialogue and believed that such efforts should be pursued, but it was difficult to send a consistent message to Belarus when neighbouring States could not agree on a common position. While positive developments should indeed be welcomed, the Council should not shrink from communicating a strong reaction to negative developments. He agreed that



education was a force for good and that access to objective information should be facilitated. Finally, he wished to emphasize that it was not his mandate that had generated the violations of human rights in Belarus; rather the violations had led to the creation of the mandate.

*Report of the Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba (A/HRC/4/12)*

33. **Ms. Chanet** (Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba), introducing her report on the situation of human rights in Cuba (A/HRC/4/12), said that her attempts to contact the Cuban authorities over a period of four years had not met with success. Nevertheless, she had attempted to carry out her mandate and to draw up a report and recommendations based on information gathered from non-governmental organizations and other sources. The situation had not improved since the unprecedented wave of repression in 2003 during which nearly 80 members of civil society had been summarily arrested, tried and sentenced to prison terms of up to 28 years. Further arrests had been made in 2005 and 2006. She was very concerned about the physical and mental condition of the detainees, a number of whom suffered from serious illness and whose cases had been considered by the Working Group on Arbitrary Detention.

34. Among the positive aspects to be noted was the Government of Cuba's success in the field of education, despite the severe restrictions resulting from the embargo imposed by the United States. In addition, the Cuban authorities had responded to questions from the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Chairman of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders.

35. Enumerating the recommendations contained in paragraph 35 of her report, which included recommendations that the Government of Cuba should take measures to bring the country's treatment of its citizens and its Criminal Code into line with the Universal Declaration of Human Rights, she underlined her view that the mandate entrusted to her had not provided an incentive for Cuba to cooperate with the international community. The time had come to take advantage of the universal periodic review and other new mechanisms that were being developed by the Human Rights Council, as they would provide Cuba with the opportunity to engage in dialogue on human rights issues on an equal footing with other countries and would invalidate the accusation that the Council was employing double standards.

36. **Mr. Fernández Palacios** (Cuba) said that the mandate of the Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba was an unwelcome legacy from the Commission on Human Rights and lacked all credibility. The Personal Representative was trying to present an image of Cuba based on media reports and misinformation. In reality, Cuba was a country that sent doctors to work in developing countries, educated the illiterate and continued to work for a better world. The Personal Representative could have spoken in favour of closing down the concentration camp at Guantánamo and putting an end to the torture suffered by the hundreds of detainees in that illegally occupied territory; she could have condemned the recent release in the United States of a dangerous terrorist, Luis Posada Carriles, who was responsible for blowing up a Cuban civilian airliner; and she could have drawn attention to the campaign to free the "Cuban Five" unjustly imprisoned in the United States. He hoped that the process of institution-building in the Human Rights Council would reflect the broader interests of developing countries in future. Cuba was committed to the Council and its new mechanisms, including the universal periodic review,

which he hoped would put an end to double standards and to an unfair, politically motivated and selective approach to human rights issues.

37. **Mr. Cheng Jingye** (China) said that he very much regretted that the Council was once again discussing the human rights situation in Cuba; the Personal Representative's report continued the political confrontation that had marked the work of the Commission on Human Rights. Despite some 40 years of living under a blockade, the Cuban people were steadfastly pursuing development and promoting human rights. Their efforts were worthy of appreciation and respect. The Personal Representative's report mentioned the serious impact of the unilateral sanctions in Cuba but did not recommend that they should be lifted. Country-specific mandates were highly politicized and divisive and did not help to promote and protect human rights or to encourage cooperation and dialogue: they should therefore be terminated.

38. **Mr. Jazairi** (Algeria) said that the decision to adopt country-specific mandates had been taken without the consent of the countries concerned and the resulting politicization of the Commission's work had led to its demise. Country-specific resolutions had always targeted developing countries and they were based on selectivity and double standards. Concerning the tone of the present report, his delegation wished to underline the progress Cuba had made in many fields including education, health and sport. At the second session of the Council, the Personal Representative had said that she could not call for the embargo to be lifted because it did not fall within her mandate to do so; nevertheless, the Special Rapporteur on the situation of human rights in Belarus had considered that he was entitled to advocate a blockade of Belarus. Finally, he said that the universal periodic review, which was based on well-defined principles on which all had agreed, including the equal treatment of all Member States, would provide a mechanism whereby the situation in each Member State could be examined and therefore the current country-specific mandates would no longer be required.

39. **Mr. Holguín** (Ecuador) said that he had listened with interest to the presentation of the report and did not wish to pass comment on its substance. However, he did wish to draw attention to the need for institutional reform and in particular for impartial and objective mechanisms that would enable serious breaches of human rights in all countries to be examined. The human rights situation in Cuba should be dealt with in accordance with the Council's new institutional structure in an objective, non-politicized manner. Therefore, it would not be appropriate to renew the mandate of the Personal Representative.

40. **Mr. Choe Myong Nam** (Observer for the Democratic People's Republic of Korea) said that he strongly opposed the mandate of the Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba, which had been put in place for political reasons in an effort to change the Government in Cuba. For over 40 years, successive administrations in Washington had pursued hostile policies against Cuba and had used the issue of human rights as a tool to implement them. Furthermore, the economic embargo imposed by the United States and its allies hampered the development of the Cuban economy and deprived the Cuban people of their human rights. Politicized mandates had no relevance to human rights: they were an anachronism which had already contributed to the demise of the Commission and which could well lead to the demise of the Council. For that reason, his delegation strongly rejected country-specific mandates, including the one concerning his own country, and recommended that all such mandates should be terminated.

41. **Mr. Annan** (Observer for the Syrian Arab Republic) said that the majority of the Council's members were in favour of terminating most, if not all, of the country-specific mandates by late 2008, as they were politically motivated. The case of Cuba was an example of flagrant manipulation. There had been a widespread expectation that the new Council would eliminate the former practice of capitalizing on human rights issues in order

to disrupt countries' political and social fabric. The report referred to the negative effects of the United States' embargo, which was far from conducive to freedom of expression. If the Council was concerned about the welfare of the Cuban people, it should do its best to put an end to the 40 years of unjustifiable sanctions. He called on the Council to terminate the mandate of the Personal Representative with immediate effect and to refrain from imposing unnecessary mandates on stable and developing States.

42. **Ms. El Obied** (Observer for the Sudan) said that Cuba deserved praise for the progress it had made in the fields of education, health and the prevention of violence against women, despite the economic embargo. The continuation of the practices that had discredited the Commission would not serve the interests of human rights in the world; the Council should repudiate the double standards and selectivity applied in the case of Cuba. She rejected country-specific mandates where information was gathered from outside sources without consulting the country concerned, as they lacked objectivity.

43. **Mr. Lukiyantze** (Russian Federation) said that if the Council did not engage in dialogue with all Member States based on the principles of equality and respect, then its work risked following a downward spiral of confrontation and politicization just as that of the Commission had done before it. The Personal Representative had recognized that institutional reform should supersede the country mandate in respect of Cuba and he hoped that the Council would support that view. It had been the conviction of many members of the Council that the mandate of the Personal Representative was political in nature and that it did not promote human rights.

44. **Ms. Vadiati** (Observer for the Islamic Republic of Iran) said that the practice of adopting politically motivated country-specific mandates, exercised by a few States against independent developing countries such as Cuba, had undermined the credibility of the Commission on Human Rights. Her Government had consistently called for a rationalization and review of the special procedures and a discontinuation of country-specific mandates, as that would send a clear message concerning the Council's wish to cultivate efficient and constructive cooperation and dialogue in order to promote human rights. She called on the Council to end the unfair mandate in respect of Cuba.

45. **Ms. Siefker-Eberle** (Germany), speaking on behalf of the European Union, said that the European Union placed great importance on the special procedures and on the need for unconditional cooperation by the Member States concerned. Therefore, she wished to encourage the Government of Cuba, especially since it was a member of the Human Rights Council, to give its full cooperation to the Personal Representative. The European Union had been concerned to learn of the reported infringements of civil and political rights in Cuba, particularly with regard to freedom of expression. As in the previous report, a major preoccupation remained the ongoing detention of 59 persons since 2003, with further arrests having taken place in 2005 and 2006. Noting that some of the detainees had been released on health grounds, she asked whether the Personal Representative expected others to be released in the near future. Furthermore, not all legal proceedings with respect to the detainees met fair trial standards; she would like to know if the Personal Representative saw potential for improvement in upcoming trials. There had been allegations of ill-treatment of detainees and she wished to know whether there had been any improvements in that area since publication of the report.

46. Referring to the positive aspects noted in the report, she would be interested to know how the Cuban authorities had achieved the high standards of education in the country, and how it expected to maintain them.

47. **Mr. Salazar** (Observer for the Bolivarian Republic of Venezuela) said that he deplored the biased, politicized and interventionist mandate established in respect of Cuba. How the Council acted in respect of Cuba would be a measure of its success in defending

and protecting human rights in accordance with the principles enshrined in resolution 60/251. The Commission on Human Rights had been established in the shadow of the Cold War and the country-specific mandates that it had introduced had targeted developing countries and sought to impose a model based on geopolitical interests. The mandates had done nothing to foster international cooperation or to further the cause of human rights. Moreover, the imperial power most involved in trampling on human rights in Cuba had been involved in human rights violations, the protection of terrorists such as Luis Posada Carriles, enforced disappearances, rendition and the establishment of illegal detention centres.

48. **Mr. Jayaltilake** (Sri Lanka) said that the humanitarian ethics that had guided Cuba since the revolution were exemplified in a letter written to the International Committee of the Red Cross by Fidel Castro and Che Guevara when they were fighting for the freedom of Cuba, in an attempt to introduce humanitarian law in the very midst of combat. Those ethics were also evident in the behaviour of Cuba's volunteer combatants in African conflicts. Nelson Mandela, perhaps the most moral of world leaders, had stated in 1991 that he might not have been freed if it had not been for the sacrifices made by the Cuban volunteers who had defeated the forces of apartheid of South Africa at the battle of Cuito Cuanavale in 1988. The present report sought to indict one of the world's most ethical States. The purpose of any country mandate in respect of Cuba should be to probe Cuba's exceptional achievements: how Cuban combatants had operated without committing atrocities; and how Cuba offered educational scholarships to the poorest students in the wealthiest countries.

49. **Mr. Ngo Quang Xuan** (Observer for Viet Nam) said that protecting and promoting human rights was primarily the responsibility of the State. Dialogue and cooperation in the field of human rights were an effective means of exchanging views on the basis of equality, mutual benefit and non-interference in the affairs of other countries. With regard to the report of the Personal Representative, he said that a high-level delegation from his country had recently visited Cuba, where it had admired the country's economic and social development, particularly its achievements in education, health care and the protection and promotion of human rights. The Council risked repeating the past mistakes of politicization, selectivity and double standards if it persisted in discussing the human rights situation in Cuba. He therefore joined previous speakers in calling for the termination of the mandate of the Personal Representative.

50. **Mr. Palon** (Malaysia) said that the Government of Cuba was to be commended on its continuing efforts to improve the lives of its citizens. In her report, the Personal Representative had referred to the human rights violations resulting from the illegal, unilateral and coercive measures taken under the economic and trade embargo that had been imposed on Cuba for over 40 years. The unjust scrutiny to which Cuba had been subjected as a result of the political manoeuvring and selectivity of certain parties should be brought to an end and the Council should work in a true spirit of cooperation and dialogue.

51. **Ms. Markus** (Observer for the Libyan Arab Jamahiriya) said that a great deal of effort had gone into establishing the Council and eliminating the practices which had failed to promote human rights, including the practice of politicization, double standards and selectivity. The country-specific mandates which had been established for political reasons should be brought to an end, although the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 should remain in place until the end of the occupation.

52. **Mr. Mahawar** (India) said that the discussion on the report on the human rights situation in Cuba once again called into question the wisdom of imposing country-specific resolutions against the wishes of the country concerned. Country-specific resolutions were in fact counterproductive: not only did they fail to have a positive impact on human rights

situations on the ground, but they also deepened mistrust and caused acrimony and discord. They were contrary to the spirit of dialogue and cooperation that should inform the Council's work. He hoped that the Council would be able to review country situations in a positive manner through the new universal periodic review mechanism.

53. **Mr. Kotane** (South Africa) said that his delegation had already called on the Council to terminate all country-specific mandates although, in a spirit of cooperation, it had indicated its willingness to consider country situations subject to approval by a two-thirds majority of the Council. Country-specific mandates were divisive and characterized by politicization, selectivity and double standards. The Council should monitor the observance of human rights by Member States through the universal periodic review mechanism.

54. **Ms. Navarro Llanos** (Observer for Bolivia) said that she strongly supported the statement by the observer for Cuba. The decision to authorize country-specific mandates had been based on the selective views of those who wished to discredit countries that did not share their positions. The practice of imposing country-specific mandates had detracted from the legitimacy of the present forum, the purpose of which was to adopt an objective and universal approach to the defence of human rights. As a result of politicization, the human rights violations committed in some countries had been ignored and the scrutiny of objective data had been abandoned. She appealed to the countries that had abused the system for many years and which therefore bore the greatest responsibility for restoring the credibility of the Council to redress the errors of the past.

55. **Mr. Sinclair** (Canada), welcoming the report, said he noted that the Government of Cuba had refused to meet with the Personal Representative and had denied her access to its territory. Opening a human rights record to scrutiny demonstrated an important commitment on the part of a State to the improvement of the human rights situation of its population. He encouraged Cuba to continue to cooperate with the Office of the United Nations High Commissioner for Human Rights. Membership of the Human Rights Council came with important responsibilities and he urged Cuba to cooperate with all special procedures and to demonstrate leadership by issuing an invitation to all special rapporteurs and setting dates for all outstanding visits. Furthermore, he called on Cuba to meet its human rights obligations and supported the Personal Representative's recommendation that Cuba should accede to the International Covenant on Civil and Political Rights and its optional protocols and to the International Covenant on Economic, Social and Cultural Rights.

56. **Mr. Capon Duarte E. Silva** (Observer for Angola) said that, like many countries, Angola had always been opposed to country-specific mandates. The Council should meet in a spirit of universality, impartiality, objectivity and non-selectivity in order to promote international dialogue and cooperation and thus strengthen the promotion and protection of human rights. The mandate of the Personal Representative had not contributed to an atmosphere of constructive dialogue on the human rights situation in Cuba.

57. **Ms. Martín Gallegos** (Observer for Nicaragua) said that the Human Rights Council had been established in order to put an end to the politicization of human rights. In its first year, the Council had attempted to introduce a genuine spirit of dialogue and cooperation. Therefore the country mandate in respect of Cuba should be discontinued; instead, the country should undergo the universal periodic review within two years. It was undeniable that the country mandate was unfair; Cuba had given every indication that it wished to cooperate in the field of human rights. Cuba had been subjected to an economic and financial blockade which had been condemned by a majority of Member States as a violation of the Charter of the United Nations and which had had disastrous consequences for the economic and social development of the Cuban people. Cuba had already reached

many of the Millennium Development Goals for health and education and it was currently helping countries such as her own to attain them.

58. **Mr. Abu-Koash** (Observer for Palestine) said that the appointments of all country-specific rapporteurs should be ended, as they had been used by powerful Western countries as a means of pressuring developing countries for purely political reasons that had nothing to do with human rights. The mandate of the Personal Representative should also be terminated, as that was the wish of the majority of Council members. The blockade imposed on Cuba was unjust and should not be tolerated.

59. **Ms. Chammas** (Observer for the United States of America) said that the United States shared the concern of the Personal Representative regarding the human rights situation in Cuba and urged the Government of Cuba to allow her to visit the country in order to begin a dialogue that would allow her to fulfil her mandate. Cuba continued to violate the rights of its citizens, including their right to change their Government peacefully and their right to freedom of assembly and expression. The United States agreed with the Personal Representative's recommendation that Cuba should immediately release all political prisoners and halt the prosecution of citizens exercising the rights set forth in articles 18, 19, 20 and 21 of the Universal Declaration of Human Rights. She was especially concerned about the conditions under which political prisoners were held, and supported the recommendation in the report that Cuba should allow non-governmental organizations to enter the country. Cuba should also promote pluralism in trade unions, political parties, the press and other entities.

60. She disagreed with the comments concerning the embargo in the report: the Cuban Government's economic mismanagement and neglect of its own people were the reason for the country's economic and political woes. The policy of the United States towards Cuba encouraged a transition towards a democratic and market-oriented society. She welcomed the recommendations of the Personal Representative which, if implemented, would help to redress some of the suffering wrought by the regime on the Cuban people.

61. **Mr. Mafemba** (Observer for Zimbabwe) said that the credibility of the Human Rights Council continued to be put to the test. The Council's special procedures and mechanisms were being abused and held hostage by those who had perfected the art of manipulation. That was true of the anti-Cuban initiatives, which were highly politically motivated. For over 40 years, Cuba had been subjected to terror and sanctions: he wished to know why they had not been mentioned in the report, which should have referred to the gross and systematic violations of the rights of the Cuban people. He counted himself among those who, having visited Cuba, were proud of the success of its Government and people in every field in spite of the embargo. He called for the Council to adopt a code of conduct for special procedures mandate holders as a matter of urgency, in order to avoid the demonization of countries. The existence of a code of conduct would have prevented the issuance of a dubious report on Cuba. Country-specific mandates should be discontinued, since they were based on selectivity and politicization.

62. **Mr. Rahman** (Bangladesh) said that the mandate on Cuba had been in place for some time but it had not helped to improve the human rights situation there; to the contrary, it had allegedly been used for political purposes. Cooperation and constructive dialogue, not confrontation and coercion, were needed to promote and protect human rights. Sadly, country mandates failed to ensure cooperation and to foster dialogue because, in most cases, they had been set up without the consent of the country concerned. The need for country mandates and their effectiveness should be re-examined, particularly in the light of the new mechanisms such as the universal periodic review and new practices, such as special sessions, which would allow consideration of country situations. He supported the view that all country-specific mandates should be discontinued, including the mandate for Cuba.

63. **Mr. Lazarev** (Observer for Belarus) said he was uneasy that the Special Rapporteur had refused to discuss the legitimacy of the sanctions imposed on Cuba, given their impact on the everyday lives of its citizens. It was clear from the discussions held at the second session of the Council that country-specific mandates in general had run their course, and that new ways should be sought to cooperate with the countries concerned. Some country mandate holders had admitted that their mandates had no future. Rather than examining the reports of mandate holders, the Council should review its approach to human rights. The Cuban people had chosen to follow a particular path and the existence of a special rapporteur was unlikely to cause them to waver from it. The Council should shed the shameful legacy of the past and end the country mandate in respect of Cuba.

64. **Mr. Prabowo** (Indonesia) said that the wide divergence of views between the delegation of Cuba and the Personal Representative on various human rights principles suggested politicized positions. He regretted the breakdown in communication between the Personal Representative and the Government of Cuba, which had prevented her from fulfilling her mandate effectively. He had taken note of her practical recommendations in support of the universal periodic review mechanism. Without prejudging any case, he firmly believed that the promotion and protection of human rights, as well as their implementation in good faith, were best served through constructive and open dialogue with the Council's mechanisms.

65. **Ms. Soušková** (Czech Republic) commended the work carried out by the Personal Representative and strongly encouraged the Government of Cuba to cooperate with her and with other human rights mechanisms. While welcoming the positive aspects of economic, cultural and social rights in Cuba, she regretted the continued and systematic violation of civil and political rights. She wished to know whether, in the view of the Personal Representative, there had been any improvement in the Cuban people's access to independent information, in particular via the Internet.

66. **Ms. Janjua** (Pakistan) said that the Human Rights Council should be guided by the principles of universality, impartiality, objectivity and non-selectivity. Selective targeting and politicization had been the bane of the Commission, giving rise to scepticism concerning the purpose of the country-specific mandates; she hoped that they would not become a weak link in the work of the Council. The Council should address the issues before it in a cooperative, not a confrontational, manner.

67. **Mr. Obidov** (Observer for Uzbekistan) said that the Council should promote mutually respectful and interactive dialogue on human rights on the basis of objective and well-informed reports. The Council had the opportunity to leave behind the negative legacy of the Commission and to introduce new human rights mechanisms; it should turn its back on double standards and selectivity.

68. **Ms. Chanet** (Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba), responding to the comments on her report, noted that a number of delegations had given their views on the nature of the mandate and the way in which it had been conducted. Although it was not for her to comment on any politicization or selectivity that might have shaped the establishment of the mandate, she had set out the facts in her report as objectively as it was humanly possible to do. None of the facts cited in her report had been contested. She was not in a position to state whether or not the mandate concerning Cuba should be continued but she had given her opinion that it could not endure in its present form: it could well be that the negative aspects of the mandate would be removed if the universal periodic review were adopted in its stead. She did not support the argument that populations should be excluded from all international protection just because a State refused to adhere to, or be answerable under, international law. She had no authority to give an official view on the embargo, although paragraph 14 of her report clearly stated her opinion of its effects on social, economic and

cultural rights and on certain civil and political rights. Nevertheless, it was clear that the embargo had not been the direct cause of all the civil and political rights violations in Cuba.

69. In response to the question by the representative of Germany, she said she had no information on the possible future release of any detainees. Concerning education in Cuba, she had obtained the literacy data from UNESCO. She had not made any specific recommendations concerning the Internet, as all forms of freedom of opinion and expression should be guaranteed by the fundamental texts regardless of the medium being used.

*The meeting rose at 3 p.m.*