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Overview

The Human Rights Council (the Council) heard first from three States that had been unable to make their explanation of vote after the vote the previous day following the adoption of Resolution HRC/7/L.1.

The Council then considered the annual report of the High Commissioner for Human Rights (the High Commissioner). Before presenting her report, the High Commissioner announced that she had informed the United Nations (UN) Secretary-General that she would not be seeking a second term as High Commissioner when her mandate ends at the end of June 2008. The High Commissioner commented on the continued implementation of the institution-building text, in particular the efforts related to preparation for the universal periodic review (UPR). The High Commissioner also reported on the various priorities that had occupied her Office over the past year. She highlighted its technical cooperation, advisory and advocacy activities aimed at ending impunity and strengthening democratic governance. The High Commissioner also commenting on her country engagement strategy, and welcomed the renewal of agreements for the Office of the High Commissioner for Human Rights (OHCHR) offices in Nepal, Colombia, and Mexico, and the establishment of a regional office for West Africa in Senegal. The High Commissioner then spoke about her country visits to Sweden, Slovenia, Mexico, and Georgia. She highlighted the positive steps taken in the field of human rights in Australia, Nepal, Togo, and Kenya, but remained concerned by the continued acts of violence in West Darfur and Sri Lanka.

While the report and presentation by the High Commissioner did not focus on the much-contested relationship between the Council and OHCHR, most of the debate that followed her presentation focused on this issue. Many States continued to argue for a closer relationship of oversight, while others vigorously defended the High Commissioner's and the OHCHR's independence. The debate brought up complex legal issues and there were diverging views on how to interpret various resolutions and other relevant documents that govern the status of OHCHR and its relationship with the Council and other bodies.

The High Commissioner gave a detailed answer to many of the questions that were put to her. In particular her explanations of the strategic framework and the *Strategic Management Plan*¹ left no doubt that she is ready to withstand the challenge that was mounted by a number of States, and it seemed that the Secretary-General is also supportive of her interpretation of the role she and OHCHR have in relation to the Council.

The Deputy High Commissioner then presented a number of country-specific and thematic reports, which were mostly received favourably by the concerned States. A number of non-governmental organisations (NGOs) expressed concern about the situation in Colombia, and called on the Council to discuss the situation urgently. It remains to be seen if such a debate will take place during the consideration of Item 4, currently scheduled for 12 March 2007.

The Council also started the consideration of special procedures reports, with the report of Mr Jorge Bustamante, Special Rapporteur on the human rights of migrants. Mr Bustamante was considerably criticised by the United States (US), which he had visited as Special Rapporteur, for holding 'preconceived views' on the US and not showing enough willingness to incorporate the views of the Government in his report. Not all States were able to react to Mr Bustamante's report. The session on Monday, 10 March will start with an address by Ms Lucia Maria Brandão F. Lobato, Minister of Justice of Timor-Leste, and will then resume the interactive dialogue on the report of Mr Bustamante. This will be followed by interactive dialogues with more special procedures.²

Continued consideration of Item 7

Explanations of vote after the vote

The President of the Council invited those speakers that had not been able to take the floor on the previous day to make their explanation of vote after the Council's adoption of draft resolution HRC/7/L.1.

Brazil stated that it had voted in favour of the draft resolution. It expressed serious concern at recent military attacks in the occupied Palestinian territories (OPT), and in particular in Gaza that had resulted in loss of lives. It called on both parties to refrain from resorting to any violence affecting civilians and emphasised that the use of violence by either side to achieve their aims was unacceptable.

Japan regretted that it had to abstain on the draft resolution. It expressed its gratitude to those that had worked hard to achieve a compromise and stated that unfortunately a more balanced text was needed. It strongly condemned the rocket attacks by Palestinian militants and the shedding of blood by the Israeli defence forces.

Uruguay explained that it had voted in favour although it would have preferred a more balanced resolution. It stated that there was an urgent need for both sides to respect international humanitarian and human rights law and to protect civilians in all circumstances.

¹ Available at <http://www.ohchr.org/Documents/Press/SMP2008-2009.pdf>.

² See the order of the day for 10 March, available at www2.ohchr.org/english/bodies/hrcouncil/7session/ood/ood100308.doc.

Item 2 – Annual report of the High Commissioner

Statement by the High Commissioner

Ms Louise Arbour, the High Commissioner for Human Rights, took the floor to present her annual report to the Council on the activities and work carried out by her office in the past year.³

Before reading her statement, she expressed her ‘profound sadness’ at the killings of civilian in Baghdad and Jerusalem that occurred on the previous evening.

At the beginning of her statement, she announced that she had informed the Secretary-General that she would not be seeking a second term as High Commissioner when her mandate ends at the end of June 2008. She will address the Council for the last time in her capacity as High Commissioner at its session in June.

She then explained that together with the annual report, OHCHR’s *Strategic Management Plan* for 2008-2009 and two reports on the implementation of the 2006-2007 *Strategic Management Plan* gave a comprehensive overview of OHCHR’s activities.

The High Commissioner commented on the continued implementation of the institution-building text. She stated that OHCHR has prepared the first information compilations for the UPR. On the same note, she drew attention to the financial commitment that is needed for least developed countries to participate in the process, and urged member States to give special consideration to the two UPR trust funds.

Ms Arbour noted the creation of the Advisory Committee and the ‘seamless transition’ from the 1503 procedure to the new complaint procedure. She further hoped that the gender balance and the high integrity and standards of special procedures mandate holders would be maintained. She expressed the hope that the appointment of new mandate holders to the special procedures would ensure highly qualified experts contributing to the integrity and standards of the system.

The High Commissioner then informed the Council of her Office’s matters of priority over the past year. She highlighted its technical cooperation, advisory and advocacy activities in order to help end impunity and to strengthen democratic governance, and presented the continuing efforts for transitional justice, a human rights-based approach to poverty reduction strategies, and for placing gender and women’s rights at the core of OHCHR’s work.

Commenting on her country engagement strategy, Ms Arbour explained that engagement at the national level is important for OHCHR, not only through field presence but also through better coordination and interaction with national stakeholders, UN agencies, and regional organisations. On that note, she welcomed the renewal of agreements for OHCHR offices in Nepal, Colombia, and Mexico, and the establishment of a regional office for West Africa in Senegal. The High Commissioner then spoke about her country visits to Sweden, Slovenia, Mexico, and Georgia, while pointing out particular issues of concern in those countries. She highlighted the positive steps taken in the field of human rights in Australia, Nepal, Togo, and Kenya, but remained concerned by the continued acts of violence in West Darfur and Sri Lanka.

³ The OHCHR extranet can be accessed (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm.

The High Commissioner further reiterated the importance of the treaty bodies as instruments for the protection of human rights at the national level, and said that she expected the *Convention on the Rights of Persons with Disabilities* and its optional protocol to come into force over the summer.

She appealed to all States to make a financial contribution in the context of the 60th anniversary of the *Universal Declaration of Human Rights* (UDHR).

Finally, the High Commissioner added some unusually strong comments on the contested relationship between members of the Council and representatives of the UN Secretariat. She stated that, in her view, ‘comments by representatives of member States which impeach the integrity of the High Commissioner and/or of members of her Office through allegations of bias, hypocrisy, insubordination, and dereliction of duty are outside the acceptable range of interactive dialogue.’ She ended her statement by stating that, expressed in this form, ‘such statements demean the Council and betray the good-faith efforts of all those working in the United Nations on very difficult and divisive issues.’

Interactive dialogue

The interactive dialogue that followed the presentation of the High Commissioner’s annual report centered on several key issues relating to the work of OHCHR. Given the morning’s announcement of the High Commissioner’s decision not to seek a second term in office when her mandate expires at the end of June 2008, many States took the opportunity to express their regret at the departure of the High Commissioner. Many States thanked the High Commissioner for her report.⁴ Other issues included various aspects of the work of OHCHR, its relationship with the Council, the implementation of the institution-building text, the Durban Review Conference, and activities for celebration of the 60th anniversary of the UDHR, among others.

Comments on the departure of the High Commissioner

Nearly all States expressed their regret at the decision of the High Commissioner not to seek a second term in office,⁵ while others merely ‘took note’ of her decision to leave.⁶ Most States also expressed their admiration for the role of Ms Arbour in discharging her duties as High Commissioner, including the strong personal qualities that she brought to the role, such as her leadership⁷ and vision,⁸ her honesty,⁹ and openness¹⁰, and her personal engagement.¹¹ She was also praised for her integrity,¹² impartiality,¹³ and professionalism.¹⁴ Austria noted that with the departure of Ms Arbour, ‘the UN would lose a powerful voice’, while Chile reiterated that Ms Arbour ‘embodied’ the rights she aimed to protect. Some States limited their comments to wishing the High Commissioner ‘success in the future’.¹⁵

⁴ Mexico, Senegal, Sri Lanka, Indonesia, Philippines, Republic of Korea.

⁵ Mexico, Colombia, France, Georgia, Senegal, Pakistan, Indonesia, Cuba, Slovenia (on behalf of the EU, Croatia, Bosnia and Herzegovina, Montenegro, Macedonia, Georgia, Albania), Sweden, the Russian Federation, Spain, Netherlands, Germany, United Kingdom (UK), Norway, Bangladesh, Switzerland, Nepal, Austria, Chile, Romania, Czech Republic, Italy, Japan, Syria, Luxembourg, Belgium, Turkey, Maldives, Nigeria, Haiti.

⁶ Morocco, African Union (AU).

⁷ Slovenia (on behalf of the EU), Spain, Netherlands, France, Australia.

⁸ Liechtenstein, Bangladesh, Nepal.

⁹ Mexico.

¹⁰ Chile, Morocco.

¹¹ Norway.

¹² Brazil, Germany, Australia.

¹³ Colombia, Germany, Sweden.

¹⁴ Indonesia, China.

¹⁵ Sudan, Sri Lanka, Egypt (on behalf of the African Group), Algeria.

Many States commended her work¹⁶ in the promotion of human rights worldwide, her contribution to the institutional building of the Council, especially the UPR and the special procedures,¹⁷ and the integration in the human rights agenda of economic, social and cultural rights,¹⁸ the right to development,¹⁹ and poverty.²⁰ Romania commended her ‘stewardship of women’ in her role as a woman at such a senior position at the UN. Pakistan also stressed that her departure would affect the advocacy of human rights worldwide, but noted that it was reassuring to know that she helped integrate women’s rights into the broader human rights agenda.

The US acknowledged that while it had not agreed with Ms Arbour on every issue in the past, it had always respected her and hoped that the Secretary-General would be able to replace her with an equally capable candidate. Cuba mentioned that it would be necessary to find someone who can rise to the major challenges ahead.

Amnesty International in addition to praising the ‘impeccable integrity’ and leadership abilities of the High Commissioner, also looked ahead to the selection of a new candidate for her position, and urged the Secretary-General to consult widely on this issue, including with both civil society and governments.

Relationship between OHCHR and the Council

Many States took the opportunity to comment on the relationship between OHCHR and the Council. The debate saw a volley between States that called for the full independence of OHCHR to be maintained for it to fulfil its function as the principal executive organ to protect and promote human rights around the world,²¹ and other States that sought to impose more oversight of the Council over OHCHR under the rubric of ‘closer cooperation’ and ‘constructive dialogue’ of OHCHR with States in the execution of its mandate.²² While the debate played out more generally with some States arguing against attempts to ‘micro-manage’ the work of OHCHR at different levels, specific issues raised in this discussion included the legal and institutional relationships between the Council, OHCHR, and the General Assembly; the OHCHR *Strategic Management Plan 2008-2009*; the autonomy of OHCHR field operations; and the provision of technical assistance by OHCHR.

Several States remarked that that the **essential independence and integrity of OHCHR** had to be maintained,²³ in addition to its distinct mandate. They advocated for the General Assembly, the ‘parent’ body of the Council, to have ultimate oversight over OHCHR.²⁴ The US and Luxembourg directly acknowledged the attempts by some members of the Council to undermine the independence of OHCHR and expressed their concern in this regard. The United Kingdom (UK) expressed its disappointment with the attacks on the OHCHR from some States that had been criticised by the High Commissioner for their human rights records.

Other States stated that they too wished to preserve the independence of OHCHR, but nonetheless called for a closer institutional relationship between the Council and OHCHR.²⁵ Egypt (on behalf of the African Group) argued that clarifying the relationship would enhance the role of the Council and OHCHR and would ensure

¹⁶ Indonesia, Georgia, India, China, Slovenia (on behalf of the EU), Sweden, Brazil, Korea, Russia, Spain, Netherlands, Algeria, Germany, UK.

¹⁷ Mexico, Pakistan (on behalf of the OIC), Indonesia, India, China, Brazil, Germany, Philippines.

¹⁸ Brazil, Pakistan (on behalf of the OIC), China.

¹⁹ Pakistan (on behalf of the OIC).

²⁰ China.

²¹ Liechtenstein, Norway, Chile

²² Pakistan (on behalf of the OIC), Egypt (on behalf of the African Group).

²³ Liechtenstein, Norway, Japan, Luxembourg, Czech Republic, Italy

²⁴ Norway.

²⁵ Pakistan (on behalf of the OIC), Egypt (on behalf of the African Group), Bangladesh, Morocco, Malaysia.

the smooth functioning of the interaction. Algeria, in a statement the Ambassador acknowledged was somewhat blunt, said that the independence of the High Commissioner was not a ‘firewall’ preventing necessary interaction and discussion of the work of OHCHR. He went further in stating that the High Commissioner’s independence was not similar to that of a judge or prosecutor, indirectly referring to Ms Arbour’s previous positions as Supreme Court Judge in Canada and prosecutor at the UN war crimes tribunals for the former Yugoslavia and Rwanda. Finally, the Ambassador of Algeria stated that the High Commissioner should not take the criticism too personally, as it ‘was part of the job description’.

Egypt (on behalf of the African Group) claimed that General Assembly *Resolution 48/141*²⁶ required the broadening of the relationship between the Council and OHCHR. It stated that OHCHR actions could complement those of the Council. It also stated that General Assembly *Resolution 60/251*²⁷ mandated the Council to assume responsibilities of the Commission on Human Rights (the Commission) in relation to the OHCHR. Bangladesh supported this view by saying that ‘ad hoc’ interaction between the Council and OHCHR would not produce ‘desired results’, and stated that it had sought legal advice on the institutional relationship between the Council and the OHCHR, and had concluded that General Assembly *Resolutions 48/141* and *60/251* provided ‘guiding principles for a possible legal framework’ for determining this relationship. Nigeria also made a strong statement saying that while it supported the independence and autonomy of the High Commissioner, the Council was the ‘supreme intergovernmental process’ that should be responsible for decision- and policy-making. The Philippines stated that more could be done to make the relationship closer and that States should be able to give guidance to OHCHR and that its strategies should reflect the strategic priorities of the Council. Algeria stated that the need for greater interaction between the Council and OHCHR had been construed by the media as an attempt at undermining the independence of the High Commissioner, and that this was a ‘storm in a teacup’.

Slovenia, on behalf of the European Union (EU), argued that General Assembly *Resolution 48/141* clearly laid out the legal framework for the relationship between the Council and OHCHR. It expressed its appreciation for the High Commissioner’s regular reporting and accountability to the Secretary-General.²⁸ Slovenia (on behalf of the EU) stated its appreciation for the continuing and fruitful dialogue with the High Commissioner while ensuring full respect for the independence and impartiality of OHCHR. Switzerland reminded that General Assembly *Resolution 60/251*, which created the Council, does not provide for a ‘trusteeship body’, unlike the case of the UN High Commissioner for Refugees, thus deeming oversight of OHCHR by the Council as inappropriate in this instance. Austria also strongly stated that within the organisational structure of the UN, OHCHR operates under the Secretary-General,²⁹ and thus decision-making and budgetary matters fall within the mandate of the Fifth Committee of the General Assembly and not the Council. India stated that it had taken note of the views expressed by the Secretary-General at the opening of the Council’s 7th session but believed that the issue required further discussion. It stressed that there was a need to find a *modus operandi* where the Council and OHCHR would work in tandem. Amnesty International called for the Secretary-General to ‘defend with rigour’ the independence of the High Commissioner and of OHCHR. The Republic of Korea and Japan stated that while there was need for more interaction and consultations between OHCHR and the Council, the independence and impartiality of OHCHR needed to be maintained.

The discussion of the relationship between the Council and the OHCHR also turned to the specific question of OHCHR’s *Strategic Management Plan 2008-2009*, which had been launched earlier this year by the High Commissioner. One of the key issues in this regard was the informal briefing held by the High Commissioner to elicit comments from States on the *Strategic Management Plan*, which was viewed by some States as

²⁶ This resolution created the position of High Commissioner for Human Rights in 1993. This point was also supported by Nigeria.

²⁷ This resolution created the Human Rights Council.

²⁸ Netherlands.

²⁹ Netherlands.

inappropriate or insufficient. Pakistan, on behalf of the Organisation of the Islamic Conference (OIC), requested, in accordance with a request made at the organisational meeting prior to the 7th session, that a separate item be inscribed on the agenda for the June 2008 session to discuss the recommendations of the Joint Inspections Unit.³⁰ These included that the General Assembly should instruct the High Commissioner to seek the views of the Council in the preparation of the *Strategic Management Plan*. Egypt (on behalf of the African Group) stated that it supported the request by the OIC for a discussion of the *Strategic Management Plan* and whether it is consistent with the strategic framework and other policy guidance.³¹ It emphasised that consultations on the *Strategic Management Plan* should take place at an earlier stage and before its publication and dissemination. The UK stated that the Joint Inspections Unit had been tasked from New York to produce its report and that any discussion should therefore take place there.

Bangladesh stated that the *Strategic Management Plan* had ‘global implications’ and that it therefore had hoped to discuss its content in a separate inter-governmental sitting, as had been the practice with the former Commission on Human Rights. Malaysia supported this view and called for the Council to have a ‘focused review’ of this document, which it viewed as the ‘responsibility of the Council’. In the same vein, Thailand stated that in order to implement the *Strategic Management Plan* it was ‘essential’ for OHCHR to be in ‘close contact’ with authorities of concerned countries in order to promote ‘constructive engagement’. Nigeria also directly stated that when the High Commissioner prepares a document like the *Strategic Management Plan*, it should be submitted to the Council for consideration.

Slovenia (on behalf of the EU) stressed that the *Strategic Management Plan* had already been presented to all States and was an OHCHR internal document.³² It therefore argued that there were no legal grounds for allocating the Council’s time to discussing the *Strategic Management Plan* or any other matters outside the Council’s remit.³³ The UK noted that the Office of Legal Affairs was currently considering the relationship between the Council and OHCHR and that it was therefore premature to discuss matters over which the Council currently had no legal competence. In Switzerland’s opinion, States had ample opportunity to input into the priorities and activities of OHCHR by participating in negotiations at the Third and Fifth Committees of the General Assembly regarding the **Proposed Strategic Framework 2008-2009** for OHCHR, which was prepared by the Secretary-General in accordance with relevant General Assembly resolutions.³⁴ Switzerland believed that the High Commissioner was not required to present the *Strategic Management Plan* to the Council at a formal meeting, unlike the *Strategic Framework*, which was adopted by States in New York.³⁵ The Netherlands and the UK expressed their appreciation of the transparent and open presentation by the High Commissioner of the *Strategic Management Plan*. Switzerland’s proposal encouraging the High Commissioner to engage in frequent public briefings in Geneva in the same vein as for the *Strategic Management Plan*, was endorsed by many other States who viewed this practice as an appropriate way of enhancing the public information activities of OHCHR³⁶ and increasing the transparency of OHCHR.³⁷ New Zealand added to this by asking the High Commissioner what briefings OHCHR has planned for this year in order to increase communication with States.

³⁰ The report of the Joint Inspections Unit is entitled ‘Funding and Staffing of the Office of the High Commissioner for Human Rights’, Geneva 2007. Document number JIU/REP/2007/8.

³¹ Supported by the Russian Federation, Algeria.

³² Supported by Switzerland, Netherlands.

³³ Canada.

³⁴ *General Assembly Resolutions 58/269 and 59/275*.

³⁵ Canada.

³⁶ Liechtenstein.

³⁷ Norway.

The UK stated that the *Strategic Management Plan* was particularly useful for donors and potential donors to get a more detailed picture of OHCHR's work. Belgium added that it was on the basis of the Plan that it had been able to make non-earmarked financial contributions to OHCHR.

Egypt (on behalf of the African Group) referred to some specific concerns in relation to the *Strategic Management Plan* that it had expressed at the briefing on the Plan in relation to the composition of OHCHR staff, the Gender Unit, and the work on racism. The Russian Federation expressed concern at the lack of transparency in budget planning and geographical imbalance in spending and argued that OHCHR was accountable to the Council and member States.

Response of the High Commissioner

The High Commissioner addressed the 'confusion' among speakers regarding the *Strategic Framework*, the *Strategic Management Plan*, and the *Plan of Action*. She clarified that the *Strategic Framework* is the official biannual work plan of the UN Secretariat as a whole, of which OHCHR is one part, which is drafted by the Secretary-General and approved by the General Assembly. The *Strategic Framework 2008-2009*, stated the High Commissioner, was approved by the General Assembly in 2006 and the budget was approved in 2007. The Committee for Programme and Coordination (CPC) monitors the implementation of the *Strategic Framework*. The part of the *Strategic Framework* that relates to OHCHR is called Programme 19.

The High Commissioner also stated that she had sought the advice of the Office of Legal Affairs and that according to them, there was no legal basis for the argument that the Council should review the *Strategic Framework* for OHCHR before submission to the CPC.³⁸ The High Commissioner reiterated that the document had been submitted to the Council by way of courtesy, and on a voluntary basis, before it was submitted to the CPC. She added that the Council could review the *Strategic Framework* at the June session of the Council before the High Commissioner submitted it to the CPC, which meets between June and July 2008.

Regarding the *Strategic Management Plan*, the High Commissioner stated that it set out a specific plan using the *Strategic Framework* as a basis, and that the entire responsibility of its drafting lay with the High Commissioner. She said that the *Strategic Management Plan* was an initiative of the High Commissioner to maximise resources and facilitate planning, and that it in no way originated from any rules or mandate by any intergovernmental body.

As for the *Plan of Action*, she stated that it had been requested from the High Commissioner by the Secretary-General, and that it was not mandated by member States. This Plan was requested for a period of five years by the Secretary-General in order to bring the human rights sector in line with his reform initiative.

In response to some States' comments regarding the institutional link between the Council and OHCHR, the High Commissioner stated that the Fifth Committee of the General Assembly has oversight over all OHCHR financial resources, both budgetary and extra-budgetary. She added that another means of oversight over her Office was through a tool called the 'compact', through which the Secretary-General could assess the performance of all senior officials, including the High Commissioner. She concluded her remarks on this topic by saying that the Council has the same authority over the High Commissioner as did the former Commission on Human Rights, but that UN planning (including management, budget, and other activities) fell entirely within the responsibility of the office of the Secretary-General. In conclusion, the Council had no responsibility over the programme, planning or budget of the OHCHR.

³⁸ Cuba responded to this during the general debate with the High Commissioner, and cautioned that the advice of the Legal Department is 'only advisory' and not binding.

Composition of OHCHR staff

The composition of OHCHR staff was mentioned by several States.³⁹ Some States stressed the need for a greater geographical balance at OHCHR.⁴⁰ Algeria stated that the conclusion in the High Commissioner's report that the diversity of OHCHR's staff had clearly improved was not in accordance with the Joint Inspections Unit's report that found that the situation had not 'significantly improved'. In particular, Algeria noted that the African region representation had worsened since 2001. Cuba emphasised that the efforts to improve the geographical balance should continue. China also referred to the report of the Joint Inspections Unit regarding the imbalance of geographical representation. It hoped that bold measures would be taken to redress the situation. Morocco noted efforts to improve the equitable geographical distribution of the staff of OHCHR and hoped that 'credible' geographical distribution would have a positive impact on OHCHR due to the different qualifications of representatives from different countries. Turkey also said that maintaining the geographical balance of OHCHR staff was of critical importance for 'enhancing ownership of States' and also for the image of OHCHR as an impartial institution.

Response of the High Commissioner

In response to queries and statements regarding the composition of OHCHR staff, the High Commissioner stated that considerable efforts had been made and that there was an internal policy to achieve equitable geographical balance. She also added that 60% of new recruits were from under-represented regions and that Western staff at the office had been reduced from 64 to 57%. She also stated that although there had often been criticism regarding the geographical balance of her Office, no proposals had been put forward regarding what the 'right balance' should be. The High Commissioner also said that the composition of her Office was comparable to that of the Secretariat as a whole. She acknowledged the over-representation of the Western Group. While Asian countries were under-represented, Eastern Europe was over-represented, and it was unfair to single out OHCHR when this was the case with the Secretariat as well. She thanked those States that had excluded OHCHR from National Competitive Examinations in order to allow recruitment from under-represented groups.

Country engagement

Several speakers commended OHCHR's country engagement⁴¹ and also noted the expansion of OHCHR's field presences around the world.⁴² Some States noted the importance of keeping or broadening the field presence of OHCHR.⁴³ The Republic of Korea stated that there was a need for additional field presences with full mandates. Sweden welcomed that the country engagement strategy had increased country presences and on the ground and provided a focus on implementation.

Sweden asked how the High Commissioner saw the future of capacity building and technical assistance in the human rights field, as she had highlighted these as priority areas.

Many speakers, including NGOs, welcomed the rapid response capacity of OHCHR to provide assistance in emergency situations in general,⁴⁴ and in the case of Kenya in particular.⁴⁵ Sweden welcomed the High Commissioner's focus on early warning and prevention and highlighted the positive experience of the fact-

³⁹ Bangladesh, Morocco, Turkey, New Zealand.

⁴⁰ China, Algeria, Cuba, India, Russian Federation, Pakistan (on behalf of the OIC).

⁴¹ Slovenia (on behalf of the EU), Netherlands, Liechtenstein, France.

⁴² Switzerland, Italy, Malaysia.

⁴³ Republic of Korea, Spain, Netherlands, Canada, France.

⁴⁴ Liechtenstein.

⁴⁵ Romania, Belgium, FIDH.

finding mission to Kenya as a good example of quick reactions to emerging situations of concern.⁴⁶ It hoped that the Council would take an ‘equally responsible approach to its mandate on prevention.’

Country presences

Mexico and Colombia noted the renewal of the agreement to continue the presence of OHCHR in their countries. Australia welcomed the expansion of OHCHR in the Pacific region, in particular in Fiji and Papua New Guinea. Several States supported efforts to establish country presences where they are needed.⁴⁷ Some expressed support for the proposal by the High Commissioner to establish an office in Sri Lanka.⁴⁸ The Republic of Korea welcomed the planned three new offices, of which two would be in Asia. Canada welcomed the expansion of field presences and stated that they are making a substantial contribution to increased human rights protection. In particular, it welcomed the agreements reached with Nepal, Colombia,⁴⁹ and Senegal.

Pakistan (on behalf of the OIC) stated that the Council should have an oversight role over OHCHR’s country engagement work. The decision to establish field presences should stem directly from the Council’s mandate. The country engagement strategy should not be left to the discretion of the Council. It emphasised that all country presences should have a start and end time. It also expressed concern that most field presences are established in developing countries. China felt that the countries engaged as part of OHCHR’s strategy are mostly from Asia, Africa, and Latin America, and asked what OHCHR was doing on other countries from other regions. Bangladesh was of the view that solutions to human rights situations in particular countries could only be found through cooperation and engagement with States and through strengthening national mechanisms, not by ‘imposition from outside’.⁵⁰ Bangladesh strongly emphasised that OHCHR’s engagement with a country should ideally be in the form of technical assistance⁵¹ and through assistance in strengthening national mechanisms.

Slovenia (on behalf of the EU) asked whether the High Commissioner believed that the current regional presences were adequate or whether she saw a need for strengthened country presences.

Country situations of concern

India noted the upcoming elections in Nepal as an opportunity for the people of Nepal to have a say in their own future. It stated its support for the transition to democracy.

Several NGOs mentioned the country situations in Sri Lanka,⁵² Pakistan,⁵³ Iraq⁵⁴ and Colombia.⁵⁵ Statements on Sri Lanka also touched on the issue of setting up an OHCHR field presence in the country. India expressed concern at the recent upsurge of violence in Sri Lanka. It emphasised that there could be no military solution to the conflict and that a political settlement was needed. Canada stated that independent human rights reporting in Sri Lanka was crucial. It urged Sri Lanka to accept the assistance of OHCHR and grant it a full

⁴⁶ Also mentioned by the Netherlands.

⁴⁷ Sweden, Spain.

⁴⁸ Sweden, France.

⁴⁹ France.

⁵⁰ Nepal supported this view.

⁵¹ Supported by Nepal. Romania also stated that OHCHR was essential for providing technical assistance to member States.

⁵² Forum Asia (joint statement), International League for the Rights and Liberation of Peoples, International Commission of Jurists (ICJ), Human Rights Watch.

⁵³ FIDH, ICJ, Lawyer’s Action Watch Canada.

⁵⁴ Nord Sud 21.

⁵⁵ FIDH, Human Rights Watch.

mandate to report on the human rights situation throughout the country.⁵⁶ Referring to the recent visit of the High Commissioner in the country, Canada enquired what other steps Sri Lanka should take to promote and protect human rights.

Canada expressed deep concern at the situation in Iran, where a new draft penal code would impose capital punishment for apostasy,⁵⁷ heresy,⁵⁸ and witchcraft. It asked what steps Iran and the international community should take to improve the human rights situation.

Response of the High Commissioner

The High Commissioner took the floor to state that her office's commitment to country engagement was not limited to the establishment of country offices but also included other 'tools' such as human rights components to peacekeeping missions and human rights advisors to UN country presences.⁵⁹ She added that accusations of disproportionate representation in Africa were inaccurate, as a good proportion of field presences were peacekeeping presences, and therefore was based on decisions of the Security Council and not decisions of OHCHR. Support to peacekeeping missions also includes elements of technical cooperation. She expressed her surprise at the limited interest of the Council to the significant work carried out by human rights units within the peacekeeping missions.

She explained that human rights advisors are a second type of country presence, and that they are based in a broad range of countries including in Europe. The High Commissioner continued that OHCHR country offices and regional offices were a third type of country presence resulting from bilateral negotiations with States. She added that bilateral agreements are a successful way to work. She stressed that the approval of the Human Rights Council was not required. She additionally mentioned that three new regional offices had been set up in West, East and Southern Africa.

The High Commissioner also stated that technical assistance to countries was based on an 'intelligent assessment of the recipient's needs'.

Implementation of the institution-building text

Several States commented on the role of OHCHR in the implementation of the institution-building package,⁶⁰ and noted the role of OHCHR in supporting the Council and its new mechanisms such as the universal periodic review (UPR).⁶¹

Universal periodic review

Many States reiterated the sentiment of the High Commissioner that the credibility of the Council in large part depended on the effectiveness and outcomes of the UPR.⁶² Bangladesh said that it had 'high expectations' that the UPR would positively affect the protection and promotion of human rights. The High Commissioner's call to countries to donate to the two trust funds established for enhancing the participation of developing countries and implementation of recommendations was raised by Nepal, and also supported by other States⁶³. The Russian Federation informed that it had made a financial contribution to the UPR. Egypt

⁵⁶ Also supported by France.

⁵⁷ Apostasy is the abandonment or renunciation of a religious or political belief.

⁵⁸ Heresy is a belief of opinion contrary to orthodox religious doctrine.

⁵⁹ For an overview of the different categories of OHCHR country engagement, see the High Commissioner's *Strategic Management Plan 2008-2009*, p. 45-47.

⁶⁰ Philippines, Romania, Bangladesh.

⁶¹ Italy, Malaysia, Netherlands.

⁶² Slovenia (on behalf of the EU), Chile, Morocco, US.

⁶³ Italy, Nigeria.

(on behalf of the African Group) hoped that the UPR trust funds would receive adequate funds and expressed concern at the administrative delays in New York in establishing the funds. Nigeria called for urgent action to be taken to make the trust funds available, and Liechtenstein asked how OHCHR intends to make effective use of the funds.

Canada welcomed the establishment of 17 new posts within OHCHR to support preparation of the UPR. Slovenia (on behalf of the EU) stated that the approval of additional resources should allow OHCHR to fulfil the high expectations placed upon it in relation to the UPR. In that context, Morocco warned that the UPR should be undertaken with ‘respect for the parameters of the agreement’ of the modalities of the UPR, and Turkey also cautioned that the new role of OHCHR regarding the UPR would be ‘monitored closely’.

Special procedures

Pakistan stated that there were ‘unresolved questions’ regarding the terms of reference and functions of the Consultative Group, including its mandate, relationship with President of the Council and with the Council itself, its representational character and the status of its report. It underlined that more work was required to make ‘this fledgling mechanism’ functional and productive. Morocco stated that it attached particular importance to the **special procedures** of the Council and that it welcomed the appointment of new mandate holders, in addition to the process for their appointment, which it viewed as being in conformity with *Resolution 5/1*. India commended the High Commissioner for her call for maintaining gender balance among the special procedures. It added that geographical balance should also be ensured in accordance with the institution-building text.

Indonesia stated that the special procedures, and the full implementation of the code of conduct, should encourage country engagement and human rights implementation. It emphasised that the special procedures are the backbone of Council and a key instrument in promotion and protection of human rights. The Netherlands stated that the special procedures are one of the Council’s key tools and that it would support all efforts to strengthen the special procedures and create a system that is not selective but one that covers all rights.

Complaint procedure

Pakistan (on behalf of the OIC) shared the optimism of the High Commissioner regarding the smooth transition from the 1503 procedure to the new Complaint Procedure.

Response of the High Commissioner

The High Commissioner highlighted that it was a priority to address funding for least developed countries through the UPR trust fund.

60th Anniversary of the Universal Declaration of Human Rights

A few countries mentioned the 60th anniversary of the UDHR.⁶⁴ Morocco commended OHCHR’s efforts to promote human rights through the 60th anniversary campaign. Austria asked the High Commissioner how governments and civil societies could use the 60th anniversary of the UDHR and the 15th anniversary of the Vienna Declaration and Programme of Action to strengthen promotion and protection of human rights. Italy wished to place specific emphasis on the role of education and training to foster a culture of human rights.

⁶⁴ Morocco, Italy, Tunisia.

The Republic of Korea stated endorsed the High Commissioner's view that national ownership and local participation should be central to the campaign.

The Philippines expressed its support for the activities to commemorate the 60th anniversary and pledged to donate to the fund. Spain also announced its intention of making a contribution to the fund.

Durban Review Conference

Several speakers made reference to the Durban Review Conference.⁶⁵ Some States thanked the High Commissioner for her continued support to the follow-up mechanisms for the implementation of the *Durban Declaration and Programme of Action* and the preparation for the Durban review conference.⁶⁶ Pakistan (on behalf of the OIC) stated that the review conference should take stock of best practices, implementation gaps and contemporary forms of discrimination to move the anti-discrimination agenda forward. Chile reiterated its commitment to follow-up to the Durban process. The African Union called for racism to be made a priority of the Council.

Germany endorsed the High Commissioner's view that no country is free from racism and agreed with her belief that the Durban review conference will be an opportunity to take stock of the implementation of the *Durban Declaration and Programme of Action*.

Response of the High Commissioner

The High Commissioner stated that it was the responsibility of States to ensure the success of the Durban review, and emphasised that it is an entirely inter-governmental process, and that States are the only actors in this process.

Thematic issues

Several States endorsed the thematic priorities identified by the High Commissioner in her report.⁶⁷ The issue of impunity, which was raised in the High Commissioner's statement, also received mention by several speakers.⁶⁸ The Sudan expressed its agreement that impunity could be found in all regions of the world. Belgium asked what the High Commissioner's vision was regarding addressing impunity and transitional justice, and what the potential role of OHCHR could be.

Many speakers stated their appreciation for the inclusion of poverty as a thematic priority for OHCHR.⁶⁹

Some speakers also remarked upon the support of OHCHR to independent and strong judiciaries.⁷⁰ Brazil stated it supported OHCHR's efforts to contribute to the strengthening national protection systems, by assisting national institutions to end impunity, providing technical assistance on legislation, and bolstering the judiciary and parliament.

⁶⁵ Chile, African Union, UN Watch.

⁶⁶ Pakistan (on behalf of the OIC), Indonesia.

⁶⁷ Slovenia (on behalf of the EU), Spain.

⁶⁸ Sudan, Belgium.

⁶⁹ Brazil, Canada, Nepal, Chile, Japan, African Union, FORUM-ASIA (joint-statement), Amnesty International.

⁷⁰ Brazil, Czech Republic, Lawyer's Rights Action Watch Canada, International Commission of Jurists.

Canada stated that the new units in the OHCHR on rapid response, right to development, gender,⁷¹ and civil society units would make important contributions to improved respect for human rights. Pakistan (on behalf of the OIC) commended the High Commissioner for having placed women's rights at the heart of her work.

Brazil recognised the High Commissioner's efforts in supporting the development of an optional protocol to the *International Convention on Economic, Social and Cultural Rights* (ICESR) and in relation to the right to development. Pakistan (on behalf of the OIC) commended the High Commissioner's prominent focus on economic, social and cultural rights and on the right to development.

Response of the High Commissioner

The High Commissioner raised the issue of transitional justice and impunity, and remarked that there is a lack of conceptual clarity between these terms.

She also mentioned that enormous efforts had been made to support the development of national human rights institutions, and that it would be desirable to replicate this in relation to national judiciaries, which was a more challenging task.

Other issues

Several States echoed the High Commissioner's concerns at the killings of civilians in Jerusalem the previous day.⁷² The UK expressed its condolences to the victims of terrorism and condemned the attacks. Israel regretted the lack of condemnation of the terrorist attack. It argued that if Israel had been involved in such an attack there would have been calls of condemnation and for special sessions.

Malaysia cautioned that the issue of defamation of religion and incitement to religious and racial hatred continued to remain an emerging threat, and that freedom of expression should not 'trample' on these issues. It also asked whether OHCHR or the Council should address these issues.

Japan mentioned that it had signed the *Convention on the Rights of Persons with Disabilities*, and that it was taking necessary steps to bring domestic legislation in line with the Convention before ratification. New Zealand also remarked that it had ratified the Convention and that it would come into force in 2008.

Thailand welcomed the provision of support to the Committee on the Elimination of all forms of Discrimination Against Women (CEDAW). Sweden underlined that increased focus should be given to the treaty bodies and the special procedures in the future.

The Philippines noted the workshop held on the establishment of national human rights institutions in the Asian region. Indonesia also expressed appreciation for the High Commissioner's personal support for the 14th annual workshop on regional cooperation for the promotion and protection of human rights in the Asia Pacific region.

The Syrian Arab Republic made a strong statement expressing its disagreement with certain aspects of the High Commissioner's report. It asked if the High Commissioner had consulted with the Arab Group regarding the needs of the people and governments in the region, as Syria had not received any invitation from the High Commissioner to give its views. It also asked how the High Commissioner could have failed to mention the situation in the Occupied Palestinian Territories and the Syrian Golan, and said that the High Commissioner should not allow for politicisation of the issue.

⁷¹ Also supported by Thailand.

⁷² Slovenia (on behalf of the EU), Russian Federation, Spain, Australia.

Pakistan stated that there were a number of gaps in the High Commissioner's statement. She had not made mention of the situation in the occupied Palestinian territories (OPT),⁷³ recent incidents of defamation of religion, or the positive measures taken by the Sudan and Sri Lanka in addressing challenges facing these countries. The Philippines also commended Sri Lanka for the steps it had taken to improve protection and promotion of human rights.

Response of the High Commissioner

The High Commissioner responded to the statement of the Syrian Arab Republic by saying that all OHCHR projects and activities are done in consultation with all relevant actors, and gave examples of the field presences in Palestine and Syria, and also added that these were areas that were recipients of ample OHCHR resources.

Item 2 continued – other reports of the High Commissioner and the Secretary General

Ms Kyung-wha Kang, Deputy High Commissioner for Human Rights (the Deputy High Commissioner) introduced a number of thematic and country specific reports, updating the Council on the OHCHR's work in the last year.⁷⁴ She briefly highlighted the content of each report, which was followed by a general debate by members and observers, including national human rights institutions (NHRIs) and NGOs. For most country specific reports, only the concerned countries commented on the reports. Most NGO speaker focused their interventions on the situation in Colombia.

Country reports

Colombia

The Deputy High Commissioner mentioned in her introduction of OHCHR's work that **Colombia** has seen progress in efforts to protect human rights, including the initiation of legal proceedings against former paramilitary leaders and judicial investigations into the activities of high-ranking officials for their links with the paramilitary. She noted remaining challenges in the efforts to guarantee the rights of all victims of human rights violations and consolidate the demobilisation of paramilitary troops.

⁷³ Also mentioned by Algeria.

⁷⁴ A/HRC/7/38/Add.1 (Report of the High Commissioner for Human Rights on the activities of her Office in **Guatemala**), A/HRC/7/38/Add.2 (Report of the High Commissioner for Human Rights on the activities of her office in **Uganda**), A/HRC/7/27 (Report of the United Nations High Commissioner for Human Rights on the human rights in **Afghanistan** and on the achievements of technical assistance in the field of human rights), A/HRC/7/34 (Joint progress report of the Secretary-General and the High Commissioner for Human Rights on development of **public information activities** in the field of human rights, including the World Public Information Campaign on Human Rights), A/HRC/7/39 (Report of the High Commissioner for Human Rights on the situation of human rights in **Colombia**), A/HRC/7/46 (Note by the Secretary-General transmitting the report of the Office of the High Commissioner for Human Rights on the question of human rights in **Cyprus**), A/HRC/7/47 (Report of the High Commissioner for Human Rights on the human rights situation in the **Democratic People's Republic of Korea**), A/HRC/7/56 (Report of the Secretary-General on the role and achievements of the Office of the High Commissioner for Human Rights in assisting the Government and the people of **Cambodia** in the promotion and protection of human rights), A/HRC/7/57 (Report of the High Commissioner for Human Rights on the **composition of the staff of the Office**), A/HRC/7/66 (Report of the High Commissioner for Human Rights on the assistance to **Sierra Leone** in the field of human right), A/HRC/7/68 (Report of the High Commissioner for Human Rights on the human rights situation and the activities of her Office, including technical cooperation in **Nepal**), A/HRC/7/74 (Report of the Secretary-General on advisory services and **technical cooperation in the field of human rights**).

Colombia expressed its gratitude to the High Commissioner for her positive evaluation of the country, and reaffirmed Colombia's commitment to further work. It highlighted its intention to continue a constructive dialogue with civil society. Colombia went on to highlight the context in which violations are occurring, specifically alleging that most of them were committed by the Fuerzas Armadas Revolucionarias de Colombia (FARC). It claimed the FARC are ignorant of human rights norms. The delegate concluded by calling attention to Colombia's efforts to improve its human rights situation, and in particular the protection given to human rights defenders and measures to guarantee the rights of victims, including minors taking part in armed groups and internally displaced persons.

A number of NGOs took the floor during the general debate to comment on the human rights situation in Colombia. The Colombian Commission of Jurists highlighted extrajudicial killings, enforced disappearances, and torture. It stated that these violations, including the recruitment of children, are being committed by paramilitary groups, yet only a small number are being prosecuted.

Amnesty International welcomed the extension of the mandate of OHCHR office in Colombia for three years. It highlighted that despite some improvements, the human rights situation remains serious, especially in rural areas that are seeing a sharp increase in internally displaced persons. There is strong evidence that all parties involved in the paramilitary conflict are committing violations, and that those responsible are not being brought to justice. Amnesty International insisted that the Council has a pivotal role to play in relation to Colombia by engaging with the Government, and by setting up a monitoring mechanism.

The World Federation of Trade Unions (WFTU) highlighted the precarious situation of union workers in Colombia, stating that the country remains the most dangerous place in the world for union activities. WFTU claimed that a large number of workers have been assassinated, and impunity remains around 90%. Of particular concern is that human rights defenders and politicians are being targeted for assassination. It concluded by stating that five people have already been killed in 2008, and called on the Council to take urgent action.

Nepal

The Deputy High Commissioner reported that significant process has been made in **Nepal**, including efforts to reduce statelessness, the signing and ratification of several international human rights instruments, and increased quotas for women in the public sector. Ms Kang stated however that there remain obstacles to the full enjoyments of human rights especially in the Terai region, and stressed the importance of the coming elections to be held in April 2008.

Nepal responded to the High Commissioner's report by claiming that it fails to fully appreciate the significance of the changes that occurred and the efforts made by the Government recently. It expressed its commitment to the enhancement of human rights and stressed that open democratic institutions have made huge improvements possible. However, Nepal also noted that its resources are limited, and that its situation should be seen in that light. The delegation stressed that measures have been initiated recently to address the situation of ethnic minorities, women, Dalits, and other marginalised groups, which are not reflected in the High Commissioner's report. It explained that the Government had set up a 'State restructuring commission', Truth and Reconciliation Commission and a commission to investigate disappearances during the 10 years of armed conflict. Nepal has also signed the *Convention on the Rights of Persons with Disabilities* and the optional protocol to the *Convention on the Elimination of Discrimination Against Women*. A national action plan on human rights was integrated in the three-year development plan, and on 10 April 2008 elections to the constituent assembly will be held.

In the general debate, the UK expressed its concern that a culture of impunity is still prevalent in Nepal, which may make free elections in the country difficult. It suggested that the Government should take security

measures ensuring that armed groups would not disrupt the elections. Nepal used its rights of reply to assure the UK of security arrangements planned for upcoming elections. It invited interested States to send observers to monitor the election process.

Cyprus

The Deputy High Commissioner also introduced OHCHR's report 'on the question of human rights in **Cyprus**'. Cyprus, as a concerned country, presented its view of the history behind the current tension in the region. While Cyprus agreed with the findings of the report that a comprehensive settlement of the Cyprus question would improve the human rights situation, it suggested that respecting human rights should not be made contingent on a political solution. It cited several decisions by the European Court of Human Rights in support of this argument.

In the general debate, Turkey denounced the report as being imbalanced and said it was not in line with the Secretary-General's reports of 2004 and 2007. According to the delegation, the report also fails to reflect the situation of Turkish Cypriots, since it does not appropriately mention human rights violations committed by Greek Cypriots. Turkey recalled 41 cases that were settled in the European Court of Human Rights regarding such violations, and claimed that Cypriot authorities are undermining the Court's decisions by threatening petitioners with legal sanctions. Greece, on the other hand, welcomed the report as 'pertinent and timely,' and said it reflected all recent developments. It stated however that the report gives the impression that the two communities in Cyprus live peacefully, which according to Greece is not the case. It concluded that the partition of the island, resulting from the Turkish invasion of 1975, is the root cause of the human rights problems.

Both Cyprus and Turkey made full use of the procedural tools at their disposal, and exercised two rights of reply each to reiterate their well-known position. In its rights of reply, Turkey replied to both Greece and Cyprus that the origins of the situation in Cyprus reach back to before 1975, and that the invasion was a result of many years of Greek agitation against Turkish Cypriots. Cyprus, in its own right of reply, responded that centuries of peaceful coexistence before the invasion prove that the Turkish invasion was at the origin of the situation. Turkey, in its second right of reply, recalled that the majority of Turkish Cypriots had accepted the 'Annan Plan', while it was the Greek side that rejected the peace accord.⁷⁵

Other country reports

The Deputy High Commissioner presented the report on **Guatemala** and reported that her Office provided technical assistance to a wide range of State institutions and non-governmental organisations, including the national human rights institution and the office of the public prosecutor, the Congress, and diverse civil society organisations. She welcomed the agreement reached with the government to extend the mandate of OHCHR office in the country.

Guatemala took the floor as concerned country stating that it received the recommendations contained in the report with great interest and assuring its strong commitment to implement them. It stressed that it shared the priorities expressed in the report, including the strengthening of the rule of law, fighting impunity, the security situation, women's rights and indigenous peoples' rights. Expressing appreciation for the technical assistance received, the Ambassador announced the decision by the Government to extend the mandate of OHCHR's office in the country for one year.

⁷⁵ The 'Annan Plan' was a proposal by former Secretary-General Kofi Annan to settle the situation in Cyprus. The plan failed, after the Greek Cypriots voted against it in April 2004. See for example <http://news.bbc.co.uk/2/hi/europe/2839603.stm>.

The report on **Uganda** focussed on the situation in the northern and north-eastern part of the country. The Deputy High Commissioner congratulated the Government in relation to the high rate of return of internally displaced persons (IDPs) and stressed the importance of a free and informed choice by IDPs in this regard. She welcomed the peace agreement reached and the reduction of military presence, which has been replaced in many regions by the police. She also highlighted the number of training and capacity-building initiatives taken by OHCHR in collaboration with the national human rights institution.

Uganda, as concerned country, commended the High Commissioner for the constructive engagement and appreciated the 'positive and constructive report'. In relation to the situation of IDPs, it confirmed the high rate of return due to improvements in the security situation. It stressed the Government's commitment to the disarmament process in the North-eastern region and to reconstruction and development efforts. In relation to the peace process and transitional justice, Uganda pointed out that peace should be balanced with the need for justice. It also suggested redesigning its relationship with the OHCHR, without explaining however what the new relationship should look like. Finally, the representative praised the High Commissioner personally for her work in general.

The report on **Afghanistan** was based on the visit of the High Commissioner to the country in November 2007. The Deputy High Commissioner expressed deep concern for the intensification of the armed conflict and its negative impact on the human rights situation. She referred, in addition to casualties resulting from the conflict, to destruction of property, loss of livelihood, displacement, and disruption of access to education, health care and essential services.

Afghanistan, as concerned country, thanked the High Commissioner for her report. It stressed the Government's efforts to comply with its human rights obligations, including by transposing international human rights law into domestic legislation. For example, the new constitution includes a reference to the UDHR. Among the positive results achieved, the delegation mentioned the recent presidential election with universal suffrage. It stressed the Government's commitment to eliminate discrimination against women and referred to the last parliamentary elections, when 27% of members elected were women. It acknowledged the need to accelerate reforms in the justice, health and education sectors as well as in combating poverty and impunity. The delegation added that it had been very difficult to reach the objectives set by the government for 2007 due to insecurity and terrorism and called for sustained international assistance.

Regarding the report on **Cambodia**, the Deputy High Commissioner referred to the technical assistance offered by the OHCHR country office, focussing in particular on the rule of law, right to land and livelihood, and civil society participation. She also mentioned the support to the Special Representative of the Secretary-General on Cambodia. She ended by welcoming the Government's decision on an 18-month extension of the mandate of OHCHR's office in the country.

Cambodia welcomed the report. It highlighted the significant progress made in many areas, including the creation of democratic institutions, the holding of free and democratic elections, further economic liberalisation, the ratification of international human rights treaties, and recent constitutional amendments. The report, it stated, did not sufficiently reflect the progress made and the Government's will to address outstanding issues, including property of land. It claimed that many points had already been taken into account in a national action plan. The delegation asserted the need for a new approach in the relationship with OHCHR, calling for closer cooperation with the Government. It added that Cambodia was ready to extend the mandate of OHCHR's office in the country.

The Deputy High Commissioner presented the report on **Sierra Leone** and welcomed the establishment of a commission mandated to review the 1991 Constitution and the adoption of a number of new laws for the protection of women's rights relating to domestic violence, inheritance and customary marriages. She expressed concern for poor prison conditions and frequent instances of gender-based violence. She encouraged the Government to implement the recommendations of the Truth and Reconciliation Commission,

including in particular the establishment of a trust fund for war victims. In relation to the **Democratic People's Republic of Korea (DPRK)**, the Deputy High Commissioner reported on a recent meeting with the Government, which had had no result. She renewed the offer for technical assistance, in particular in light of the forthcoming examination of DPRK under the UPR. Both reports were not commented upon.⁷⁶

Thematic reports and other comments

The Deputy High Commissioner introduced the report on the **geographic composition of the staff** of OHCHR. As the issue had already been addressed during the interactive dialogue on the annual report of the High Commissioner, she reiterated that significant progress had been made and that the Office will continue in that direction. Regarding the report on activities in relation to the **60th anniversary of the UDHR**, the Deputy High Commissioner referred to the year-long campaign launched by the Secretary-General and stated that a number of activities had been planned both at country and international level.

Libya took the floor to comment on the report of the **Secretary-General on advisory services and technical cooperation** and commended the High Commissioner for her support to the issue of persons with disabilities. The delegation listed a number of measures that its Government had taken in this regard and called for strengthened international cooperation to ensure implementation of the new *Convention on the Rights of Persons with Disabilities*.

The International Coordinating Committee of National Human Rights Institutions (ICC) thanked the High Commissioner for her support to the work of national institutions. The ICC representative stressed the important role that national institutions play at the international and national levels, and referred in particular to the rigorous accreditation process for national institutions that the ICC has put in place.

The NGO 'Europe-Third World Centre' took the floor to comment on the issue of extreme poverty. It referred to the draft principles discussed by the former Sub-Commission on the Promotion and Protection of Human Rights and called upon the Council to consider adopting this document. It suggested a few amendments to the draft principles and called for States' economic policies to be more coherent with their human rights obligations.

Rights of reply

At the end of the consideration of Item 2, some States exercised their right of reply. Iran used its right of reply to respond to a statement made by Canada in the morning, saying the allegations raised by Canada did not correspond to the reality. It called on Canada to respect the human rights of everyone, including indigenous peoples and migrants.

Sri Lanka, also responding to the Canadian statement, said it was 'bemused' by the insistence of some countries on a field presence of the OHCHR in Sri Lanka. In relation to the national Human Rights Commission the representative claimed that the Government was undertaking 'concerted efforts to build up national institutions' and that the Sri Lankan supreme court 'has made it crystal clear' that the National Human Rights Commission is thoroughly independent. In relation to the alleged 'suppression' of a UNDP Stocktaking Report, which had confirmed the independence of the national Human Rights Commission, Sri Lanka stated that it had 'long learned not so suspect conspiracies when simple incompetence can explain absurdities'.

⁷⁶ Sierra Leone has a consulate in Geneva, but no permanent mission.

Item 3 – Special Rapporteur on the human rights of migrants

The Council began its consideration of Item 3, promotion and protection of all human rights, with the report of the Special Rapporteur on the human rights of migrants, Mr Jorge Bustamante, who presented his annual report.⁷⁷ In his oral presentation, he particularly highlighted a regrettable trend towards criminalisation of migration.⁷⁸ He said that the core of immigration policy should be the protection of migrants. Contrary to this, he said, most immigration policies increasingly focus on the criminalisation of migrants. Instead of treating illegal migration as an administrative offence, it was often unduly criminalised.

On his visit to the United States of America (US), Mr Bustamante expressed concern regarding deportation and detention policies, and the treatment of specific groups. He referred in particular to migrant workers in the aftermath of hurricane Katrina, migrant farm workers, and detained migrants. He announced his upcoming visits to Mexico (9 to 15 March 2008) and Guatemala (24 to 28 March 2008). He welcomed the positive initial reactions of Senegal and South Africa to mission requests. Finally, he stressed his intention to highlight migration challenges in Africa, the Mediterranean and the Gulf Region in his future work.

The Special Rapporteur regretted that only few States had recently ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, which he described as ‘the most comprehensive framework for the protection of the human rights of migrants’. He drew attention to the Global Forum on Migration and Development, which will be held in Manila, the Philippines, in October 2008, and welcomed the forum as a opportunity for sharing of best practices. He concluded his intervention by reiterating two of the recommendations contained in his report, namely the need for States to further promote legal migratory channels, and the call for further training and capacity building of authorities exposed to migration to ensure that they respect human rights in their work.

Interactive dialogue

The US as a concerned country was given the floor first. It welcomed that the Special Rapporteur had met with senior officials during his visit. However, the US expressed its overall disappointment with the report, saying it contained ‘significant misstatements and misunderstanding of US law and policy’. The Government was of the view that the Special Rapporteur had failed to collect and take into account the information provided. In particular, the US regretted that the report does not acknowledge positive aspects of its migration policy. It claimed that it has ‘one of the most generous immigration programs in the world, including a clear path to citizenship’. Finally, the US suggested that the Special Rapporteur had held ‘preconceived views’ before visiting, and had therefore not been willing to incorporate comments on the draft of the report provided by several government agencies prior to finalising it.

Mexico welcomed the report, and said it shares the Special Rapporteur’s concerns, in particular in relation to the regrettable trend to criminalise migration. It called for a ‘human rights approach’ to migration, and highlighted that the receiving and sending States should share the responsibility for the well-being of migrants. In line with the Special Rapporteur’s recommendations, Mexico suggested that the ‘human rights dimension’ should be firmly built into bilateral, regional or universal agreements relating to the management

⁷⁷ A/HRC/7/12, 25 February 2008 (annual report), Add. 1, 5 March 2008 (Communications sent to Governments and replies received), Add. 2, 5 March 2008 (mission report to the US). ISHR has prepared unofficial summaries of the reports by special procedures (‘Reports in short’), available at www.ishr.ch/hrm/council/reports_in_short.

⁷⁸ Oral statements made at the Council can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive user name and password).

of migratory flows. Mexico was of the view that special attention should be paid to victims of trafficking, especially women and children. Finally, it called on the Council to urgently discuss the detention of asylum seekers and illegal migrants, taking into account their particularly vulnerable situation.

13 additional States were unable to take the floor because of time restraints, and the interactive dialogue will be pursued on Monday, 10 March 2008.

Informal consultations on the mandate of the
Special Representative of the Secretary-
General on human rights defenders

Norway, as main sponsor, convened the second informal consultation on the resolution renewing the mandate of the Special Representative of the Secretary-General on human rights defenders (the Special Representative). The text considered was the same as the one discussed during the first informal consultation on 27 February 2008.

Considerable time was spent on the proposal to delete reference to the ‘adoption by consensus’ of the *Declaration on Human Rights Defenders* (the Declaration).⁷⁹ A few States⁸⁰ felt that such a reference would suggest a distinction between declarations adopted by consensus or vote.

Egypt suggested the inclusion of a new preambular paragraph reaffirming specific articles of the Declaration.⁸¹ The proposal, Egypt explained, was motivated by its concern that certain provisions of the Declaration had been eroded by the Special Representative’s overly expansive interpretation of the Declaration. Many delegations argued that selective reference to specific articles should be avoided.⁸² Egypt also suggested the inclusion of a second new preambular paragraph making reference to ECOSOC *Resolution 1996/31*,⁸³ explaining that the proposal meant to clarify that NGO participation in the UN is governed by the abovementioned resolution only and therefore not within the mandate of the Special Representative.⁸⁴

Considerable time was also spent on the first operative paragraph, which ‘welcomes the significant work’ of the Special Representative. Many delegations objected to this language,⁸⁵ while many others were supportive.⁸⁶

A number of amendments and proposals for new paragraphs were suggested by Egypt. It explained that they seek to remedy the ‘lack of clarity’ of the current definition of human rights defenders, a perceived abuse of the mechanisms by ‘self-proclaimed’ defenders, and the undue influence on defenders by other actors, including as a result of funding. Due to a lack of time, the proposals were not discussed at length.

⁷⁹ The full title is *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*. It was adopted by the General Assembly by consensus in 1998. For more information see www2.ohchr.org/english/issues/defenders/declaration.htm.

⁸⁰ Egypt, echoed by Algeria.

⁸¹ Articles 3, 10, 11, 18.

⁸² Norway, Ireland, Belgium, Mexico, US.

⁸³ ECOSOC *Resolution 1996/31* governs the consultative relationship between the United Nations and NGOs.

⁸⁴ This seems to be a reaction to the current mandate holders’ support of some NGOs seeking consultative status with ECOSOC.

⁸⁵ Egypt, Thailand, Belarus, Algeria, the Philippines.

⁸⁶ UK, Ireland, US, Mexico, Canada, Belgium.

Norway will present a consolidated text including all proposals made before the next informal consultations, that take will take place on **Wednesday 12 March, from 11:00 a.m. to 1:00 p.m., in Room VIII.**

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