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### HUMAN RIGHTS COUNCIL

Third session

#### SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,  
on Tuesday, 5 December 2006, at 3 p.m.

President: Mr. DE ALBA (Mexico)

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The meeting was called to order at 3.10 p.m.

IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF  
15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL” (agenda item 2)  
(continued) (A/HRC/3/4)

1. The PRESIDENT invited the members of the Council to resume discussion of the conclusions of the intersessional open-ended intergovernmental Working Group on the implementation of paragraph 6 of General Assembly resolution 60/251.
2. Mr. ALI SAEED (Observer for the Sudan) said that the Human Rights Council should elect special procedures mandate-holders on the basis of equitable geographical distribution, taking into account States' level of development, legal systems and cultural and religious specificities. The implementation of country-specific mandates had become overly politicized; the Council should therefore focus on expanding thematic mandates, bearing in mind the fact that the universal periodic review mechanism could be used to review the human rights situation in a particular State.
3. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) said that country-specific mandates were politically motivated and lent themselves to unfair manipulation. Their confrontational approach to resolving human rights issues was incompatible with dialogue and cooperation. The maintenance of country-specific mandates would be equivalent to reinstating the politicization, double standards and selectivity that the Human Rights Council was endeavouring to eliminate.
4. Mr. CHARNBHUMIDOL (Observer for Thailand) said that the special procedures system should be balanced, independent and impartial. It was even more important for the system to be visible and accessible so that rights holders could truly benefit from it. The process of nominating and selecting mandate-holders should be transparent, inclusive and independent, and should ensure that the most qualified persons were selected. The independence and objectivity of mandate-holders was essential to maintaining the credibility and effectiveness of the special procedures system as a whole. It might be useful to maintain, and regularly update, a non-exhaustive list of qualified persons in various areas of human rights.
5. The maintenance of a constructive dialogue between mandate-holders and the Human Rights Council would enable all stakeholders to discuss ways to improve States' capacity to promote and protect human rights at the national level. Standing invitations should not be seen as the only way for States to demonstrate their willingness to cooperate with mandate-holders. States that cooperated in good faith with mandate-holders by inviting them to visit their countries should not be subjected to harsh criticism.
6. Mr. CHIPAZIWA (Observer for Zimbabwe) said that office holders, such as the United Nations High Commissioner for Human Rights, should not have sole responsibility for appointing mandate-holders; rather, mandate-holders should be elected by the Human Rights Council. There should be full democracy in the functioning of the Council, since that was the only way to remove the stranglehold that certain members of the Council had on some human rights processes. Those members often used NGOs to victimize developing countries. In the absence of a consensus, the will of the majority should prevail.

7. Mr. PAUDYAL (Observer for Nepal) said that, in order to ensure a broader selection of candidates for the post of mandate-holder, nominations should be sought from a variety of sources, including Governments, the Office of the United Nations High Commissioner for Human Rights (OHCHR), NGOs and regional groups. Equitable geographical distribution and gender balance should also be maintained. Candidates should be elected by the Human Rights Council in a transparent process.
8. The Council should conduct a detailed examination of all existing mandates with a view to reducing their number. The proliferation of mandates should be discouraged, and specific and transparent criteria should be developed for the establishment of a new mandate. In order to avoid politicization and selectivity, thematic mandates should be maintained, while country-specific mandates should be used only in exceptional circumstances.
9. His delegation was in favour of harmonizing the terminology and working methods of the special procedures. The Council should periodically evaluate the performance of the special procedures through interactive dialogue. It was vitally important for Governments to provide mandate-holders with objective and well-founded information. Mandate-holders should verify their information, obtain corroborating evidence and rely on multiple sources of information to clarify conflicting reports. The special procedures should give due consideration to the information and replies provided by Governments.
10. Ms. HASSASSIAN (Observer for Palestine) said that a footnote contained in the annex to Human Rights Council decision 2006/102 indicated that the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 had been established until the end of the occupation. Regrettably, the occupation continued to inflict daily suffering on the Palestinian people and to deprive them of many of their basic rights, including the right to life. The Council should closely monitor the occupation and the egregious human rights violations committed in Palestine.
11. Mr. BRAAD (Observer for Denmark) said that the Council should maintain the valuable contributions to the promotion and protection of human rights, including thematic and country-specific special procedures, that had been made by the Commission on Human Rights. The independence, impartiality and expertise of the special procedures should also be maintained. The work of the special procedures mandate-holders was relevant to other human rights mechanisms, including the universal periodic review. States needed to cooperate in good faith with the special procedures; that meant extending standing invitations to mandate-holders and allowing them to visit any institution, carry out unannounced visits and hold private interviews. Additional financial and human resources were necessary to enable special procedures mandate-holders to perform their important tasks.
12. Mr. VARELA QUIRÓS (Observer for Costa Rica) said that the special procedures should be reviewed in order to eliminate duplication and overlap with other mechanisms. Mandate-holders should represent the various cultural and geographical groups and legal systems; they should be independent and should be recognized experts in their fields. The term of each mandate should not exceed three years and should be renewable once. A three-year interval should be required between the completion of one mandate and the assumption of a different one. A code of conduct or operational manual or minimum rules should be formulated to address such issues as admissibility of complaints, country visits and the procedure for

transmitting questionnaires to States. Such rules should be transparent for States, individuals and NGOs, and should not compromise the independence of the mandate-holders. The rules should be established by the Council in consultation with the Coordinating Committee of Special Procedures. Mandate-holders should carry out their functions with full transparency, objectivity and independence.

13. Mr. THEUERMANN (Observer for Austria) said that there was a need to establish objective criteria for the appointment of mandate-holders and to allow for a broader selection of candidates by means of a roster of experts. The objectives of ensuring equitable geographical representation, gender balance and the highest expertise for the mandate in question could best be met through the appointment of mandate-holders by the United Nations High Commissioner for Human Rights.

14. Objective criteria should be established to eliminate overlaps and gaps in both thematic and country-specific mandates. Both types of mandate should be maintained. Country visits undertaken with the consent and full cooperation of the country in question should remain a key element in the Council's work. The Coordinating Committee played an important role in ensuring the professionalism of the special procedures in the performance of their mandates. Special procedures mandate-holders needed to cooperate with States in a transparent and predictable manner, with the full cooperation of Governments concerned. Country visits and the corresponding reports were of great value in stimulating domestic debate and better responses to important human rights issues.

15. Ms. LAURENSEN (Observer for New Zealand) said that strengthening the system of special procedures meant taking institution-building decisions by consensus, ensuring that mandate-holders were free from political pressure, and enhancing transparency and cooperation between Governments and the special procedures. There must be greater transparency in the process by which mandate-holders were selected. Mandate-holders should be appointed, rather than elected in order to avoid politicization, preserve the system's independence and ensure that criteria, such as equitable geographic representation, gender balance, expertise and impartiality, were met.

16. There was a need to improve the consistency and coordination of the working methods of the special procedures, including country visits and the circulation of reports. The manual of special procedures should not be negotiated in the Working Group, and the Council should not monitor the special procedures.

17. Mr. APITONIAN (Observer for Armenia) said that the Human Rights Council should address only those aspects of the special procedures that had been sources of controversy in the past. There was a need for greater transparency in the selection process, in which member States should be allowed to play a greater role, provided that the independence of mandate-holders was maintained. Under the Commission on Human Rights, dozens of country-specific mandates had been established, many of them by consensus, and many had been supported by Governments. The Council had to decide how many of the existing country-specific mandates had proved to be ineffective. Country-specific mandates should be maintained in order to address gross human rights violations. One alternative to country-specific mandates was the organization of joint visits by thematic mandate-holders.

18. Mr. SALAZAR (Observer for the Bolivarian Republic of Venezuela) said that it would be helpful if documents submitted for consideration by the Human Rights Council indicated points of agreement and points that required further discussion. The procedure for selecting mandate-holders should be transparent, and candidates should be impartial and independent. A system in which pre-screened candidates were elected by the Council would guarantee transparency. His delegation was in favour of a manual or a code of conduct for mandate-holders. The Council should agree on the criteria for evaluating the relevance of each existing mandate.
19. Ms. ADIRI (UN Watch) said that the two-term limit on the holding of special procedures mandates would ensure the regular infusion of new expertise and perspectives. A person should be allowed to hold only one United Nations human rights mandate at a time. The Council should maintain both thematic and country rapporteurs. The proposal by some delegations to abolish all country rapporteurs except one should be rejected, as it would severely limit the Council's ability to promote and protect human rights worldwide, and would institutionalize discrimination and further damage the Council's credibility.
20. Mr. GILLIOZ (Human Rights Watch) said that the independence of the special procedures must be respected, and the practice of using rapporteurs to assess the human rights situation in a particular country must be continued. In order to address concerns about selectivity, country rapporteurs should generally be appointed as an outcome of the universal periodic review. States that already had a country rapporteur could be the first to be considered under that new mechanism.
21. Mandate-holders should be responsible for clarifying their own working methods and professional standards. The code of conduct should include both standards for the work of experts and standards for Governments' interaction with the special procedures. The universal periodic review should address obstacles to the effectiveness of the special procedures, particularly Governments' failure to cooperate. When members of the Council failed to comply with the special procedures, the Council should take appropriate measures, and should agree on a system of escalating responses to uncooperative States that were not Council members. While concern over duplication and overlap within the special procedures system was understandable, any attempt to impose arbitrary limits on the number of rapporteurs would be misguided, since expert assistance had proven valuable on a broad range of thematic and country issues. Further cooperation among rapporteurs should be encouraged through joint efforts, formal partnerships or the use of working groups to consider related topics.
22. Mr. TIAHJONO (Pax Romana) said that the special procedures played a critical role in addressing human rights issues, in particular through contacts with victims of violations. The review of the special procedures should focus on improving the existing arrangement, particularly the integration of the recommendations of the reports to be considered in the Council's discussions. Governments should improve their cooperation with the special procedures, and the universal periodic review mechanism should reflect the commitments and actions of Governments in following up on the recommendations of the special procedures. Mandate-holders should be selected on the basis of their independence, capacity and expertise, the transparency of the selection process and due consideration for gender balance and equitable geographical distribution. Mandate-holders should not serve more than two consecutive terms.

In order to avoid the tyranny of the majority, the selection process should combine democratic consultation with a system of appointment. The special procedures should include a means of addressing systematic and gross human rights violations in a specific country.

23. Ms. KOSSIN (World Organization Against Torture) said that her organization supported the general consensus to preserve the independence, professionalism and expertise of mandate-holders. The appointment process should be transparent, and there should be a wide and open range of highly qualified candidates who met preset criteria, with due consideration of the need to ensure a gender balance and equitable geographical distribution. A transparent and independent pre-screening process would facilitate the selection of the candidates most suited for the relevant mandate.

24. The universal periodic review and special sessions could not replace the special procedures. Thematic and country-specific mandates must be preserved and further strengthened in order to protect human rights in a systematic, continuous and timely manner. Urgent appeals and communications were a core element of the special procedures and an effective tool for the protection of individuals from human rights violations.

25. Ms. SCANNELLA (Amnesty International) said that the election of mandate-holders would politicize the selection process. Elections involved nominations by individual States, vote-trading and secret ballots. Moreover, the proponents of elections had not explained how an election system would make it possible to achieve a gender balance, equitable geographical distribution and a balanced representation of legal systems.

26. The adoption by the Council at its second session of a resolution on the intergovernmental Working Group on the review of mandates injected new elements into a review process that had been expected to have a consensual outcome. Efforts to negotiate the working methods of the special procedures and impose a code of conduct would seriously interfere with their independence, limit their effectiveness and undermine the credibility of both the Human Rights Council and the United Nations as a whole. The drafting of a code of conduct would also make it necessary to address the conduct of States, for example with regard to personal attacks on mandate-holders and reprisals against individuals who interacted with them, and to call for substantive and timely responses to communications and mission requests.

27. Mr. FATTORINI (Movement against Racism and for Friendship among Peoples) speaking also on behalf of Europe-Third World Centre, the International League for the Rights and Liberation of Peoples and the Women's International League for Peace and Freedom, said that the mandates of the special procedures should be clearly defined, with due regard for economic, social and cultural rights, which had been neglected in the past. The Council should devote sufficient time to the consideration of annual and mission reports by the mandate-holders, and should follow up on their recommendations. Relations between the mandate-holders and other human rights bodies should be defined, with an increased role for NGOs. Mandate-holders should be selected for their independence and expertise, and should be elected by the Council for no more than two consecutive terms, with due attention to equitable geographical distribution. Governments, NGOs and OHCHR should be allowed to put forward candidates. Any future code of conduct for the special procedures must in no way restrict mandate-holders' freedom of expression or ability to act.

28. Mr. GORDON LENNOX (Reporters Without Borders-International) said that the Council must not jeopardize the independence and freedom of expression of the special procedures mandate-holders. The current system of appointment had worked well, and there was no need to introduce new procedures. While the mandate-holders were obliged to cooperate with Governments, they also had a duty to bring the plight of victims of human rights violations to the attention of national and international public opinion. As independent experts chosen for their integrity and expertise, mandate-holders should be entitled to decide when and where to speak with the press.

29. He commended the work of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, who contributed to making the plight of reporters known when they were victims of human rights violations. The Special Rapporteur's observations should pave the way for drafting new legal norms, for example on the decriminalization of defamation. He was disappointed that the Council had not adopted a resolution calling on the Special Rapporteur to carry out a study on the security of journalists working in situations of armed conflict. In Iraq, journalists were being killed every week, and politically motivated murders of members of the press were increasing, as demonstrated by the recent assassination of the Russian journalist Anna Politkovskaya. OHCHR should give higher priority to such issues.

30. Ms. AHMADI (International Federation of Human Rights Leagues) said that the role of the special procedures must be strengthened, and the coverage of violations that they were mandated to assess must be broader and more systematic. The special procedures must have more opportunities to carry out country missions, and their conclusions and recommendations must be more widely disseminated. The independence and integrity of the special procedures, which must evaluate Governments' compliance with their human rights obligations, should be preserved at all times.

31. The special procedures must maintain both country-specific and thematic mandates. It was unacceptable that a large number of States, including some members of the Council, refused to invite the special procedures for country visits, since that seriously undermined the universality of the mandates of the special procedures. All States members of the Council should have the obligation to invite the special procedures, and failure to do so should lead to such sanctions as suspension and ineligibility for re-election to the Council.

32. Mr. SIDOTI (International Service for Human Rights) said that the claim that the Commission on Human Rights had been discredited because of country-specific mandates had been used to support some States' contention that the special procedures should not address specific human rights violations. The campaign against the Commission had in fact been led by a few States that had considered that the Commission had appointed too few country rapporteurs, not too many.

33. The politicization that had destroyed the Commission had given priority to the interests of Governments over the interests of people. In order to address that problem, it would be necessary to ensure the independence and effectiveness of the special procedures. Nothing would politicize the system more thoroughly than electing mandate-holders in the Council. While many delegations had stressed the need for the special procedures to cooperate with

States, such a requirement would be unbalanced unless States had a specific obligation to cooperate with the special procedures. Special procedures were already subject to a United Nations code of conduct; States were not.

34. Mr. HUSÁK (Czech Republic), Facilitator on the review of mandates, said that his report (A/HRC/3/4) covered only the first session of the open-ended intergovernmental Working Group on the implementation of paragraph 6 of General Assembly resolution 60/251. He would present some ideas on the advantages and disadvantages of electing, rather than in appointing, mandate-holders in an informal document that he would submit to the Working Group's second session. With regard to thematic and country-specific mandates, he said that no delegation had objected to the consideration of country situations as such; the subject of debate had rather been the kind of situations that merited the attention of the special procedures. Further discussion was needed on the criteria for a possible code of conduct for the special procedures, and on the extent to which the Council should be involved in revising the draft manual for the special procedures that was being drawn up by the mandate-holders. There had been no agreement in the Working Group that the Council should approve the draft manual. The informal document that he would submit to the second session of the Working Group would address the question of interaction between the special procedures and the media.

The meeting rose at 4.25 p.m.