



General Assembly

Distr.
GENERAL

A/HRC/2/SR.16
4 December 2006

Original: ENGLISH

HUMAN RIGHTS COUNCIL

Second session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 27 September 2006, at 10 a.m.

President: Mr. HUSÁK (Czech Republic)
(Vice-President)

later: Mr. DE ALBA (Mexico)
(President)

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GE.06-14155 (E) 301006 041206

In the absence of Mr. de Alba (Mexico), Mr. Husák (Czech Republic) took the Chair.

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

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

Interactive dialogue with the Independent Expert on the situation of human rights in Haiti
(continued) (E/CN.4/2006/115)

1. Mr. MARTABIT (Observer for Chile) welcomed the major institutional reforms that the Government of Haiti was undertaking and the encouraging progress it had made in punishing the perpetrators of acts of corruption and violence. However, significant measures still needed to be taken to address the critical situation of poverty, unemployment and insecurity that affected much of the population, especially women and children, and the shortcomings in the judicial and police systems. He hoped that the Government would be able to overcome those challenges with help from the international community.
2. Chile was committed to the construction of peace and democracy in Haiti, as could be seen from its contribution of troops to the United Nations Stabilization Mission in Haiti (MINUSTAH), which until September 2006 had been headed by a Chilean diplomat. As a participant in the Interim Cooperation Framework, which channelled assistance from the international community, he called upon donor countries to honour the financial commitments they had made. That assistance was essential to consolidate the progress that had been made and address persistent problems relating to institution-building and the implementation of social programmes.
3. He noted that the Independent Expert had said that enhancing the credibility of the office of the ombudsman was vital, and he wondered whether he had any specific proposals to make to that end.
4. Mr. CERDA (Argentina) commended the work of the Organization of American States (OAS) in organizing Haiti's elections, an important step in consolidating peace there. MINUSTAH had also made a decisive contribution to the successful re-establishment of a safe and stable environment in Haiti that had allowed the elections to take place. That effort had laid the groundwork for the rebirth of institutions and the resumption of economic activity.
5. Like other Latin American countries contributing troops to MINUSTAH, Argentina had sought to promote coordination among the ministries of defence involved in order to enhance the effectiveness of troops and identify joint and complementary projects on the ground.
6. Social and economic development was essential to ensure Haiti's long-term stability and guarantee security and democratic governance. Efforts to promote reconciliation among the Haitian people must be pursued through inclusive political dialogue and efforts to encourage understanding and acceptance of democratic rules. He wished to know what practical steps the Independent Expert thought could be taken to improve detention conditions in Haiti.

7. Mr. MARTÍNEZ ALVARADO (Guatemala) said he was pleased that the situation in Haiti had started to improve. Guatemala had shown its concern by contributing troops to MINUSTAH, which was currently headed by a Guatemalan. His country would continue to provide assistance to efforts to promote development and enhance the protection and promotion of human rights.

8. Ms. FILOTAS (Canada) said she was pleased that the Independent Expert had been able to visit Haiti three times in 2005, as that had allowed him to monitor developments in the country closely. Canada was particularly interested in the reform of the Haitian judicial system and was concerned about Haiti's use of prolonged detention, which ran counter to accepted international standards and the country's obligations under its own Constitution. The overall weakness of Haiti's judicial system was another source of concern. With regard to the Independent Expert's recommendation that Haiti should establish a commission to prevent extended pretrial detention, she asked what steps could be taken to that end and, more generally, what specific measures could lead to genuine judicial reform.

9. Mr. PAZ (Observer for the United States of America) agreed with the Independent Expert's assessment that organized acts of violence were no longer orchestrated or condoned by the State nor the interim Government. He welcomed the record voter turnout in Haiti's recent elections and said that the primary security issue in Haiti and a priority for the new Government was to address the violence, kidnapping and gang activity in Port-au-Prince. He welcomed the Government's decision to hold local elections in February. He also welcomed the Government's ongoing efforts to vet, train and professionalize the Haitian national police, as corruption and the lack of institutional capacity within the judiciary remained a major concern, as did the woeful state of the country's corrections facilities. The United States Government had formulated a 2007 budget request for Haiti in excess of \$197 million, part of which would be used to help address those problems.

10. He wished to know whether the Independent Expert had reviewed the impact of international programmes on such problems as pretrial detention and whether he could explain how reform of the land register would help to address problems of speculation, corruption and inefficiency. He also wondered whether the Independent Expert had any recommendations as to how to improve coordination between the key stakeholders - international organizations, donors and the Government - in the efforts to tackle the problems highlighted.

11. Mr. RODRÍGUEZ CUADROS (Peru) said that MINUSTAH, to which his country had contributed troops, was an example of how Security Council peacekeeping missions could adequately carry out decisions of the Human Rights Council. Peru welcomed the legal initiatives that the Independent Expert had mentioned, such as those relating to judicial reform. However, problems relating to detention conditions and the administration of justice in general still needed to be solved.

12. He asked the Independent Expert if he thought there was a relationship between organized crime and the State's ability to protect human rights and administer justice, and what importance he attributed to the establishment of a new land register.

13. Ms. FROBERG (Finland), speaking on behalf of the European Union, said that the European Union was committed to the people and officials of Haiti in their efforts to rebuild and develop their country, and she commended the work done by the Independent Expert in that regard. She invited the Independent Expert to provide more information on the reforms and measures that the new Government should implement as a matter of priority in the field of human rights, particularly with regard to the justice system. She also wondered what measures he recommended to ensure better respect for women's rights in the short and long terms.

14. Mr. FLORENCIO (Brazil) said that the social indicators contained in the Independent Expert's report and his assessment of the serious security conditions in Haiti provided a basic framework for approaching the tremendous challenges facing the country. The crisis in Haiti stemmed from poverty, social injustice and the vulnerability of State institutions. Haiti needed more results-oriented international cooperation in projects to combat poverty and strengthen the State's capacity to provide basic services for the poorest segments of the population. Brazil contributed troops to MINUSTAH and was involved in a number of social projects, including projects to combat gender discrimination and provide food for children. He asked the Independent Expert how international cooperation could be improved so as to enable Haiti to overcome violence and poverty and strengthen its judiciary and prison system more effectively.

15. Mr. RIMDAP (Nigeria) agreed that reforms in Haiti would take time to materialize and would require the assistance of the international community. He wished to know from the Independent Expert the extent to which development and poverty issues in Haiti, the only least developed country in Latin America and the Caribbean, had adversely affected democracy and respect for human rights, and what implications that impact had for the process of reform in that country. He also wished to know what priority areas called for long-term initiatives, since the Independent Expert had given the impression that there was no long-term development programme in Haiti.

16. Ms. THOMAS (France) asked what role international cooperation could play in the reform of the land and civil registers. She also wished to know what level of cooperation the Independent Expert enjoyed with the human rights and justice branches of MINUSTAH.

17. Mr. JOINET (Independent Expert on the situation of human rights in Haiti) said he believed that the first step towards reconciliation in Haiti was conciliation, which meant accepting that opponents were not enemies, but political adversaries with differing views. In that respect, Haiti had made progress, as evidenced by the fact that there were currently three former Lavalas party members in the Haitian Government, which showed that concessions were being made. He hoped that those positive developments would continue.

18. Respect for human rights and security went hand in hand. Haiti would need to set up a police force that was truly democratic, but that would take time. International cooperation in providing assistance to the police academy would be of great importance.

19. As to the question of extended pretrial detention and the situation at the Pétion-Ville Women's Prison, where only 1 of 166 female detainees had been convicted, he said that the situation persisted either because judges were not working hard enough or because they were forced to engage in other income-generating activities to compensate for their low salaries. The

way to curb the situation of extended detentions was to speed up proceedings and judicial procedures. The unprecedented number of cases that had been handled in appeals proceedings in Port-au-Prince was encouraging, as such expeditious handling of cases could be replicated elsewhere. He suggested that judges should issue lighter sentences for lesser offences, such as petty theft.

20. The President of Haiti had given priority to making the Judicial Training College a public institution. A serious problem was posed by the justices of the peace, who were partly prosecutors and partly judges, underpaid and poorly trained. Since the College could not currently address that problem, MINUSTAH was conducting training in the field for the justices of the peace, who were major violators of rights, often because they lacked resources or training, but sometimes because they were corrupt.

21. The disarmament process would be long and complex, since the Haitian Constitution provided for the right to bear arms. He hoped that Haiti's newly established disarmament commission would be able to address that problem.

22. Turning to the questions that had been asked regarding cooperation, he stressed that education was the primary means of resolving Haiti's problems; accordingly, measures in that area needed to be implemented right away. The reforms of the land and civil registers were essential, and would require assistance from technical experts in the implementation of practical solutions, rather than more studies by consultants.

23. Mr. PIERRE (Observer for Haiti) said that the Independent Expert's report was a valuable tool for decision-makers, researchers, advocacy groups and non-governmental organizations (NGOs) working to prevent violations of human rights in Haiti. Violence and unemployment had a correlation in Haiti, where more than 80 per cent of the population lived below the poverty line. Improvements to Haiti's judicial system required efforts not only in the area of education, but in the area of job creation as well. In that connection he expressed his delegation's appreciation for the assistance that was being provided by the European Union, the United States of America and international institutions to improve the conditions of the Haitian people.

Presentation of reports followed by an interactive dialogue:

Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (E/CN.4/2006/35)

24. Mr. MUNTARBHORN (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea), introducing his report (E/CN.4/2006/35), said that the Democratic People's Republic of Korea had declined to cooperate with him and had not invited him to visit the country. It should be noted that there remained a large gap in the country between formal recognition of human rights and their substantive implementation. The situation in the country continued to give cause for concern.

25. The country's rejection in 2005 of food aid channelled by the World Food Programme (WFP) had serious implications for the right to food and the right to life. The missile tests carried out by the Democratic People's Republic of Korea in July 2006 had worsened the

already dire food situation in the country by causing various contributors of humanitarian aid to discontinue their assistance. Fortunately, some donors had resumed their contributions, particularly at the bilateral level, after the devastating floods of July and August 2006. He was pleased to note that the Democratic People's Republic of Korea had recently decided to allow some foreign aid distribution to resume. In order to guarantee food security, however, more sustainable, environmentally friendly agricultural techniques needed to be adopted, given that the country had limited arable land that was already over-exploited.

26. With regard to the right to security of person, humane treatment, non-discrimination and access to justice, he noted that the non-democratic and repressive nature of the State continued to result in many violations, notwithstanding the 2004 reforms of the Criminal Code and Code of Criminal Procedure. The lack of an independent judiciary, appalling conditions of detention and the use of torture were all problematic areas. The issue of abductions of foreigners by agents of the Democratic People's Republic of Korea also cried out for peaceful resolution.

27. Freedom of movement, asylum and refugee protection constituted another set of issues requiring attention. Throughout 2005-2006 there had been reports of refoulement of refugees from the Democratic People's Republic of Korea without adequate guarantee of the refugees' safety upon their return. The less lenient approach to refugees taken by some countries of first asylum in South-East Asia had led to increased refugee flows in other countries of the subregion.

28. Freedom of movement was restricted in the Democratic People's Republic of Korea, and both internal and external migration carried the risk of penal sanctions. There had been no ostensible improvement during the reporting period with regard to the right to self-determination or political participation, access to information, or freedom of expression, belief and opinion, association, conscience or religion. The country's authorities had been uncooperative with regard to the communications he had been sending them, particularly to request humane treatment of prisoners and leniency for nationals of the Democratic People's Republic of Korea deported from other countries and returned to their homeland.

29. He concluded by drawing attention to his recommendations to the Democratic People's Republic of Korea, which were to be found in paragraph 81 of his report.

30. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) said that his delegation categorically rejected the report just introduced by the Special Rapporteur. His Government did not recognize Commission on Human Rights resolution 2005/11 or the Special Rapporteur's mandate because they had been adopted in pursuit of political and strategic objectives and were the outcome of a conspiracy by the United States of America, Japan and the European Union.

31. Domination of the whole Korean peninsula remained an essential feature of United States strategy in Asia. Japan had raised a fanatical clamour against the Democratic People's Republic of Korea, calculating that its past crimes against the Korean people would be forgotten once his country was eliminated. It was also fabricating a threat to justify its plans for re-invasion. The European Union, meanwhile, was sparing no effort to win the favour of the super-Power. Thus, the confrontation over his country's "human rights problem" boiled down to its defence of its social system against foreign forces trying to change that system under the pretext of protecting human rights.

32. The Council had been created in order to bring benefits to all countries, yet a handful of self-appointed “human rights judges” continued to rule over the majority of countries. The Council was achieving the opposite of its purpose of eliminating politicization.
33. His Government attached importance to dialogue and cooperation on human rights but did not beg for them, and resolution 2005/11 could not be used to shake its will. His country would never yield even if attempts were made to enforce hundreds of such resolutions, but would in fact strike back against them.
34. Sovereignty and dignity were vital to the Democratic People’s Republic of Korea, and the socialist system constituted the happiness of its people. The Government would firmly uphold the ideal of consolidating socialism and would continue to make every effort to promote and protect the human rights of its people.
35. Mr. ZHOU Jian (China) said that despite the serious economic and social difficulties encountered by the Democratic People’s Republic of Korea as a result of natural disasters and shortages of food and other commodities, the Government had not given up its efforts to promote and protect human rights and was carrying out reforms to improve living standards. The Special Rapporteur had acknowledged the encouraging fact that the Government was cooperating with the monitoring bodies of the four human rights instruments to which it was a party and was introducing key reforms in domestic law. The Council and the Special Rapporteur should take an understanding attitude to the special difficulties faced by the Government and encourage it to continue the work of improving human rights. Simply blaming and shaming did not help.
36. Mr. GALA LÓPEZ (Cuba) said that the present debate was the result of a politicized campaign promoted essentially by the United States of America, to the detriment of genuine cooperation on human rights. The adoption by the Commission on Human Rights of resolution 2005/11 had been attended by hypocrisy, double standards, selectivity and political manipulation. The new Council must constitute a different forum, one aimed at constructive dialogue and authentic international cooperation based on respect for the purposes and principles of the Charter and for international law. His delegation was therefore opposed to continuation of the present politicized campaign against the Democratic People’s Republic of Korea.
37. Mr. Hyuck CHOI (Republic of Korea) said that his delegation appreciated the Special Rapporteur’s efforts to carry out his mandate despite being denied permission to visit the Democratic People’s Republic of Korea. His conclusions on the situation of human rights in that country were based on a deep understanding of the unique situation in the Korean peninsula, and the delegation of the Republic of Korea supported his approach and recommendations, in particular the six-point human rights formula announced in November 2005. It was to be hoped that the Democratic People’s Republic of Korea would heed the Special Rapporteur’s recommendations and make sincere efforts to improve its human rights situation, inter alia by cooperating with the human rights bodies of the United Nations.
38. Ms. FRÖBERG (Finland), speaking on behalf of the European Union, said that the European Union attached great importance to full cooperation by States with the special procedures and therefore deplored the rejection by the Government of the Democratic People’s Republic of Korea of the Special Rapporteur’s request to visit the country. It urged that Government to extend full cooperation to the Special Rapporteur.

39. She asked the Special Rapporteur to indicate what possibilities existed for establishing technical cooperation programmes to tackle the continuing violations of human rights in the Democratic People's Republic of Korea and build a suitable legislative framework. She would also like to know whether any advances had been made on the protection of children and what the international community could do, in addition to the work of WFP, to ensure the effective distribution of food aid and to improve NGO personnel's access and freedom of movement within the country. Further information about the six-point human rights formula would also be welcome.

40. Ms. SAIGA (Japan) said that her delegation fully supported the Special Rapporteur's recommendations. It was clear from his report that serious human rights violations were continuing in the Democratic People's Republic of Korea. It was highly regrettable that the Government refused to allow the Special Rapporteur to visit the country, for first-hand observation was crucial to comprehensive reporting. The abduction of foreign nationals was an international issue of great concern to Japan that the international community should endeavour to resolve. Her delegation would like the Special Rapporteur to describe the difficulties encountered in drafting his report and to indicate what the international community could do to facilitate the discharge of his mandate.

41. Ms. LAURENSEN (Observer for New Zealand) said that her delegation attached particular importance to the Special Rapporteur's mandate and thought that many of the issues raised in his report should be explored further, in particular the shift of the Government of the Democratic People's Republic of Korea from acceptance of humanitarian relief to its current call for a broader development framework. Her delegation would like the Special Rapporteur to indicate whether such a move ought to be coupled with a strategy to incorporate a rights-based approach in the programming process and what the key elements of such a strategy should be.

42. Mr. TICHENOR (Observer for the United States of America) deplored the continuing systematic violations of human rights in the Democratic People's Republic of Korea and the regime's refusal to admit the Special Rapporteur to examine the conditions in the country. His delegation fully supported the Special Rapporteur's mandate and urged him to work closely with the United States Special Envoy, Mr. Jay Lefkowitz, and Ambassador Saiga of Japan to build an international coalition calling for compliance by the Government of the Democratic People's Republic of Korea with human rights law. His delegation would like to know what the Special Rapporteur thought it would take to persuade the Government to view his mandate as an opportunity for engaging with the United Nations system and why the Government was cooperating with the monitoring bodies of the four human rights treaties to which it was a party yet refused to cooperate with the Special Rapporteur.

43. Ms. FILOTAS (Canada) said that her delegation strongly supported the Special Rapporteur's mandate and shared the concerns highlighted in his report. Canadian officials had regularly raised human rights issues at high-level meetings with their counterparts in the Democratic People's Republic of Korea, who tended to dismiss Canada's views as an infringement of sovereignty. She wished to know what alternative avenues the international community might explore to induce the Democratic People's Republic of Korea to abide by international human rights standards.

44. Ms. MUDIE (Observer for Australia) said that Australia remained deeply concerned about reports of continuing human rights violations in the Democratic People's Republic of Korea, in particular the abusive treatment of border-crossers who were forcibly repatriated to that country. The Government of the Democratic People's Republic of Korea must engage more fully with the international community, for dialogue was the most effective way of bridging the gap between different perspectives. Another source of concern was the country's opposition to humanitarian assistance from the United Nations and other organizations following the disastrous floods in July. Her delegation strongly believed that WFP should be allowed to resume its humanitarian operations and would welcome the latest information in the Special Rapporteur's possession on the extent of those operations and on any changes that had been made to access arrangements over the past month.

45. Mr. MAFEMBA (Observer for Zimbabwe) said that his delegation wished to align itself with the statement made by the representative of China; it remained very concerned about the politicization of issues and the poisonous political climate in North-East Asia. No one could expect an objective report on the situation of human rights in the Democratic People's Republic of Korea when that country was persistently being demonized. Zimbabwe itself was only too familiar with that situation. The report did not help the situation at all; the best way forward was to engage in constructive dialogue. The Council should break with the tradition established in the Commission on Human Rights.

46. Mr. SINAGA (Indonesia) said that his delegation was grateful to the Special Rapporteur for his introductory statement and to the observer for the Democratic People's Republic of Korea for the informative update he had provided. Indonesia was averse to country-specific mandates but would welcome positive developments in the Council and in its consideration of specific issues with a view to enhancing dialogue and cooperation.

47. Mr. RODRÍGUEZ CUADROS (Peru) said that his delegation welcomed a non-politicized report that sought to give an objective account of the human rights situation in the Democratic People's Republic of Korea. It supported the Special Rapporteur's recommendations and regretted that he had been unable to visit the country; it urged the Government to accept the principle of cooperation. The reported human rights violations were disturbing, but the report ought to produce a positive impact. His delegation would like to know what the Special Rapporteur's thought the international community, and the Council in particular, could do to enable him to produce a balanced response to its concerns and what his assessment was of the conformity of the country's domestic legislation with international human rights standards.

48. Mr. MUNTARBHORN (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea) said he wished to assure all delegations that he had had nothing to do with the adoption of the resolution establishing his mandate and that he had always approached his task in an independent spirit.

49. With reference to the questions raised by the representative of Finland, he said that there was indeed room for technical assistance and that the Office of the United Nations High Commissioner for Human Rights (OHCHR) was ready to engage with the Government in that area. The United Nations Children's Fund (UNICEF) was operating various programmes in the country which included matters of child protection, and the Government had also invited the

Committee on the Rights of the Child to visit the country. One practicable measure was to provide humanitarian aid to overcome the critical food shortage. WFP had proposed a two-year programme targeting 1.9 million people, but the requirements with regard to funding and local access had not yet been met. During September WFP had gained access to only 13,000 people.

50. In his six-point formula he had borne in mind the special situation of the Korean peninsula and the human rights consequences of the Korean War. The formula welcomed the warming of relations between the peninsula's two countries and invited them to resolve peacefully a number of issues, including family reunion and missing persons. It supported the position of the Republic of Korea and the international community on humanitarian aid. It encouraged the Republic of Korea to pursue its present policy towards its neighbour to the north and in particular to accept asylum-seekers. It called on the Government of the Democratic People's Republic of Korea to clear up the identified discrepancies, and it urged the Government to invite the Special Rapporteur and representatives of other special procedures to visit the country. Lastly, it invited the Government to engage in cooperation activities in practicable areas, including the formulation of an economic programme with a human rights component, work in the area of labour rights, and the development of programmes to promote the rule of law as well as legal literacy programmes.

51. Turning to the questions put by the representative of Japan, he said that the main difficulties he had encountered had been the denial of access to the country and the Government's refusal to cooperate, especially with respect to communications. The international community could provide assistance in the form of humanitarian aid; refugee protection through international responsibility-sharing with respect to such problems as the root causes in the countries of origin and the application of the principle of non-refoulement by countries of first asylum; and measures to improve the justice system.

52. The Democratic People's Republic of Korea cooperated with the four treaty bodies simply because it was a party to the relevant instruments; it did not cooperate with him because it rejected his mandate. However, it was still possible to work constructively on an informal basis, and he therefore hoped that the Government would respond to some of his suggestions; he was always ready to help.

53. He concluded by drawing attention to the package referred to in paragraph 82 (e) of his report, which invited a human rights discourse on the security of individuals and of the peninsula as well as on development matters.

54. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea), speaking in exercise of the right of reply, said that his delegation reiterated its rejection of Commission on Human Rights resolution 2005/11 and the Special Rapporteur's mandate. It also rejected the allegations made by the United States of America, Japan, the European Union and their blind allies. The United States preached human rights, but in Iraq, Guantánamo Bay, Abu Ghraib and secret prisons in the Korean peninsula it was killing civilians and practising torture. It was preventing the Korean people from exercising its human rights by maintaining the division between the two countries, imposing sanctions and uttering military threats.

55. Nor was Japan qualified to teach lessons to others: its hands were still covered with the blood of the peoples of the many countries it had invaded and plundered. The abduction issue had been fully resolved. The only outstanding problem related to Japan's obligation to expiate its past crimes against the Korean people: 8.4 million persons abducted, 1 million genocidal killings and 200,000 persons forced into sexual slavery.

56. The European Union boasted of its uncompromising attitude to human rights violations wherever they were committed. Why, then, was it silent on the invasion of Iraq and the killing of civilians by the United States of America and that country's efforts to prevent the exercise of their rights by the Korean people? The Council was clearly witnessing double standards and hypocrisy.

57. Ms. SAIGA (Japan), speaking in exercise of the right of reply, said that Japan did not wish to politicize the question of the situation of human rights in the Democratic People's Republic of Korea. It could not accept the claim that the abduction issue had been resolved. Japan had acknowledged the facts of history, but such facts could not be used to justify the abductions. Moreover, the figures just given by the representative of the Democratic People's Republic of Korea were unsubstantiated.

58. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) said that, unlike the abduction issue, the issue of Japan's history of invasion and plunder had not been resolved. He appealed to the Japanese delegation to cease its politically motivated abuse of the abduction issue. The historical facts and figures which he had stated were not unsubstantiated.

59. Ms. SAIGA (Japan) said that her delegation would merely point out that the Pyongyang Declaration of 2002 stated that both sides agreed to a full discussion of claims issues in the course of the normalization talks.

Report of the Independent Expert on the situation of human rights in Burundi
(E/CN.4/2006/109)

60. Mr. OKOLA (Independent Expert on the situation of human rights in Burundi) said that the report before the Council (E/CN.4/2006/109) covered his fourth mission to Burundi, which had taken place in October 2005. The statement he would deliver at the current meeting would cover his fifth mission to Burundi, which had taken place in May and June 2006.

61. He congratulated the Government of Burundi for its considerable achievements in the area of social and economic rights. The establishment of a free primary education programme had provided many children with access to basic education. The programme had received the full support of the international community and was fairly successful, despite the many problems it had encountered. In early 2006 the Government had initiated a free health-care programme for expectant mothers and children under the age of 5. Although underfunded, the programme had been well received and required support from the international community if its full potential was to be achieved.

62. In contrast, the human rights situation was still of great concern. Human rights violations were reported on a daily basis, since a culture of impunity prevailed. Moreover, there was a massive presence of light weapons among the civilian population, widespread poverty and a

general lack of any human rights culture. During the reporting period, most of the violations had concerned the right to life, the right to physical integrity, the right to freedom, safety and inviolability of the person, the right to freedom of opinion and expression and the right to property. Children's and women's rights and the plight of the Batwa minority also called for attention.

63. With regard to the right to life, he noted that during the first half of 2006, human rights observers had reported 53 murders throughout the country. Those responsible for the killings had included the National Defence Force, the national police force, the national intelligence service and, presumably, the Forces Nationales de Libération (FNL) rebel movement or unidentified uniformed persons.

64. The practice of torture was allegedly still widespread, particularly during police investigations. Human rights observers had reported 150 cases of torture and ill-treatment. The authors of those violations were often members of the groups just mentioned or, to a lesser extent, members of local administrations. Perpetrators were rarely prosecuted because they acted in complicity with the authorities or in some cases issued threats against prosecuting magistrates. In addition, many violations relating to arbitrary arrests had been reported, and their number had risen over the reporting period. They had included cases of prolonged detention in police custody, detention in illegal places and lengthy pretrial detention.

65. Since his last visit to Burundi, there had been many disturbing developments in the area of political and human rights. He had received information indicating that tensions had increased since the arrest and detention of seven persons, including a former president and vice-president and an opposition party leader, on charges of plotting a coup d'état. The Government had been widely criticized, *inter alia* for non-respect of due process with regard to the arrests. Public protest had increased when it had become known that three of the detainees had been subjected to torture. Despite assurances, the Government had still not produced evidence to justify the continued detention of those individuals.

66. Respect for freedom of expression and opinion was still threatened as a result of the Government's increasing intolerance of individuals perceived to be against it. Intimidation and harassment of the independent media had increased following critical reporting of recent events. Several journalists had reported receiving death threats, and their movements appeared to be monitored by intelligence agents and police officers.

67. Sadly, an atmosphere of great anxiety reigned in Burundi, despite some improvements in the political process. The Government was increasingly intolerant of any form of criticism and had engaged in a series of repressive acts. Likewise, while it had expressed its commitment to establishing a truth and reconciliation mechanism, the Government showed reluctance to bring to justice the potential authors of serious crimes punishable under international criminal law. If the situation continued to deteriorate, the country would soon find itself in a state of internal conflict once again. He therefore called on the international community and Burundi's regional friends in particular for support.

68. He concluded by urging the Government of Burundi to speed up the establishment of the transitional justice mechanism, with support from the international community, and to

consolidate the democracy that had begun to emerge in 2005. He commended the Government for providing free medical assistance to expectant mothers and children under the age of 5. Expressing his gratitude to the international community in general, and to the United Nations in particular, for their support in the protection of human rights, he called for ongoing support to strengthen the mechanisms that had been established. He also called for greater humanitarian and development assistance and the rapid fulfilment of the commitments undertaken at the donor conferences held in Paris, Geneva and Brussels, especially those relating to the campaign against HIV/AIDS, priority development programmes and human rights.

69. Ms. NGENDAHAYO (Observer for Burundi) said that the one year that had elapsed since the establishment of democratically elected institutions was rather short to make an objective assessment of the Government's achievements, particularly with regard to human rights. However, it was sufficient time to provide an overview of emerging trends, constraints and challenges in that area.

70. Burundi had endured the consequences of the continuing war with FNL until the signing of the ceasefire between the Government and FNL on 7 September 2006. After 12 years of conflict the country's socio-economic situation was dire, as a result of the destruction of infrastructure, devaluation of the currency, the decline in purchasing power and the destruction of social, moral and human values, particularly among those directly involved in the conflict.

71. Human rights had often been violated in the struggle to survive. In spite of the ceasefire, suspicion, random acts of violence and brutal interrogations persisted, posing a serious threat to respect for human rights. Yet the current context was conducive to the strengthening of human rights. A legitimate Government was in office and the people supported its social and egalitarian policies, which were aimed at alleviating the suffering of the most vulnerable groups in society. With the signing of the ceasefire agreement, the Government also expected to put an end to the confusion between combatants and FNL militants or sympathizers.

72. Mechanisms to strengthen human rights had been introduced, including a department of judicial assistance for victims of human rights violations, which would ensure the right to a fair trial and the improvement of detention conditions. The establishment in October 2006 of a national independent human rights commission would have a significant impact on the protection of human rights. A national land and property commission had also been established with a view to the peaceful resolution of disputes relating to the ownership and recovery of land and property. The question of lands belonging to the Batwa community and of the social and cultural integration of that group would also be addressed. A civilian disarmament commission had been set up, and negotiations were under way between the United Nations and the Government of Burundi on the establishment of the truth and reconciliation commission. A study on the draft legislation relating to the inheritance code, matrimonial property regimes and measures to promote gender equality was being translated to ensure that it was widely understood before being submitted for adoption. The Criminal Code was being revised to allow for the inclusion of severe penalties for perpetrators of sexual violence. Lastly, training courses were being organized for police officers and prison officials with a view to improving conditions of detention and doing away with illegal places of detention.

73. She drew attention to the positive steps that her Government had taken to ensure the provision of free primary education and health care for children under the age of 5. Free maternity care had helped to save the lives of 30 children each month. An acute problem was the lack of doctors, and she appealed to the international community for additional support in all those efforts.

74. She concluded by reiterating her Government's appreciation to the United Nations for assisting the development process in Burundi, and she thanked the Independent Expert for urging the international community to support her country's efforts in the area of human rights. She endorsed the recommendations made by the Independent Expert in his report and invited human rights defenders to come to Burundi to assess the actual human rights situation for themselves.

75. Mr. JAZAÏRY (Algeria), speaking on behalf of the Group of African States, welcomed the progress achieved in the peace process in Burundi and the subsequent holding of democratic elections. The African States endorsed the Independent Expert's recommendation to the international community to continue to assist Burundi in its efforts to achieve national reconciliation and reconstruction. Accordingly, they invited donors who had not yet done so to provide the financial assistance pledged at the various international round-table meetings held in the course of the past four years. They also encouraged the Government of Burundi to pursue its efforts to open channels of communication with local and international partners with a view to promoting and protecting human rights.

76. Ms. RAINNE (Finland), speaking on behalf of the European Union, welcomed the report of the Independent Expert and its emphasis on the need to foster human rights in order to achieve political stability and reconstruction.

77. The European Union had taken note with concern of information received from the Government of Burundi regarding the preparation of a coup d'état on 30 July 2006 and had also taken note of the Government's assurances that the judicial investigations under way would be conducted in strict compliance with legal procedures and human rights. In the light of the concerns expressed in his report regarding the failure to respect procedural guarantees, alleged practice of torture and restricted freedom of the press, she wished to know whether the Independent Expert had been in contact with the national authorities.

78. The report had highlighted the role of transitional justice and discussed the proposal by the United Nations for the establishment of a truth and reconciliation commission and of a special chamber within the national judicial system. She would welcome the Independent Expert's assessment of those proposals. Specifically, she wished to know what role the special chamber could play in re-establishing the judicial system and fighting impunity, and what priority measures should be taken to strengthen the judicial system.

79. Mr. NIHON (Belgium) noted that the Independent Expert had referred to the alarming situation of sexual violence against women. While there appeared to be little recourse to justice in such cases, extrajudicial settlements were common. That could lead to solutions that imposed additional suffering on the victim, such as the marriage of a rape victim to the perpetrator. He

asked what role civil society could play in raising awareness of the issue and invited the Independent Expert to provide more information on his suggestion to send the Special Rapporteur on violence against women on a fact-finding mission to Burundi.

80. Mr. DE ALBA (Mexico), President, took the Chair.

81. Mr. TICHENOR (Observer for the United States of America) said that the Independent Expert's report had remarkably illustrated the positive political developments that had taken place in Burundi with regard to elections and the empowerment of women but had not neglected the ongoing, serious human rights problems: summary executions of civilians by all parties to the ongoing conflict, gender-based violence and the continued marginalization of indigenous people.

82. The report provided impressive coverage of the ongoing conflict between the Government and the FNL rebel group and its effects on civilians. It contained valuable recommendations: that the Special Rapporteur on violence against women should visit Burundi; that the Government should step up its efforts to strengthen the judiciary, fight impunity and establish transitional justice mechanisms; that a national independent human rights institution should be implemented; and that the international community should continue to support Burundi.

83. His delegation shared the Independent Expert's concern about continuing sexual violence in Burundi and wondered whether he had any recommendations as to how the Government should combat the problem. It would also be interesting to know what the Independent Expert thought about the fact that the time frame for the transitional justice mechanisms had not been set.

84. Mr. ELTURABI (Observer for the Sudan) welcomed the report of the Independent Expert and endorsed its recommendations. His delegation agreed that there was a need for support from the international community in establishing social peace and respect for justice in Burundi, and also for its continued assistance to help the country address problems it could not tackle by itself owing to a lack of resources.

85. Ms. FILOTAS (Canada) said that the Independent Expert's report had provided thoughtful, detailed insight into serious human rights violations in the country, including many believed to have been committed by Government security forces. Like the Independent Expert, her Government had raised those concerns with the Government of Burundi, which had provided assurances of its commitment to end abuses by State officials.

86. Regrettably, in the nine months since the completion of the report violations had continued. Yet the justice system had been used to detain individuals who had merely expressed their views, rather than to pursue the perpetrators of violations. One sign of hope that impunity might eventually be brought to an end was the arrest of some State officials suspected of extrajudicial killings. It had been reported that those accused remained in prison awaiting trial, despite threats made against the prosecutors in the case. Her delegation would welcome the

Independent Expert's assessment of those recent developments, especially the question of whether a ceasefire would allow the Government to take a more balanced approach to ensuring the security of the population.

87. Mr. OKOLA (Independent Expert on the situation of human rights in Burundi), replying to questions raised about the events that had unfolded since the 2005 elections, said that many of the violations that had occurred must be viewed in the context of the conflict between the Government and the rebel movement that had refused to join the peace process. Now that a peace agreement between the two parties had been signed, it was to be hoped that some of those violations would cease. Nevertheless, he questioned the Government's genuine commitment to that objective.

88. It appeared from the events that had occurred since his last visit to Burundi that the Government had acted not out of desire for repression, but out of fear that individuals within the political process might be engaging in activities perceived to be detrimental to the security of the State. That was why it had detained the individuals alleged to be involved in the attempted coup d'état. However, the Government had thus far failed to substantiate the claims made against those individuals, despite requests to do so and despite the fact that no conflict that might have accounted for such fears was taking place.

89. He hoped that when the national independent human rights commission was established, it would address some of the issues associated with the delegations in question as well as the practice of Government-ordered torture. He had observed a firm commitment on the part of the Government to establishing the commission but also a desire to limit its activities to examining past offences, without establishing special chambers responsible for bringing the criminals to justice. The Government in fact appeared to be backing off from its commitment to establish the special chambers.

90. The Government had denied that any summary executions had taken place in Muyinga until irrefutable evidence had been provided in the form of bodies. As a result, the Government had arrested a number of persons who had allegedly taken part in the killings.

91. Sectoral violence continued. He had been informed of the existence of a public-awareness campaign intended for all groups in society, including the security forces, aimed at combating impunity. He hoped that that programme, in which the United Nations was participating, would eradicate the phenomenon.

92. Ms. NGENDA HAYO (Observer for Burundi), speaking in exercise of the right of reply, admitted that there were still failings in the justice system in Burundi but said that the system did not focus solely on arresting individuals, when, for example, 622 political prisoners had been released. Moreover, the cases of a number of long-term prisoners whose trials had not yet been concluded and of prisoners in bad health were being reviewed. More than 80 per cent of all criminal cases ended up going to court. Those statistics reflected the significant achievements that had been made in the fight against impunity. Allegations concerning the coup d'état were currently under investigation and were in fact being treated as allegations until suitable evidence was produced.

Report of the Independent Expert on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/2006/113 and Corr.1)

93. The PRESIDENT said he had just been informed that the Independent Expert on the situation of human rights in the Democratic Republic of the Congo was unable to attend the meeting. Accordingly, he invited the Council to take up the report of the Special Rapporteur on the situation of human rights in Myanmar.

94. Mr. JAZAÏRY (Algeria), speaking on a point of order, said that African Governments took the interactive dialogues with special rapporteurs and independent experts very seriously and often went to great lengths to send experts from their capitals specifically to take part in the Council's deliberations. It was unfair that the Independent Expert on the situation of human rights in the Democratic Republic of the Congo had waited until the last minute to announce that he would not be present. The President should appeal to all mandate-holders to be present at the scheduled time; if that was not possible, they should so inform the Council membership sufficiently in advance.

95. Ms. KALALA (Observer for the Democratic Republic of the Congo) noted with concern that the Independent Expert on the situation of human rights in the Democratic Republic of the Congo had in the past missed other opportunities to engage in a dialogue with her Government. The delay in considering the report hindered cooperation between the Human Rights Council and her Government. She requested that a new date should be set for consideration of the Independent Expert's report during the current session. If that should prove to be impossible, and since the mandates of the special rapporteurs and independent experts had been extended for one year, she invited the Independent Expert on the situation of human rights in the Democratic Republic of the Congo to visit her country in the near future with a view to updating his report.

Report of the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/2006/34)

96. Mr. PINHEIRO (Special Rapporteur on the situation of human rights in Myanmar) said that while he had not been permitted to visit Myanmar since November 2003, he had continued to carry out his mandate using information collected from a variety of sources. The Government had in recent months replied to a number of official communications, which indicated that it was perhaps willing to cooperate with the Council. Hopefully, it would invite him to visit the country before his mandate expired. While the reform process had been strictly limited, it was a source of satisfaction that the Government had announced the forthcoming resumption of the National Convention.

97. He had consistently stated that national reconciliation required meaningful and inclusive dialogue. The stability of Myanmar was not well served by the arrest of political leaders or students or by the placing of restrictions on fundamental freedoms. In May 2006 the house arrest of Daw Aung Sang Suu Kyi had been extended for another year in spite of numerous appeals for her release, including appeals by the Secretary-General. The number of political or security prisoners had been estimated at 1,185. Since January 2006 the International Committee of the Red Cross (ICRC) had not been able to visit all places of detention. The Government should authorize such visits, with full respect for ICRC criteria.

98. From April to July 2006, some 1,038 members of the National League for Democracy (NLD) had been forced to resign from the party following intimidation or threats. The capacity of the law enforcement agencies and the independence of the judiciary were hampered by impunity that prevailed, and the legal system was regularly misused. Serious human rights violations were not only permitted because of impunity, but were also authorized by laws, some of which criminalized the exercise of fundamental rights and freedoms by political opponents, human rights defenders and victims of human rights abuses.

99. On the other hand, the Government, working with the International Labour Organization (ILO), had taken some positive steps to resolve issues related to forced labour, including the declaration of a moratorium on the prosecution of persons who lodged complaints relating to that practice.

100. The ongoing military campaign in eastern Myanmar had reportedly resulted in attacks on civilians, forced evictions, relocations and resettlements, forced migration and internal displacement. He had also received numerous reports of a marked deterioration in the economic and social situation that could aggravate the humanitarian situation. Humanitarian assistance must not be held hostage to politics; it must be guided solely by the best interests of those in need. Accordingly, he and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health had deplored the decision of the Global Fund to Fight AIDS, Tuberculosis and Malaria to suspend its programme in Myanmar. He welcomed the launching of the Three Disease Fund, which would soon step in to replace the missing support, and noted that the Government of Myanmar had expressed its appreciation to the European Union for its backing in that context.

101. The fact that the Security Council had recently placed Myanmar on its agenda called for close follow-up. There was an urgent need to coordinate approaches among Member States to find ways to help the democratization process, improve the standard of living and protect human rights in Myanmar.

102. Mr. SHEIN (Observer for Myanmar) said he was disappointed that, in contrast with past reports, the latest report by the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/2006/34) mentioned only a few positive developments. His Government neither agreed with nor accepted the assertions, observations and comments it contained. The National Convention, which was due to meet in October 2006, had already completed three quarters of its work, and once it finished, a new Constitution would be drafted. The Government had resolved three cases involving allegations of forced labour, as requested by the International Labour Conference, and was currently discussing with ILO the establishment of a mechanism to handle allegations of forced labour. It had also declared a six-month moratorium on action against persons submitting false allegations of forced labour.

103. It was not true that large numbers of persons had been displaced by military activities, as clashes with small splinter insurgent groups were limited to the border areas. The Government had concluded an agreement with the Government of Thailand to legalize the situation of numerous citizens of Myanmar who had sought work in that country.

104. He expressed gratitude to the European Union for supporting his country's efforts to combat HIV/AIDS, malaria and tuberculosis in the wake of the withdrawal of support from

the Global Fund to Fight AIDS, Tuberculosis and Malaria. A recent visit by the Under-Secretary-General for Political Affairs had ushered in a new era in his country's relationship with the United Nations. The Government of Myanmar had consistently cooperated with United Nations human rights bodies and would continue to do so. On the other hand, the placing by the Security Council of Myanmar on its agenda fell beyond the scope of the Council's mandate.

105. Allegations of human rights violations in Myanmar were based entirely on information collected from a few remaining insurgent groups and foreign-funded expatriates with a hidden political agenda. The Council should base its work on the principles of universality, impartiality, objectivity, non-selectivity and non-politicization. His country's engagement with the Council must be constructive and forward-looking.

106. Mr. ZHOU Jian (China) said that notwithstanding the fact that Myanmar faced serious challenges as a small country, its Government had consistently made efforts to protect the human rights of its people. It had recently endeavoured to raise living standards through a five-year economic development plan and had invited the Under-Secretary-General for Political Affairs to visit the country. It had also cooperated actively with ILO, a sign of the Government's openness to international cooperation.

107. As a neighbouring country, China hoped for stability, economic development, ethnic harmony and domestic reconciliation in Myanmar, but it was for the people of Myanmar to secure their own future. The international community could provide constructive assistance by fostering development and the transition process. The Chinese Government opposed any efforts to pursue single-mindedly a policy of sanctions and isolation, as such a policy would have only a negative impact on the human rights situation in the country.

108. Mr. SINGH (India) noted that the Government of Myanmar had engaged in a constructive dialogue with the United Nations system and said that its efforts to make the political reform process more inclusive should be encouraged. The promotion and protection of human rights must be based on the principles of cooperation and genuine dialogue with the aim of strengthening the capacity of Member States to comply with their human rights obligations. Country-specific resolutions adopted against the wishes of the Government concerned were counterproductive and usually had negative outcomes.

109. Ms. RAINNE (Finland), speaking on behalf of the European Union, strongly encouraged the Government of Myanmar to cooperate fully and unreservedly with the Special Rapporteur on the situation of human rights in Myanmar. She asked the Special Rapporteur whether he had noticed any significant developments in the political and human rights situation since the submission of his report, particularly with regard to forced labour and the recruitment of children, and what his assessment was of the situation in northern Karen state and eastern Pegu division. She wondered whether the Government's attitude towards the Special Rapporteur and his mandate had changed since May 2006, when the Under-Secretary-General for Political Affairs had visited the country.

110. Mr. MOKTAR (Malaysia), noting the concerns expressed by the Special Rapporteur on the situation of human rights in Myanmar regarding the pace of national reconciliation in the country, pointed out that the Government of Myanmar faced complex challenges in that regard

and expressed the hope that the Government's efforts would result in concrete and speedy progress. It was heartening to note that the Government was engaged in discussions with ILO to establish a mechanism to handle complaints of forced labour and that it was prepared to work with the international community, including other States members of the Association of Southeast Asian Nations (ASEAN) and the United Nations, for example by inviting the Under-Secretary-General for Political Affairs to return to the country for a second visit. Continued international cooperation was essential to help the country bring about national reconciliation and socio-economic development.

111. Ms. SAIGA (Japan) encouraged the Government of Myanmar to enhance its dialogue with the international community and take tangible steps towards democratization, national reconciliation and the improvement of the situation of human rights. She expressed serious concern about the fact that the Special Rapporteur on the situation of human rights in Myanmar had been denied entry to the country since 2003, and she urged the Government to extend an invitation to him.

112. Mr. CORMIER (Canada) said that he shared the Special Rapporteur's concerns about the plight of the growing number of refugees and displaced persons. His Government and others had been working with the Office of the United Nations High Commissioner for Refugees (UNHCR) to resettle Karen refugees. Because there were such large numbers of displaced persons, it was necessary to support the civil society organizations working both within Myanmar and in neighbouring countries. He asked how the international community could best assist such organizations and what it could do to turn the Government's statement of its commitment to combat HIV/AIDS into cooperative action.

113. Ms. HORSINGTON (Observer for Australia) said that her Government was gravely concerned about the Myanmar regime's lack of willingness to address the need for genuine political reform, to respect human rights and to halt the continuing economic decline. There had been no tangible progress towards democratic reform, and the National Convention, which involved no broad participation or open debate, lacked credibility. The Government of Myanmar should immediately and unconditionally release all political prisoners. It should ensure international standards of human rights for all and resolve ethnic conflicts through national reconciliation. The Government should ensure that the conditions existed for the effective delivery of international humanitarian assistance. It should also work with the Council to provide a safe and secure environment for everyone in the country.

114. Ms. LAURENSEN (Observer for New Zealand) said that the findings of the Special Rapporteur on the situation of human rights in Myanmar, in particular those relating to the exercise of fundamental rights and freedoms, were a source of deep concern. She supported the Secretary-General's call for the Government to resume contacts with all political actors and representatives of all ethnic groups, and also endorsed the Special Rapporteur's appeal for the release of all political prisoners and the lifting of constraints on political actors so that they could take part in the democratization process. She asked the Special Rapporteur how the international community could support civil society to help prepare it to make a contribution in that context.

115. Mr. TICHENOR (Observer for the United States of America) said that because of the regime's disregard for its own people and its unconscionable human rights abuses in Burma, the Security Council had recently added the country to its formal agenda. The wife of the President

of the United States of America had also hosted a round-table meeting to further raise awareness about the human rights situation in Burma. The lack of democracy and the regime's total disregard for the need to engage in genuine dialogue with all stakeholders were blocking the country from moving forward with its political reform. The situation of hundreds of thousands of refugees and displaced persons likewise stemmed from the lack of respect for human rights. As the Special Rapporteur had explained in his report, the regime had not only failed to assist internally displaced people, but had exacerbated their situation. The HIV/AIDS infection rate in Burma was one of the worst in Asia, and the Government of the United States of America had begun supporting NGOs active in the country to address that problem.

116. He asked the Special Rapporteur how the international community could best support the work of human rights defenders and civil society in the country, and what it would take to achieve the release of all political prisoners.

The meeting rose at 1.05 p.m.