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HUMAN RIGHTS COUNCIL

Second session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 21 September 2006, at 10 a.m.

<u>President:</u>	Mr. DE ALBA	(Mexico)
later:	Mr. BURAYZAT (Vice-President)	(Jordan)
later:	Mr. DE ALBA (President)	(Mexico)

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The meeting was called to order at 10.10 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 Special Rapporteur on the question of torture, the Chairperson of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers (continued) (E/CN.4/2006/6 and Add.1-6; E/CN.4/2006/7 and Add.1-3; E/CN.4/2006/52 and Add.1 and Add.1/Corr.1 and Add.2-4)

1. Mr. PETRITSCH (Observer for Austria) endorsed the questions raised at the previous meeting by the representative of Finland on behalf of the European Union and said that he wished to bring certain additional points to the attention of the Special Rapporteur on the question of torture. Torture and ill-treatment were still widespread in many countries, and in some places used systematically.
2. Austria's firm commitment to the absolute prohibition of torture was reflected in both its domestic and foreign policy. Accordingly, his Government attached great importance to the dialogue and engagement with international monitoring mechanisms such as the Special Rapporteur, the Committee against Torture and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). In spite of the efforts of those mechanisms, individual cases of torture or ill-treatment continued to occur and could not always be prevented. The case of the Viennese policemen who had committed an act of torture which the Special Rapporteur had mentioned had received great attention from the Austrian media and public at large and had triggered an important debate among the relevant authorities and institutions on how best to improve the existing prevention and protection system and recalibrate the system of penal sanctions to increase their preventive effect.
3. In his report (E/CN.4/2006/6) the Special Rapporteur had discussed his methods of work relating to country visits. The Austrian delegation wondered what role the Council should play in helping the Special Rapporteur to ensure that States fully complied with the terms of reference for country visits.
4. Ms. HOCH (Observer for Liechtenstein) said she was pleased that the Special Rapporteur on the question of torture had remained firm about retaining the terms of reference for fact-finding missions and supported his decision to cancel country visits that could not be conducted in accordance with those terms. Those terms of reference were crucial to the success of such visits and should not be subject to negotiation or selective approval by States; they helped to ensure the independence of the Special Rapporteur's work and equal treatment of the countries visited.
5. She welcomed the Special Rapporteur's meetings with such regional organizations as the Council of Europe and the Organization for Security and Co-operation in Europe, and encouraged the Special Rapporteur to pursue such cooperation with relevant organizations in all regions. She wondered whether any specific decisions had resulted from the Special Rapporteur's discussions with CPT on possible mutual cooperation and coordination in the preparation of and follow-up to country visits.

6. She fully agreed that diplomatic assurances by States afforded insufficient protection. She wondered whether the Special Rapporteur had been collaborating with other relevant special procedures that had raised concerns similar to his.
7. Ms. TOTH (Observer for Hungary) said that she fully endorsed the questions raised by Finland on behalf of the European Union with regard to the report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/2006/52). In addition, her delegation wished to know whether the Special Rapporteur had been able to follow up on his most recent visit to Ecuador, especially with regard to the situation of the Supreme Court. She also wondered whether his three visits to Ecuador had enabled him to identify any best practices.
8. Mr. HEINES (Observer for Norway) assured the Special Rapporteur on the question of torture that the Norwegian Government extended its full and continued support to the terms of reference for fact-finding missions as adopted at the fourth meeting of independent experts of the Commission on Human Rights in 1997, (E/CN.4/1998/45, appendix V). Compliance with those terms of reference was fundamental to the credibility of any country visit conducted by the Council's independent experts. Like the representative of Austria, he wished to know how the Council could assist the Special Rapporteur in the matter.
9. The tendency to stress the absolute nature of the prohibition against torture should by no means allow States to develop their own understanding of what constituted cruel, inhuman or degrading treatment or punishment (CIDT). In that connection, he wished to know whether the Special Rapporteur could provide examples of the distinction between CIDT and other forms of mental or physical pressure which might be legitimate if in accordance with national law. He also wished the Special Rapporteur to clarify the relationship between his approach and that of the European Court of Human Rights on the matter, as it seemed from the report that the Court focused on the intensity of the suffering rather than on the purpose of the conduct and the powerlessness of the victim.
10. Mr. BERZINJI (Observer for Iraq) drew attention to the report of the Special Rapporteur on the independence of judges and lawyers and said that the High Criminal Court established in Iraq to try individuals from the previous regime had been constituted with due diligence and in accordance with the principle of a freely elected judiciary. The Court's terms of reference had also been established in full compliance with international law. The Iraqi people had found the timing of the trials, which were intended to bring justice to the victims and penalize those responsible, to be entirely appropriate. The Iraqi authorities were seeking to guarantee the protection of lawyers, but accidents had occurred that had resulted in the death of some lawyers. The court also sought to abide by domestic obligations, in accordance with international human rights instruments, and its mechanisms worked openly in most instances.
11. Mr. FERNANDEZ PALACIOS (Cuba) drew attention to opinion No. 19/2005 of the Working Group on Arbitrary Detention, in which the Working Group had unequivocally found the detention in the United States of America of five political prisoners, three of whom were Cuban nationals, to be arbitrary. The individuals in question had been detained for trying to protect the Cuban people from the organized terrorist activities carried out by Miami's

anti-Cuban mafia, with the consent and complicity of the United States Government. Consistent with the Working Group's opinion, the United States Court of Appeals for the Eleventh Circuit had issued a decision reversing their convictions and overturning their sentences after a detailed analysis of the circumstances surrounding the case. Yet just one year later, the plenary Court, acting under strong political pressure from the United States Government and from the Cuban-American extreme right, had decided to invalidate the verdict, plainly disregarding the Working Group's opinion. He wished to inform the Council that the mother of one of the detainees and the wife of another were present in the conference room and would be participating in events in Geneva to promote the prisoners' cause, and he invited all present to join in those activities.

12. Ms. BRETT (Friends World Committee), speaking with reference to the report of the Working Group on Arbitrary Detention (E/CN.4/2006/7), said that she welcomed the section of the report dealing with over-incarceration (paras. 60-67), which briefly mentioned the issue of pretrial detention. She wondered whether the Chairperson of the Working Group could elaborate further on the over-use of such detention, in terms of both numbers of detainees and duration of detention, and indicate possible alternatives to it. She wondered also whether there were ways in which childcare responsibilities could be better accommodated in decisions relation to pretrial detention.

13. Ms. PILLAY (International Commission of Jurists), referring to the presentation made at the previous meeting by the Special Rapporteur on the independence of lawyers and judges, said she was concerned that developments in counter-terrorism policy risked eroding the capacity of the judiciary to protect against human rights violations as well as violations of the absolute prohibitions on torture, cruel, inhuman and degrading treatment, and enforced disappearances. The system of renditions established by the United States of America, in which many States had been complicit, was specifically designed to hold suspects for interrogation, often under torture, outside the scrutiny of any court. Such practices were in flagrant violation of the prohibition on refoulement to a place where the threat of torture existed. They likewise violated such rights as the right to freedom from arbitrary detention, the right to life and the right to an effective remedy for human rights violations.

14. A further threat to absolute prohibitions were the attempts by the United States to restrict the meaning of the terms "torture" and "inhuman and degrading treatment" in a way that was contrary to international law. In that context, courts had a vital role to play, and they therefore needed to be strong and independent. She asked the Special Rapporteur how he intended to use his mandate to preserve the role of the courts in protecting human rights within the framework of counter-terrorism operations and to address the undermining of the absolute prohibition on torture, cruel, inhuman and degrading treatment.

15. Mr. KILGOUR (Interfaith International), addressing the question of torture, said that he had recently released a report which concluded that the allegation that the Government of China was harvesting the vital organs of Falun Gong practitioners, killing them in the process, was true, on the basis of 18 concrete elements of proof. The Chinese Government had not provided any substantive information to counter those findings, and nothing was currently being done to prevent the harvesting of organs of Falun Gong practitioners. The 17 recommendations set out in his report should be put into action, particularly the recommendation that the practice should stop immediately.

16. Ms. POMEON O'NEIL (International Federation of Human Rights Leagues (FIDH)), speaking also on behalf of Baha'i International Community, said that she was deeply alarmed at the substantial increase in the number of Baha'is who had been arbitrarily detained in the Islamic Republic of Iran during the past year. More than 120 had been arrested without charge, interrogated, detained for periods of up to several months, and released only after paying a very high bail. Furthermore, the fact that no trial dates were set kept them in a state of insecurity. In light of the concern expressed by the Special Rapporteur on freedom of religion or belief in March 2006 about a Government initiative to identify and monitor the activities of Baha'is throughout the country, and the concern expressed by the Chairperson of the Working Group on Arbitrary Detention about the situation of the Baha'i after her visit to the Islamic Republic of Iran in 2003, she wondered what kind of follow-up was envisaged on the matter.

17. Lastly, FIDH wished to know whether the Working Group on Arbitrary Detention had received a response or any new information from Colombia about a possible visit to that country, given that nine months had passed since it had extended an open invitation for visits relating to thematic procedures.

18. Ms. RECULEAU (World Organization against Torture (OMCT)) said that she wished to reiterate to the Special Rapporteur on the question of torture the proposal to develop a mechanism to follow up cases over several years in order to ensure that relevant investigations were completed, that the perpetrators of crimes were identified and brought to justice, that adequate penalties were imposed and that victims received adequate rehabilitation and compensation. She wondered whether the Special Rapporteur planned to develop a mechanism for systematically following up new elements until cases could be fully elucidated and justice fully applied.

19. She also wished to know how the Special Rapporteur intended to deal with cases in which national authorities refused to cooperate with international mechanisms. That was currently the case in Uzbekistan, where the authorities had refused to cooperate with the Special Rapporteur since May 2005, all the while affirming that the recommendations of the previous Special Rapporteur had been implemented.

20. She was pleased that the controversy over the mandate and working methods of visits which had prevented previous visits to China had been overcome.

21. She agreed with the Special Rapporteur that diplomatic assurances were incompatible with the requirements of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. She wished to know what actions the Special Rapporteur would undertake to ensure the full respect of those provisions. It was regrettable that the Special Rapporteur had not included in his report a section on the recent developments on the use of information or confessions obtained through torture.

22. Mr. NOWAK (Special Rapporteur on the question of torture) said that he was grateful to the representatives of China and Jordan and the observer for Georgia for their assurances of cooperation and action on his recommendations, and to all the other States and NGOs which had commented on his reports.

23. It must be understood with regard to article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that the seriousness of the crime of torture had nothing to do with the degree of physical injury sustained by the victim. There were efficient methods of inflicting pain and suffering that did not cause any physical injuries. That fact was what made torture so reprehensible, and it was not taken sufficiently into account in the criminal codes of many countries.

24. He could assure the representative of Jordan and the observer for Austria that he had mentioned their countries as just two out of many examples of lack of awareness of the seriousness of torture: he had not meant to imply that the situations in Jordan and Austria were particularly serious. He understood the point made by the representative of Algeria in that connection. While the Council was currently working in a transitional period, his report on Jordan would in any event be submitted to the Council in 2007.

25. Questions had been raised in connection with the Optional Protocol to the Convention as to how he would coordinate his work with the future subcommittee of the Committee against Torture. He always tried to collaborate as closely as possible with the Committee and with other treaty bodies, as well as with outside organizations, with the aim of, inter alia, avoiding simultaneous country visits by experts from different bodies. He would proceed likewise with the new subcommittee.

26. Diplomatic assurances were only ever requested from States known to practise torture. He was convinced that in such cases the diplomatic assurances mechanism was not working. There was no watertight system of monitoring even if a country had ratified the Optional Protocol or even when the best preventive arrangements were in place: it was impossible to prevent torture entirely.

27. In the case of Uzbekistan, the fact that torture was used systematically was the best proof that the previous Special Rapporteur's recommendations had not been fully implemented. Uzbekistan had taken some action but needed to do much more. He hoped that the Government would shortly invite him to visit the country.

28. As to ways in which the Council might help to improve the cooperation he received from States, he would of course be happy if Governments responded to all his communications and requests for invitations in a positive spirit. It must be said that Governments were generally cooperative.

29. It would certainly be useful for the international community to make a clearer distinction between the definitions of torture and CIDT. Much had already been done in terms of jurisprudence but, as the observer for Norway had pointed out, there were differences between legislations. The original position of the European Commission on Human Rights would probably no longer be taken to be the definitive criterion.

30. He could inform the representative of Interfaith International that he had written to the Government of China about the allegations, as yet unproven, of organ-harvesting. The Chinese Government had assured him that he would shortly receive a report on the thorough investigations which it was carrying out into the matter.

31. Ms. ZERROUGUI (Chairperson of the Working Group on Arbitrary Detention) said that, with regard to the question raised on behalf of the European Union regarding the right of appeal, the Working Group had found that although that right existed in most countries, immigrants were not always in a position to exercise it. The Working Group had identified as good practice in that connection the separation of immigrant detainees from persons held on criminal charges and the provision of legal aid. When legal aid was available, detention usually lasted only a few days. It really was very important for a group as vulnerable as immigrants to be able to exercise the rights of recourse and appeal.

32. With regard to the cooperation of States with the Working Group, another matter raised by the European Union, she noted that the situation had improved over the past year in terms of the number of replies received. In the case of the urgent appeal procedure, it was important for special rapporteurs and human rights bodies to coordinate their approaches to Governments. Few Governments refused to respond to approaches made concerning individual communications.

33. The Working Group was very concerned about the issue of the secret prisons maintained in several countries and had declared imprisonment in such places to amount to arbitrary detention. With the help of lawyers and NGOs the Working Group had received some individual communications on the subject and would continue to address it in future reports.

34. The problem of over-incarceration and excessive recourse to detention pending trial was another important issue, for in many countries persons were held pending trial in very poor conditions, sometimes in high-security prisons, and there were cases in which children were detained with their mothers. Other countries ensured that such detainees were held in proper conditions, and some even waived bail for pregnant and nursing mothers and the poor.

35. On the question of follow-up to the visit to the Islamic Republic of Iran, she said that the Working Group had received a reply to its letter from the Government of that country. It was still receiving individual communications on various matters, including the setting of bail at very high levels.

36. The Government of Colombia had issued an open invitation to the Working Group but had not yet responded to its specific request for a visit to be arranged. The Government of Norway had just announced that it would accept a visit in 2007.

37. Mr. DESPOUY (Special Rapporteur on the independence of judges and lawyers) said that Ecuador had been singled out as an example of good practice. Ecuador had undergone a profound political and institutional crisis following the dismissal of the Supreme Court by Parliament. The judiciary had subsequently been reconstituted in a process monitored by the United Nations and a number of regional bodies, with the participation of judges' and lawyers' organizations. It was a very positive development for States to accept international cooperation from the United Nations and for judges' and lawyers' organizations to play an increasing role in the solution of problems affecting the judiciary.

38. On the negative side, there was clearly widespread concern about the way in which anti-terrorist laws were affecting human rights, not only the right to a defence and the rights of detainees but also the freedoms of association and expression and the rights of specific categories such as asylum-seekers, refugees, immigrants and other vulnerable groups. The fight against terrorism was also impinging on the jurisdiction of the ordinary courts, in favour of military tribunals in particular. That worrying and widespread phenomenon was a central feature of his report to the General Assembly. The use of emergency laws and declarations of states of emergency was also having a serious impact on the exercise of human rights and on the role of ordinary courts as protectors of human rights.

39. With regard to the questions on juvenile justice raised by Chile and Uruguay, he agreed that there were widespread deficiencies in that area, and he intended to address the matter in greater detail.

40. He urged Kyrgyzstan and Tajikistan, to which he had undertaken missions, to continue what was a fruitful practice: he had been the first special rapporteur to visit Tajikistan and one of the first to go to Kyrgyzstan.

41. He wished to assure the observer for Iraq that his reports always reflected his desire to take the context in which he formed his opinions into account and that his aim was always to secure the application of international standards. Humanity had a great interest in seeing that criminals were brought to justice.

42. He was most concerned about the extradition of refugees from Kyrgyzstan to Uzbekistan, in violation of international law. The United Nations High Commissioner for Refugees had taken the matter up, and the world deserved an explanation of the situation of the persons who had been unlawfully transferred.

The meeting was suspended at 11.25 a.m. and resumed at 11.40 a.m.

Statements in exercise of the right of reply

43. Mr. LA Yifan (China) said that China cooperated in all procedures undertaken by the Special Rapporteur on the question of torture. His Government had received communications from the Special Rapporteur in July and August and would reply to them in good time and certainly within the 90-day time limit.

44. Replying to the statement made by the representative of Interfaith International, he said that Falun Gong was an evil cult and not a peace movement. It had recently put about in the media the story that the Chinese Government was systematically harvesting organs. Organ transplants were in fact governed by strict procedures in China, and the Government had immediately arranged for media representatives and officials of embassies in Beijing to travel to the hospital in north-eastern China where organs were allegedly being harvested. They had seen that the hospital was an ordinary one and that the allegations were a fabrication. The latest allegations of organ-harvesting likewise lacked credibility.

45. Ms. VADIATI (Observer for the Islamic Republic of Iran), referring to the statement made by the representative of FIDH on behalf of various NGOs concerning the situation of Baha'is in the Islamic Republic of Iran, said that Baha'is enjoyed all rights provided under the Constitution and that all citizens enjoyed equal protection under the law. Baha'is did not need to meet any special requirements in order to engage in economic activities: in some areas they had actually established a monopoly of the domestic market. Like any other citizens, Baha'is could legitimately be prosecuted for breaking the law. The arrested Baha'is to whom the representative of FIDH had referred had been quickly released without prejudice. Her delegation would be happy to receive information about any other matter requiring investigation.

46. Mr. BURAYZAT (Jordan) said that he had not been entirely convinced by the explanation of the Special Rapporteur on the question of torture as to why he had cited Jordan and Austria as examples of countries lacking awareness where torture was concerned. The Special Rapporteur had included Jordan in his report to the General Assembly and was to report to the Council on Jordan again in 2007. He seemed to be giving excessive attention to the example of Jordan. The Council should be guided in the matter by whatever action the General Assembly decided to take.

Presentation of reports followed by an interactive dialogue (continued)

Report of the Special Rapporteur on freedom of religion or belief (E/CN.4/2006/5 and Add.1-4)

Report of the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2006/55 and Add.1)

47. Ms. JAHANGIR (Special Rapporteur on freedom of religion or belief), introducing her report (E/CN.4/2006/5 and Add.1-4), said that her mandate had always been a sensitive one. However, since the attacks of 11 September 2001, tensions and sensitivities about issues relating to religion and belief had come to the fore, with adherents of all religions and beliefs coming under increasing pressure. It was apparent from her various country visits and the communications she received that the right to freedom of religion or belief was often violated and reluctantly protected in spite of the 25 years that had elapsed since the adoption of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

48. She had placed special emphasis in her report on the debate surrounding religious symbols. While in some parts of the world individuals were prevented from identifying themselves through the display of religious symbols, individuals in other countries were required to identify themselves by displaying such symbols. The wearing or display of religious symbols was a manifestation of freedom of religion or belief, and thus any limitations on an individual's right to such display should be based solely on grounds of public safety and order, health, ethics or the fundamental rights and freedoms of others. Laws imposing such limitations should be proportionate to the aim pursued, bearing in mind the need to reflect a pluralistic view of society rather than a single culture or religion.

49. Despite the lessons of history, atrocities continued to be committed against communities of religion or belief, based on assumptions of superiority of one religion or race over another. Governments must remain non-partisan in the endeavour to combat religious intolerance. Ongoing, inclusive dialogue was essential at all levels and had contributed to the prevention of violence and the cessation of hostilities in some instances. Education, and particularly human rights education, had a special role to play in fostering religious harmony.

50. Turning to her mission to Nigeria, the report of which was contained in document E/CN.4/2006/5/Add.2, she said she had received a number of complaints about riots in several parts of the country. In most cases religious factors had sparked the violence. Religious beliefs provided a relatively easy way of identifying an opponent in Nigeria, but the most striking aspect of the violence that had occurred was the response of the authorities: in the majority of cases there had been no investigation or any effort to prosecute the offenders.

51. The extension of Islamic law to cover criminal matters in 12 States had led to the institutionalization of enforcement bodies known as Hisbah, composed of young untrained civilians entrusted with enforcing their understanding of sharia law. Their activities had resulted in a number of human rights violations against non-Muslim women in particular. Disturbing reports showed that members of both Christian and Muslim communities were arming themselves, thus demonstrating a willingness to provoke or accept more violence. The recommendations she had made in her report would be effective only if the necessary political will existed.

52. In May 2005 she had conducted an in situ visit of Sri Lanka, the report of which was contained in document E/CN.4/2006/5/Add.3. At that time she had assessed reports of attacks against religious groups and allegations of unethical conversions. Sri Lanka had a high level of tolerance and a history of religious harmony; moreover, the Government generally respected freedom of religion or belief. That context had made it possible to forge a consensus between the various religious communities on ways of propagating religious beliefs without adopting a law criminalizing unethical conversions.

53. In fact, concerns about such conversions had been exacerbated by allegations that certain groups had been using the provision of humanitarian assistance to tsunami victims as a means of inducing them to convert to another religion. A positive development in that regard had been the recent adoption of the Operational Guidelines on Human Rights and Natural Disasters, which provided for respect for religious traditions in the planning and delivery of humanitarian assistance.

54. With regard to her mission to France, the report of which was contained in document E/CN.4/2006/5/Add.4, she said that while the Government generally respected the right to freedom of religion or belief, she had been concerned by Act No. 2004-228, governing the wearing of religious symbols in public schools. Although initially intended to apply equally to all persons, it had mainly affected certain religious minorities, especially Muslims. The Act was appropriate insofar as it was intended to protect children who might be pressured into wearing a headscarf or other religious symbol, but she also believed that it denied the right of those children who had freely chosen to wear religious symbols as an expression of their belief. The stigmatization of headscarves had provoked incidents of religious intolerance against young Muslim women outside of school, at universities and in the workplace.

55. France's policy towards what it referred to as "*sects*" might have contributed to intolerance towards the communities and groups listed in a parliamentary report. While the French authorities had adopted a more balanced approach to the subject in recent years, she would nevertheless continue to monitor the various initiatives taken in that connection closely. She had also received reports relating to acts of violence and religious intolerance against members of the Jewish and Muslim communities, but noted with satisfaction that those acts were taken very seriously by the Government.

56. In addition to the visits discussed in her report, she had carried out two additional country visits in 2006, to Azerbaijan and Maldives, and looked forward to presenting the related reports to the Council at a future session. In the meantime, she was pleased to note that the Government of Maldives had recently acceded to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, although she sincerely hoped that it would review the reservation it had entered to article 18 of the former, on freedom of religion or belief.

57. She regretted that she had not received any reply to her requests to visit a number of countries from which she regularly received credible information about violations of the right to freedom of religion and belief. She was pleased to report, however, that she had been invited to visit Tajikistan in early 2007.

58. Mr. LIGABO (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), introducing his report (E/CN.4/2006/55 and Add.1), said that freedom of opinion and expression was one of the pillars of a fair and democratic society. The free flow of news, information and ideas contributed to a better understanding of different societies, and increasing access to global information through modern technologies was therefore essential.

59. In the face of widespread violations of freedom of opinion and expression, the rule of law should be strengthened. States were responsible for ensuring that media professionals received sufficient protection and security to work, and that those committing crimes against journalists were brought to justice. He had received allegations of military operations that targeted media professionals and their work facilities; other journalists had been killed in the course of investigations into corruption cases and alleged mismanagement by State officials, with particularly alarming figures in the Middle East, Asia and Latin America. Various options had been proposed to strengthen the security of media professionals: the creation of a press emblem, the adoption of a resolution by the Security Council and the drafting of rules and guidelines on the subject, the latter being perhaps the most pragmatic alternative. The Human Rights Council might wish to convene a group of experts to prepare an in-depth study on the causes and consequences of violence against journalists and the legal remedies available.

60. Several countries had replaced criminal defamation laws by civil defamation laws, thereby reducing the workload and costs of overburdened judiciary systems. Yet breaches of defamation laws were still sanctioned with prison sentences, excessive fines and suspension of the right to practice journalism. He wished to reiterate his support for the decriminalization of defamation and related offences. Public officials should not take part in criminal defamation cases and should not be granted immunity; rather, they ought to tolerate more criticism because of the nature of their public mandate.

61. At the invitation of the Danish Institute for Human Rights he had visited Denmark to participate in meetings with Government officials, at which he had gathered significant information concerning the “Danish cartoon affair”. The press and media in Denmark enjoyed extensive editorial freedom and provided a forum for debate, thereby promoting the free exchange of opinions. However, caution was required in using stereotypes, for insulting certain groups did not help to consolidate an open and multicultural society. Freedom of religion and freedom of expression were inseparable. Individuals should have the right to practise their religion or belief without any restriction other than the respect of the rights and freedoms of others.

62. The final phase of the World Summit on the Information Society, held in Tunis in November 2005, had been marked by debates on such issues as the global impact of Internet resources. The Internet could play a major role in disseminating information to the most disadvantaged groups in society, especially the rural poor. The international community, including private enterprises, should make effective use of Internet resources with a view to fostering human and economic development. At the same time the principles of freedom of opinion and expression as set out in international human rights instruments must underpin the establishment of an intergovernmental organization on Internet governance. Indeed, much remained to be done in that area, in the light of the many reports of harassment, trial and detention of Internet writers charged with opinion-related offences in several countries.

63. Since the sixty-first session of the Commission on Human Rights he had had an opportunity to participate in a series of international events and conferences focusing on the role played by the media and information and communication technologies in promoting democracy and the rule of law, economic development, the eradication of poverty and the protection and promotion of human rights.

64. In 2005 he had signed, either individually or jointly with other special rapporteurs and experts, 490 communications relating to allegations of human rights violations affecting some 1,328 individuals. He had received replies to 42 per cent of them from Governments, but he wished to reiterate his appeal to Governments to include factual and exhaustive information on the violations in question, rather than politicized statements, in their written replies.

65. He concluded by expressing his appreciation to the Governments of Algeria, Azerbaijan, Guatemala, Honduras, the Libyan Arab Jamahiriya, Maldives, Sri Lanka, the Sudan, the former Yugoslav Republic of Macedonia and Ukraine for their invitations to visit their countries.

66. Mr. Burayzat (Jordan), Vice-President, took the Chair.

67. Mr. AYALOGU (Nigeria), speaking with reference to the report of the Special Rapporteur on freedom of religion or belief on her mission to his country, recalled that Nigeria was a secular State whose Constitution enshrined the right to freedom of practice of religion and beliefs. Its population was predominantly Muslim and Christian, but interreligious and inter-ethnic marriages were commonplace, and the two communities lived in relative harmony. He had therefore been surprised to note that the Special Rapporteur had indicated in her report that “the level of enjoyment of freedom of religion or belief is not satisfactory” (E/CN.4/2006/5/Add.2, para. 46), whereas she had indicated elsewhere in the report that the Constitution and Government of Nigeria upheld the principles of freedom of religion or belief.

His delegation did not agree that the Government interfered excessively with religious matters, nor that it had fuelled religious tensions. On the contrary, all religious communities without discrimination had benefited from State subsidies, although that system of funding was undergoing change, with greater responsibility given to religion groups themselves.

68. The fact that sharia law was recognized in the Constitution reflected Nigeria's respect for freedom of religion and belief. In fact, the underlying causes of communal violence were not necessarily religious but very often socio-economic and political factors.

69. He wished to assure the Council that his Government had taken note of the recommendations contained in the Special Rapporteur's report and that they would be duly reflected in future policies aimed at enhancing human rights in general and freedom of religion and belief in particular.

70. Mr. EKANAYAKE (Sri Lanka) noted that the Special Rapporteur on freedom of religion or belief had visited Sri Lanka in the midst of a nationwide debate on unethical conversions, which had ensued after reports that tsunami assistance had been used for unethical purposes. While no attacks on places of worship had been reported in 2006, the Government of Sri Lanka was aware of the need to remain vigilant in respect of inter-religious tensions. The Inter-Ministerial Committee on Human Rights had instructed the police to provide monthly updates on any related investigations, and had set up a subcommittee to recommend action in the light of the Special Rapporteur's report on her visit. The Ministry of Religious Affairs, which since the Special Rapporteur's mission had been given sole responsibility for promoting religious harmony, would play the lead role in implementing those recommendations.

71. Mr. RIPERT (France) said that as a member of the Council, France had extended a standing invitation to all special procedures to visit the country and had undertaken to implement their recommendations. The French Government welcomed the report of the Special Rapporteur on freedom of religion or belief on her visit to France.

72. In France, freedom of religion was intimately linked to the principle of a secular State administration and the separation of church and State. By law and under the Constitution, it was the duty of the Republic to ensure freedom of conscience and the free exercise of religion, restricting it only in the interest of public order. Secularism protected the freedom to believe or not to believe, to belong to a religion or to change faiths. The law governing the wearing of religious symbols in schools was based on such secular principles and did not single out any religion or specific symbols. It was limited to public schools through the secondary level, and it called for a dialogue in schools between students, families, teachers and the State to find practical solutions. The aim of the law was to reaffirm that public schools must constitute a neutral environment where equality was ensured and children were protected against outside pressure. He noted in that connection that the European Court of Human Rights had recognized that a similar measure in another State did not violate the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

73. It was a source of concern that the troubled suburban areas of France had been associated in the report with the country's Muslim population. The social and economic difficulties in those areas affected citizens of all backgrounds, and the Government was working to alleviate problems in such neighbourhoods through programmes not limited to a single group or religion.

It was also working, through an inter-ministerial body, to stop abusive sects from taking advantage of individuals in positions of weakness. The ultimate objective was to balance the duty of a democratic society to protect its citizens with the need for religious freedom.

74. Mr. AMIRBAYOV (Azerbaijan) said that his Government had welcomed the visit of the Special Rapporteur on freedom of religion or belief earlier in 2006. Azerbaijan abided by the principle of unity in diversity and was proud of the fact that for many centuries Muslims, Christians of various denominations and Jews had lived side by side in the country in conditions of peace, tolerance and mutual respect. The late Pope John Paul II had cited Azerbaijan as an example of peaceful coexistence and cooperation among religions.

75. While the report on the Special Rapporteur's visit was still being finalized, the Government was committed to giving all due attention to the recommendations that would figure in it. His delegation reserved the right to make substantive comments on the report at a future session of the Council. In the meantime his Government would do its utmost to play a leading role in building a model of tolerance and religious freedom.

76. Mr. de Alba (Mexico), President, resumed the Chair.

77. Mr. MARKOVIĆ (Observer for Croatia) said that his Government had sent a reply to the communication from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and that the Croatian Criminal Code had been amended so that media-related offences were subject only to fines, and were no longer punishable by imprisonment. He invited the Special Rapporteur on freedom of religion or belief to suggest ways of implementing the right to conscientious objection more effectively.

78. Mr. JAZAIRY (Algeria) noted that the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had referred in his report to alleged limitations on the Algerian press and said that no journalists were currently under arrest or being prosecuted in Algeria. Moreover, the Algerian President had recently pardoned those journalists who had been sentenced for defamation of public authorities or institutions, slander or abuse. Several journalists had been brought to justice, however, although for actions unrelated to their professional activities. The President himself had often been the target of slander and insults, but he had never taken legal action against them.

79. The Algerian press had been free since the adoption of the 1990 Information Act. Over 40 daily newspapers had an average print run of nearly 1.5 million copies, while some 60 weeklies had an overall circulation of 1.8 million. As censorship had been eliminated, the maintenance of professional standards had become the responsibility of the Higher Council on Press Ethics. A training centre for journalists was also being set up.

80. Contrary to the Special Rapporteur's claim, the Algerian Government had responded to all communications addressed to it by the Special Rapporteur, and it hoped that he would soon set a date for a visit to Algeria, where he would be most welcome.

81. Mr. HIMANEN (Finland), speaking on behalf of the European Union, welcomed the report of the Special Rapporteur on freedom of religion or belief, as it was central to combating all forms of discrimination based on religion or belief and incitement to religious hatred. He asked if the Special Rapporteur could specify the efforts the countries she had visited had made to ensure inter-religious dialogue, and the type of topics that should be discussed during an intergovernmental dialogue on freedom of religion or belief.

82. He asked the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression whether he thought the reason media professionals suffered from a lack of security was the inadequacy of security standards, or the lack of enforcement of existing standards.

83. Mr. OWADE (Observer for Kenya) expressed support for the recommendations contained in paragraphs 72 to 81 of the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. Implementation of those recommendations, which were both practical and feasible, would go a long way towards furthering the right to freedom of opinion and expression, and the Council should give them serious consideration.

84. Ms. BERAUN ESCUDERO (Peru), noted that the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had stated in his report that the information society must support human rights and that he had underscored the importance of protecting freedom of opinion and expression on the Internet. In Peru a national agreement had been signed by the major political and social actors to promote the full and responsible exercise of freedom of the press and the broadest possible use of the media. The use of new technologies could help to strengthen dialogue between civilizations.

85. Her delegation was concerned at the Special Rapporteur's statement that numerous trends and violations patterns remained substantially unchanged (E/CN.4/2006/55, para. 64). It was likewise disturbed by the increase in the number of arrests and detention of journalists.

86. Access to public information was a basic condition for the full exercise of rights and also promoted public participation, thereby enhancing transparency and democracy. In future reports it would be helpful if the Special Rapporteur would further develop recommendations concerning access to information and provide more detailed analysis of such access.

87. Ms. JANJUA (Pakistan) agreed with the Special Rapporteur on freedom of religion or belief that since the attacks of 11 September 2001 there had been increasing pressure on adherents of all religions. Muslim communities currently faced the worst discrimination, violence and targeted attacks. In her report, the Special Rapporteur had drawn up some interesting general criteria for religious symbols, which were increasingly gaining prominence in a world where religions and cultures had no borders. The criteria included "neutral" and "aggravating" indicators that were intended to provide guidance relating to the applicable human rights standards. She asked the Special Rapporteur how such criteria could be made operational.

88. Mr. DE KLERK (Netherlands) asked the Special Rapporteur on freedom of religion or belief whether she addressed issues of gender equality and empowerment of women during her missions and in her communications with Governments. He also requested clarification as to whether she had set a date for a visit to the Islamic Republic of Iran and, if so, whether she would raise the issue of the situation of persons belonging to religious minorities, in particular the Baha'i community.

89. Mr. APITONIAN (Observer for Armenia) endorsed the proposal contained in the report of the Special Rapporteur on freedom of religion or belief to develop a set of general criteria that could be used to balance the use of religious symbols against competing human rights. The Armenian Government had cooperated with the Special Rapporteur in establishing foundations for alternative service for conscientious objectors and was working to improve that system. Noting that Armenia's current defence structure was necessarily based on the maintenance of conscription-based military service, he asked the Special Rapporteur how she believed a balance could best be struck between the provision of alternative forms of service and protection against abuse of the conscription system.

90. He shared the concern of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression about the rising use of the Internet to promote child pornography and prostitution, sexual exploitation of women, racial discrimination, xenophobia, hate speech and other discriminatory practices. International law enforcement bodies should take the lead in consolidating international efforts to counter such practices. An international Internet governance body might be of use in that regard, but any such body must avoid the bureaucratic restriction of free speech. He also endorsed the Special Rapporteur's position on defamation laws: there must be a balance between freedom of speech and defence of public order and national security. Excessive defence of national institutions and symbols eventually undermined the ability of nations to transcend the controversies of the present and the burdens of the past. Lastly, he observed that there had been an alarming increase in violence against media professionals, and he urged the Council to draw up international legal norms to afford media professionals security and protection.

The meeting rose at 1 p.m.