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### HUMAN RIGHTS COUNCIL

Sixth session

#### SUMMARY RECORD OF THE 27th MEETING

Held at the Palais des Nations, Geneva,  
on Tuesday, 11 December 2007, at noon

President: Mr. COSTEA (Romania)

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The meeting was called to order at 11.55 a.m.

ANNUAL REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR  
HUMAN RIGHTS AND REPORTS OF THE OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS AND THE SECRETARY-GENERAL  
(agenda item 2) (continued)

1. Ms. ARBOUR (United Nations High Commissioner for Human Rights) said that, on a visit to Sri Lanka, including the troubled northern region of Jaffna, from 9 to 12 October 2007, she had met with Government representatives, political parties and members of civil society. She regretted not having had the opportunity to meet with the representatives of the Liberation Tigers of Tamil Eelam (LTTE), in order to convey to them her deep concern at serious violations of human rights and humanitarian law, including the recruitment of children, forced recruitment and abduction of adults, and political killings.
2. During her visit she had paid special attention to the recent alarming increase in the number of abductions and disappearances, for which there was inadequate investigation and public accountability. She had been concerned about safeguards for those detained under emergency regulations.
3. Regrettably, the national institutions and mechanisms for safeguarding human rights had failed to deliver adequate protection. In particular, the independence of the Human Rights Commission of Sri Lanka had been compromised by the irregular appointment of its Commissioners. Further, the special Commission of Inquiry appointed by the President to investigate high profile killings and disappearances had not yet completed any cases and concerns had been expressed about its compliance with international standards.
4. In view of the critical need for an independent actor to gather information and publicly report on the human rights situation, she had suggested that the Office of the High Commissioner for Human Rights (OHCHR) should have a presence in the country, with a full mandate incorporating technical assistance and independent public reporting. Discussions on possible models for such a presence were ongoing, but as yet no agreement had been reached. OHCHR would continue to assist the authorities in strengthening the national human rights system, but that would not bridge the critical protection gap.
5. On her mission to Afghanistan from 15 to 21 November, she had been impressed by the active role that continued to be played by the Afghan Independent Human Rights Commission and by civil society. The recently enacted media law had been well received, but there was a lack of progress in the area of women's rights, despite seats being guaranteed for women in Parliament. The transitional justice agenda had also stalled, and it was necessary to refocus attention on broader, victim-centred measures, including compensation and rehabilitation. Efforts to rebuild the rule of law would not succeed as long as impunity at the highest levels of Government remained unaddressed.
6. The security situation in Afghanistan remained very grave, with severe consequences for human rights. The high rate of civilian casualties resulting from deliberate attacks by anti-Government forces was of particular concern. Some of the attacks constituted serious war crimes. She had also discussed the issue of civilian casualties in actions undertaken by Government

and international forces with President Karzai, International Security Assistance Force (ISAF) commanders and contributing North Atlantic Treaty Organization (NATO) member States. The latter were taking steps to minimize civilian casualties. She had stressed the importance of preventing arbitrary detention, torture and ill-treatment of detainees, including those transferred from ISAF custody to the National Security Directorate and other Afghan authorities. She had urged the Government to reconsider its recent decision to reinstate the death penalty.

7. She welcomed the release of detainees in Pakistan, and the President's commitment to lifting the state of emergency and to holding elections early in 2008. She expressed concern, however, that emergency rule and related actions had caused severe, long-term damage to the judiciary and to civil society. All possible corrective measures should be put in place to restore confidence in a fully independent judicial system.

8. She had recently addressed a forum of human rights defenders in Ireland, and had also visited Brazil, where she had discussed issues of current concern with President Lula da Silva and a number of national actors, including pockets of intense violence in urban settings, police operations and methods of interrogation, and conditions of detention throughout the country. She welcomed the Government's efforts to implement the constitutionally protected rights of indigenous people, and the social programmes that had been set up to reach millions of poor families. Lectures she had delivered in Dublin and Rio de Janeiro had been posted on the OHCHR website.

9. She drew attention to the serious situations in the Sudan and Somalia. Grave violations of international human rights and humanitarian law continued to be committed in the Sudan, for the most part with total impunity. The Government and the international community should urgently step up their efforts to extend adequate protection to civilians. In that regard, she commended the Special Rapporteur on the situation of human rights in the Sudan for her work and the support provided by the Group of Experts on Darfur in developing an implementation plan for past recommendations to protect human rights. The rule of law must be strengthened, especially in Darfur where lawlessness was rife and had serious cross-border implications, as had recently been demonstrated by the deplorable Zoe's Ark case, which was being prosecuted in Chad.

10. In Somalia the human rights situation, particularly in Mogadishu, continued to deteriorate. The past several months had been characterized by extreme violence and indiscriminate attacks on civilians, threats and assassinations of journalists and human rights defenders, closures of media organizations, increased sexual and gender-based violence, impunity, and the total absence of the rule of law. Her Office continued to work with the United Nations and other partners to ensure a strong human rights dimension in any future strategy for Somalia.

11. She was pleased to report that an OHCHR regional office for West Africa would be opened shortly, as a result of close cooperation and consultation between her Office and the Government of Senegal. The regional office would work with all concerned to promote and protect human rights in the member States of the Economic Community of West African States (ECOWAS).

12. She welcomed the recent abolition by Rwanda and Gabon of the death penalty. Where the death penalty still existed, its use should conform to restrictive international standards. She welcomed the adoption of the Charter of the Association of Southeast Asian Nations (ASEAN)

and that organization's commitment to developing a human rights body. With regard to the United Nations Climate Change Conference taking place in Bali, it was important to bear in mind the human rights dimension of environmental degradation.

13. She welcomed the endorsement by the General Assembly of the institution-building package contained in Council resolutions 5/1 and 5/2. The universal periodic review process represented potentially the first comprehensive tool for overseeing the application of the principles of the Universal Declaration of Human Rights in a consistent, comprehensive and meaningful manner. Her Office would continue to be available to assist the Council in that crucial task. However, the role of OHCHR in servicing the Council in that process largely depended on the extent and clarity of agreement among member States, and on the financial support that would be extended to OHCHR from the regular budget. A commitment by all States to cooperate with the special procedures system and to extend standing invitations to mandate-holders was vital.

14. She had welcomed the constructive informal discussion that had taken place in November 2007 on the relationship between the Council and OHCHR, and looked forward to continuation of that dialogue. She thanked all member States for their contribution to preparation of the OHCHR Strategic Management Plan for 2008/2009, which she hoped to launch in January 2008.

15. The PRESIDENT said that it had been brought to his attention that two terrorist attacks had taken place in Algiers that morning, one of which had targeted the premises of the Office of the United Nations High Commissioner for Refugees (UNHCR). There were reportedly over 40 casualties. On behalf of the Council he expressed his deepest sympathy and support to the representative of Algeria, the Algerian authorities and the families involved.

16. Mr. HACHEMI (Observer for Afghanistan) said that his Government was committed to ensuring that international provisions concerning human rights, including women's rights, were incorporated into national legislation. A woman had stood in the presidential elections of 2004 and 27 per cent of the 249 parliamentary deputies elected in 2005 were women. The Government was committed to promoting the advancement of women and had ratified the Convention on the Elimination of All Forms of Discrimination against Women.

17. Regrettably, however, it had been difficult to meet human rights objectives in 2007 - a year marked by armed conflict and violence, poverty and immaturity of institutions. Despite the insecurity generated by the increasingly frequent international terrorist attacks on civilians, Afghanistan was encouraging women, with the help of the international community, to regain their rightful place in Afghan society. They were to be found in senior positions in business, Government, hospitals, schools, non-governmental organizations (NGOs) and civil society.

18. In its fight against terrorism, Afghanistan needed military, political, humanitarian and technical support from the international community.

19. Mr. FLORÊNCIO (Brazil) said that his country was committed to a closer relationship with OHCHR, which should be fostered by open, transparent dialogue and cooperation. The High Commissioner's visit to Brazil had underscored the importance of human rights for

achieving solid, sustainable development in a country which, despite its dynamic economy and social advances, still faced problems in the area of human rights, which the Government and civil society were determined to overcome.

20. Mr. TONDA (Gabon) said that Gabon had restored multiparty democracy in 1990, and was committed to human rights, as was demonstrated by the establishment of a ministry of human rights attached directly to the President's office and the recent abolition of the death penalty which, in fact, had not been applied since the early 1980s. Gabon was also committed to freedom of expression.

21. Mr. JAYATILLEKA (Sri Lanka) said that, one week earlier, there had been three terrorist attacks in Sri Lanka, similar to those of that day in Algeria. One had targeted the ethnic Tamil minister responsible for signature of the United Nations Convention on the Rights of Persons with Disabilities, one a shopping centre, and one a bus. There had been a number of civilian casualties. His country was determined to eradicate terrorism of all kinds, and to vanquish the secessionist cause served by terrorism. That was the context in which discussion of human rights in his country was taking place.

22. Sri Lanka's attitude to engagement with international human rights mechanisms was one of both flexibility and firmness. A variety of cooperation models was being discussed with OHCHR, although no agreement had yet been reached. The visit by the Representative of the Secretary-General on human rights of internally displaced persons was to start the following day, and agreement in principle had been reached concerning a visit by the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances in 2008. Sri Lanka remained open to scrutiny by the United Nations treaty monitoring mechanisms. However, it was proud of its national institutions and its independent judiciary. International scrutiny, support and assistance would supplement those national institutions but would never supplant them.

23. Mr. MOHAMED KHEIR (Observer for the Sudan) reiterated his country's full commitment to international human rights conventions and to the promotion and protection of human rights in the Sudan. The Government continued to cooperate with humanitarian agencies and the human rights situation in the Sudan was improving as a result of the different peace agreements concluded.

24. Although the human rights situation in Darfur had improved since the start of the armed conflict, thanks to implementation of the Abuja Agreement, the Government was still being hindered in its efforts to find a peaceful solution, and needed help from the international community. The situation was influenced by many factors conducive to the violation of human rights; one example was the problem of armed rebel groups. The Government had done its utmost to solve the problem, through peace agreements that addressed the root causes of the conflict, but some rebel groups had refused to sign, paving the way for ongoing human rights violations.

25. The conduct of some States and actors in the international community had contributed to the lack of progress by not sending out the right messages - or taking positive steps - to secure the cooperation of the rebels. Some States had even given them refuge. The Sudan's efforts to reach a political settlement were thus being thwarted.

26. The abduction of children from the Sudan and Chad had shaken the international community. The Sudanese Government condemned those inhuman acts, which breached all international laws, and called upon relevant international organizations and civil society actors to redouble their efforts to find and identify the perpetrators and ensure that they were brought to justice. Regrettably, a selective approach was being applied, which had the effect of protecting the perpetrators.

27. Mr. XAVIER ESTEVES (Observer for Portugal), speaking on behalf of the European Union, said that he was in favour of widening the field presence of OHCHR, and valued the partnerships that had already been forged to provide monitoring, advisory and technical support worldwide. In that regard, the European Union looked forward to the establishment of an OHCHR regional office for West Africa, which would enhance the promotion of human rights in the region.

28. The European Union also welcomed the access provided to OHCHR by the Sri Lankan authorities, in order to contact different actors in key regions, including representatives of civil society. The European Union was, however, concerned at the inadequate investigation of serious human rights violations such as abductions, enforced disappearances, and arbitrary detentions, and at the situation of human rights defenders and journalists. He noted the steps being taken by the Government of Sri Lanka to address those issues, and appealed to the authorities to allow the impartial, transparent and effective investigation of human rights abuses, in an effort to end impunity. He also appealed for full cooperation with all relevant United Nations mechanisms, including support for the OHCHR field office in Sri Lanka.

29. The European Union continued to monitor human rights developments in Afghanistan closely and welcomed the measures taken by the Afghan Government to promote human rights, including the reorganization of the judicial system. Civil society currently played an essential role in highlighting human rights violations in Afghanistan. Nevertheless, the European Union deplored the high level of civilian casualties resulting from premeditated attacks by anti-Government forces. He recalled that all parties, including the Taliban, were legally bound by the four Geneva Conventions prohibiting such action. Noting that an increasing number of countries had abolished the death penalty, he encouraged the Afghan authorities to follow the international trend.

30. While recognizing the threats to the peace and security of Pakistan, the European Union believed that stability and development could be achieved only through democracy, respect for human rights and the rule of law. He reiterated the importance of timely, free and fair elections; the restoration of civilian rule, through the President's commitment to lift the state of emergency; full respect for human rights; the independence of the judiciary and freedom of the media.

31. The European Union was deeply concerned at the continued violence and grave human rights violations such as abductions, rapes, sexual violence and abuses against children, not only in Darfur, but throughout the Sudan, where the absence of the rule of law had become a trend. He therefore urged the Government of the Sudan to put an end to impunity and to bring the perpetrators of grave human rights abuses to justice. Darfur was still plagued by gross and systematic violations of human rights and international humanitarian law.

32. The worsening human rights and humanitarian situation in Somalia was another source of concern, and he recalled recent reports of extrajudicial executions, arbitrary detentions, increased sexual violence and torture. All parties must fully respect their obligations under human rights and international humanitarian law, and cooperate with the relevant United Nations mechanisms, allowing safe and unimpeded access by humanitarian organizations to persons affected by the ongoing emergency.

33. Mr. KHAN (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said that he agreed that the universal periodic review process was a comprehensive tool for overseeing the application of the principles of the Universal Declaration of Human Rights. OIC called for clarification of the format and modalities of the review mechanism, including with respect to the precise role of the troika rapporteurs. A clear road map was needed and the Council must be able to operate within a framework of certainty that was based on agreements made through a consultative exercise.

34. Furthermore, it had originally been intended to devote most of the second part of the sixth session to the review, rationalization and improvement of special procedures. For the sake of efficiency, between the two parts of the sixth session, the President had convened consultations, which had proved valuable, but in terms of an agreement, little progress had been made. After presenting its paper during the first part of the sixth session, OIC had made a deliberate effort to give the necessary space to all stakeholders in order to avoid jeopardizing the passage of the institution-building package at the United Nations General Assembly. The issue could no longer be sidestepped: with the necessary goodwill and understanding, it could be resolved in a direct and transparent manner.

35. OIC maintained good relations with the High Commissioner and her Office and he commended its staff on their work in servicing the Council. The relationship between the High Commissioner and the Council was a wider issue with long-term implications. New parameters for the relationship needed to be explored, given the Council's newly established role as the primary human rights law-making body within the United Nations system. The Council was more assertive than the Commission on Human Rights had been, and it should have a say on budgetary oversight and the growing network of field offices.

36. Speaking on behalf of his own delegation, he noted that the High Commissioner had welcomed the President of Pakistan's commitment to lifting the state of emergency and releasing detainees. He assured the High Commissioner that there would be no severe, long-term injury to the judiciary and to civil society as a result of the temporary state of emergency, because Pakistan was negotiating a transition to full civilian, democratic rule; electoral processes were well under way, and a new Government would be in place early in 2008. Pakistan was committed to the rule of law and the independence of the judiciary, which it held in the highest esteem. Steps had been taken to uphold checks and balances between the judiciary and the executive in order to ensure effective and harmonious governance. Civil society had emerged even stronger and more vibrant, and the Government had embarked on an irreversible trend to allow civil society and the media the necessary space and framework of cooperation in which to grow.

37. Mr. LLUNCH (Cuba), speaking on behalf of the Movement of Non-Aligned Countries, said that the Movement had played a leading role in the process leading to the endorsement of the draft resolution on institution building and the code of conduct by the Third Committee of the United Nations General Assembly. The Movement of Non-Aligned Countries welcomed the efforts of the President in promoting consultations on the resolution of technical and political issues affecting the role of the troika rapporteurs and the modalities of the universal periodic review working group. A clear and common understanding of those issues among all participants was an essential criterion for securing steady progress towards implementation of the mechanism and for the selection of the rapporteurs. The Movement commended the President's efforts to achieve a common framework for the review, rationalization and improvement of mandates, and encouraged all members and observers to participate in that process.

38. The Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council was a multilaterally negotiated and agreed document with full force and validity for the work of the special procedures mandate-holders. However, the Movement of Non-Aligned Countries had noted a certain lack of enthusiasm towards that document. The Movement had been informed that the Special Procedures Coordination Committee was studying the Code of Conduct in order to improve the Manual of the United Nations Human Rights Special Procedures. However, the Code of Conduct itself should serve as the main basis for the work of special procedures and nothing less than full compliance with its provisions was expected.

39. It was regrettable that certain recent incidents had compromised the spirit of cooperation and good faith in the relations between States and some special procedures mandate-holders. It was for instance unacceptable for the latter to make presentations regarding a country visit within the framework of a United Nations intergovernmental body without first preparing a written report and sharing their findings with the Government concerned. Nor was it acceptable for them to report directly to the Third Committee of the General Assembly before reporting to the Council.

40. Mr. SHALABY (Egypt), speaking on behalf of the Group of African States, welcomed the plans for a regional office of OHCHR in West Africa, and said he was confident that the new office would be of considerable benefit to the Economic Community of West African States in its efforts to promote and protect human rights. The Group of African States wished to emphasize the importance of a continued active OHCHR presence in all regions, including in developed countries, to meet the human rights challenges that existed everywhere.

41. With regard to the situation in the Sudan, the Group would have welcomed an acknowledgement, by the High Commissioner, of the efforts made by the Sudanese Government to improve the situation on the ground, and the Government's cooperation with all United Nations mechanisms, as had been recognized by the Group of Experts on Darfur. The Sudanese authorities had taken tangible steps to improve the security situation and to implement the relevant recommendations of the Group of Experts. There was clearly more work to be done, and he urged the Government of the Sudan to intensify its efforts to implement the remaining recommendations. Likewise, he called on the Office of the High Commissioner and the international community to continue to provide support, technical assistance and increased resources to build the country's capacity. The Group of African States welcomed the fact that the High Commissioner had condemned the recent attempt to abduct children from the Sudan and Chad.



42. He welcomed the initiation of consultations on the institutional relationship between the Council and OHCHR. He hoped that all aspects of the relationship would be discussed, including reporting on OHCHR activities and feedback from member States on the strategic management plan. Interaction between the two bodies would help to ensure the smooth functioning of the Council and to preserve the independence and integrity of OHCHR.
43. The High Commissioner could usefully have addressed the human rights situation in other areas of major conflict, especially those with which the Council had been actively concerned.
44. Lastly, he expressed the hope that OHCHR, in its capacity as the secretariat of the Council, would take on its responsibilities regarding the Code of Conduct for Special Procedures Mandate-holders in an effective and expeditious manner.
45. Mr. GRINIUS (Canada) said that Canada welcomed the High Commissioner's suggestion that the Government of Sri Lanka would benefit from the support of an OHCHR presence with a full mandate, working alongside national structures, and he urged the Government to accept that proposal. Canada was deeply concerned at the escalation of violence and the impact of fighting on civilians, including humanitarian workers. A sustainable solution could be achieved only through a political process, and not by violent means. Canada therefore counted on the democratically elected Government of Sri Lanka to create conditions conducive to the resumption of the political process.
46. He commended the work of the Special Rapporteur on the situation of human rights in the Sudan and the Group of Experts on Darfur. Implementation of their recommendations would help to increase transparency and put an end to acts of violence. Canada encouraged the Council to renew the mandates of those human rights mechanisms, as a matter of priority, so that they could continue to monitor the implementation of past human rights recommendations by the Government of the Sudan.
47. He welcomed the High Commissioner's continued engagement on Afghanistan and shared her assessment that further attention should be devoted to the cause of Afghan women. Canada had contributed over 8 million dollars to fund the work of the Afghanistan Independent Human Rights Commission, to provide assistance in developing a transitional justice action plan, and to establish monitoring systems for reporting on progress made.
48. Turning to the grave humanitarian crisis in Somalia, he said that Canada welcomed the adoption of Security Council resolution 1772 (2007), and the special efforts of OHCHR to improve human rights in Somalia, particularly in terms of freedom of the media.
49. Noting the OHCHR pledge of assistance with the implementation of the universal periodic review, he said that his delegation looked forward to the opening of new regional offices, and to the reports on country visits undertaken by the High Commissioner.
50. Mr. QIAN Bo (China) said that China welcomed the open and constructive dialogue between the High Commissioner and member States on relations between OHCHR and the Council. With specific reference to the 2008-2009 strategic management plan, his delegation hoped that, in the interests of openness and transparency, member States would have an opportunity to submit their comments before the plan was prepared and implemented.

51. In the same vein, he expressed appreciation for the briefing consultations on the issue of field offices held in November 2007. Activities at field offices should be conducted with due respect to the specific conditions of the host country and the views of the host Government. Furthermore, in establishing field offices, OHCHR should not only have the agreement of the authorities concerned, but should also take its financial situation into account, and act within its means.

52. Concerning the universal periodic review, he hoped that OHCHR would establish strict internal guidelines to ensure the fairness and objectivity of reports, thereby contributing to the smooth functioning of the review mechanism.

53. In conclusion, he stressed the importance of balancing the geographic composition of the staff of the Office of the High Commissioner. Tangible results should be sought through an effective and systematic solution that provided follow-up to the recommendations of the Joint Inspection Unit to put an end to the underrepresentation of developing countries in the Office.

54. Mr. SINGH (India) said that the adoption of the institution-building package by the General Assembly would give the Council a clear mandate to move ahead with the implementation of the package, which had set the early operationalization of the universal periodic review mechanisms as a priority. The Council should also continue the review, rationalization and improvement of mandates which had been launched earlier.

55. India strongly supported the objective of securing sovereignty, democracy and pluralism in Afghanistan, and he reaffirmed his Government's continued commitment to the stabilization, rebuilding and development efforts of the Afghan Government. India also believed that Afghanistan would benefit immensely from greater regional integration.

56. His delegation had taken note of the discussions between the Office of the High Commissioner for Human Rights and the Government of Sri Lanka on possible areas of cooperation, and he hoped that those discussions would result in a satisfactory outcome for all parties.

57. His delegation also attached great importance to the briefing sessions that had been organized by the Office of the High Commissioner over previous months. Taking note of the informal discussions on the relationship between the Council and OHCHR, he said his Government looked forward to receiving further feedback on those discussions, and hoped that future talks would be held in a more transparent and inclusive manner.

58. Mr. RAHMAN (Bangladesh) said that dialogue and consultations with the High Commissioner and her Office on human rights issues created an environment of mutual trust and understanding and strengthened the relationship between the Council and OHCHR. Solutions to unsatisfactory human rights conditions prevailing within States could be reached internally through the strengthening of national mechanisms. Cooperation and the engagement of States were essential to the improvement of the human rights situation globally. The basis of such cooperation should be sustained and constructive dialogue, based on mutual respect and responsibility. The Council and OHCHR should therefore take into account the overall context of countries, their socio-economic, geopolitical and security conditions in analysing each situation. To that end, the work of the Council should be guided by objectivity and impartiality.

59. While welcoming the briefing sessions organized by OHCHR for the benefit of member States, he noted that such forms of interaction had occurred on an ad hoc basis, without proper planning. Unless the Council devised a structural relationship, such interaction would largely depend on the goodwill of OHCHR. He believed that General Assembly resolution 48/141 and 60/251 could provide guiding principles for the establishment of a possible legal framework for improved coordination between the Council and OHCHR. He envisaged a symbiotic relationship, with the support and guidance of the Council providing added value to the work of the Office of the High Commissioner in carrying out its mandate.

60. The High Commissioner had highlighted the human rights dimension of environmental degradation. Climate change was of global importance and had a far-reaching impact on the enjoyment of fundamental human rights; the Council should therefore give priority to that issue.

61. Ms. HSU (Malaysia) said that her delegation was encouraged by the level of cooperation the High Commissioner had received on her missions to four countries. Regarding initiatives undertaken in South-East Asia, she noted that the High Commissioner had welcomed the adoption of the ASEAN Charter and the commitment to develop an ASEAN human rights body.

62. Malaysia welcomed the endorsement by the Third Committee of the General Assembly of the institution-building package and, in that connection, she underscored the importance of trust and confidence in the special procedures mechanism. As far as the universal periodic review was concerned, there was need for greater clarity on the role of the troika rapporteurs and on the actual conduct of the review mechanism.

63. With reference to the relationship between the Council and OHCHR, she said that, given its enhanced status and broad mandate, the Council should go beyond reporting on human rights thematic issues and countries, and should also focus on OHCHR's programme activities and strategic management plan. As the two central organs within the United Nations human rights machinery, the Council and the Office should further streamline their relationship in order to forge a common understanding and to promote cooperation as they carried out the overall mandate of the Council in favour of human rights.

64. Mr. LEPATAN (Philippines) said that the Philippines had played an active role in two of the positive developments the High Commissioner had mentioned: the cross-regional initiative in support of a moratorium on the application of the death penalty, which his Government had abolished; and the signing of the ASEAN Charter, which committed that organization to establish a human rights body.

65. His Government favoured closer interaction and dialogue among delegations, OHCHR and other stakeholders, in particular to make the universal periodic review mechanism a success.

66. He noted the openness and goodwill exhibited by the Government of Sri Lanka in its constructive engagement with the High Commissioner and her Office during her visit to Sri Lanka. He agreed with the High Commissioner that it was important to shed light on serious human rights violations committed by non-State actors in Sri Lanka. Dialogue and cooperation between OHCHR and the Government of Sri Lanka should continue based on the principles of

consent and national sovereignty. The Government of Sri Lanka needed the constructive support of the international community in its national endeavours, and the Council and OHCHR should work towards that end.

67. He welcomed and supported the dialogue on the relationship between the Council and OHCHR, and the strategic management plan prepared by OHCHR.

68. Mr. LEE Suk-tae (Republic of Korea) said that a broader field presence was necessary to enable OHCHR to strengthen human rights protection on the ground through enhanced monitoring, technical assistance and capacity-building. He welcomed the imminent opening of a regional office for West Africa in Dakar, Senegal, and supported the idea of establishing additional field presences with full mandates. The recent adoption of the ASEAN Charter was another remarkable step forward, and he encouraged ASEAN to begin broad consultations for the early establishment of a dedicated human rights body.

69. He welcomed the cooperation that the Government of Sri Lanka had demonstrated in relation to the High Commissioner's recent visit to the country, and believed that international support for human rights protection would be of great value to the Government of Sri Lanka.

70. Mr. SIEBEN (Netherlands) said that his country aligned itself with the statement made by the representative of Portugal on behalf of the European Union. His Government understood the difficult situation in Sri Lanka, but remained concerned about the continuing human rights violations being carried out by all parties to the conflict in that country, and thus endorsed the High Commissioner's recommendation for a strengthened field presence there.

71. Such a presence was particularly important as the International Independent Group of Eminent Persons (IIGEP) had recently announced that it would resign at the end of February 2008. As that Group had been one of the last sources of independent and impartial advice to the Sri Lankan Government, it was regrettable that the latter had rejected the Group's recommendations. It was all the more important, therefore, that the Government of Sri Lanka and the High Commissioner ensure independent, public reporting on the human rights situation in Sri Lanka by strengthening the presence of OHCHR in the country.

72. Mr. VOSGIEN (France) said that his Government fully supported the statement made by the representative of Portugal on behalf of the European Union. He was concerned about the worsening situation and the persistent human rights violations in Sri Lanka, including the recruitment of children, forced recruitment and abduction of adults, and extrajudicial killings. It was deplorable that the National Commission of Inquiry had shed no light on a number of abductions and killings, including the killing of 17 humanitarian workers of Action Contre la Faim. France strongly condemned the use of violence, and emphasized that negotiation among all parties was the only way to find a sustainable solution to the conflict in Sri Lanka.

73. It was thus crucial for OHCHR to have a field presence in Sri Lanka in order to follow developments there and facilitate technical assistance. He hoped that discussions with the Sri Lankan authorities would continue so that an agreement could be reached with OHCHR as soon as possible.

74. The situation in Darfur was also of concern. The mandate of the Special Rapporteur on the situation of human rights in the Sudan and the Group of Experts on Darfur should enable the Council to act in the interests of the country and its population.

75. His Government agreed with the High Commissioner that light should be shed on the Zoe's Ark incident and that those responsible should be identified and dealt with accordingly; in that regard, the actions of humanitarian organizations and NGOs should not be negatively affected by the incident.

76. The universal periodic review should be conducted in a serious and rigorous way to maintain credibility, the special procedures should be strengthened and made sustainable, and the independence of OHCHR should be maintained.

77. Mr. HAIDARA (Senegal) said that his Government was pleased that OHCHR had chosen the Senegalese capital, Dakar, to open a regional office for West Africa, and hoped that the new regional office would help improve the human rights situation in that region. He pointed out that the Economic Community of West African States (ECOWAS) had long been committed to that very goal, as was demonstrated by its adoption of various instruments to strengthen the promotion and protection of human rights at the subregional level.

78. Mr. GODET (Switzerland) requested clarification of the main differences in the proposals made by OHCHR and the Government of Sri Lanka regarding a field presence in that country, and wished to know what conditions were necessary for such a presence to be established.

79. Mr. PUJA (Indonesia) commended the High Commissioner's visits to various countries, which were an essential aspect of her mandate, helping to establish and maintain standards, defend core human rights, ensure their implementation and raise morale where they were being breached.

80. He also commended the efforts made by the Government of Sri Lanka to institute constructive dialogue with OHCHR, and the Government's intention to create a strong national protection system with support from OHCHR and the Council.

81. With regard to the institution-building package, his delegation associated itself with the statement made on behalf of the Movement of Non-Aligned Countries. Work on the universal periodic review (UPR) mechanism had reached a crucial juncture, and it was important to take advantage of the consultation process so that all aspects of the mechanism could be addressed and a clear consensus achieved. He agreed with other delegations that the Code of Conduct should contain comprehensive safeguards in order to preclude any error that might jeopardize the work of the special procedures.

82. Mr. MINAMI (Japan) said that on the previous day, at a summit meeting in Tokyo, the Prime Minister of Japan had reiterated to the President of Sri Lanka the importance of further improvement of the human rights situation in the country, including tangible progress in the inquiries into cases of past human rights violations. He hoped that the Government of Sri Lanka and OHCHR would continue their dialogue and cooperation in that area.

83. His Government would continue to support the process of democratization in Afghanistan, which was aimed at securing the full enjoyment of all human rights in that country.

84. Ms. STIRØ (Observer for Norway) said that her Government remained concerned about the human rights situation in Afghanistan, and particularly about the indiscriminate attacks on civilians by insurgent groups. While insurgent activities remained the most dangerous threat to Afghan civilians, the responsibility for upholding human rights in Afghanistan rested with the Government. The Afghan authorities had to treat detainees in accordance with international human rights standards. Norway had entered into a bilateral agreement with the Afghan authorities on the treatment of detainees.

85. Continued support from the Government of Afghanistan and from donors should be provided to the national institutions tasked with upholding human rights, including in particular the Afghan Independent Human Rights Commission (AIHRC) which had been playing an important role.

86. Norway welcomed the efforts of the High Commissioner to strengthen transitional justice and reinstate the rule of law in Afghanistan, as a prerequisite for democracy.

87. Ms. MOSLEY (Observer for New Zealand) said that her Government shared the High Commissioner's concern about the issue of abductions and disappearances in Sri Lanka and the failure of the Sri Lankan Human Rights Commission adequately to investigate allegations of human rights abuses in the country. The Commission's operations should be governed by the Principles Relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles), so as to ensure its independence and effectiveness. It was no less important that the special Commission of Inquiry appointed by the President of Sri Lanka be allowed to carry out its task effectively in order to ensure that there was no impunity for the individuals it was investigating.

88. New Zealand had long opposed use of the death penalty, which compromised human dignity, and was thus pleased that the resolution on the moratorium on the application of the death penalty, of which it had been a sponsor, had been adopted. She congratulated Rwanda and Gabon on having taken the highly significant step of abolishing the death penalty. Her Government also welcomed the General Assembly's endorsement of the institution-building package; the universal periodic review mechanism had the potential for an equitable assessment of the human rights situations in all countries.

89. Mr. JAZAÏRY (Observer for Algeria) thanked the Council for its outpouring of sympathy and support in relation to that morning's attacks in Algiers and condemned the use of terrorism by groups claiming to be fighting in the name of human rights.

90. His delegation wondered why Iraq and Palestine had not been mentioned in the High Commissioner's report on human rights situations which should command the attention of the international community. It would also be of interest to know whether it was planned to open national and regional offices in certain developed countries. He suggested that the setting up of field offices should be subject to the approval of the Council. He hoped that the discussions on making the relationship between OHCHR and the Council more transparent could be broadened to encompass the entire Council membership, preferably at its March 2008 session.

91. He hoped that the Manual of the United Nations Human Rights Special Procedures, referred to on the OHCHR web page on special procedures, would be revised, as agreed, in compliance with the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council, and looked forward to the publication of a report in that regard.
92. Mr. KLECHESKI (Observer for the United States of America) emphasized the importance of maintaining the independent activities of OHCHR.
93. He welcomed the High Commissioner's comments on the grave violations of human rights and humanitarian law occurring in the Sudan and hoped that the Council would renew the mandate of the Special Rapporteur on the situation of human rights in the Sudan and continue the work of the independent experts.
94. His Government shared the High Commissioner's concern about growing violence in Sri Lanka on all sides, and supported the Government of Sri Lanka as it grappled with a terrorist group. At the same time, it had expressed to the Government its concerns about human rights violations and the lack of justice and accountability, emphasizing deep concern about the rise in forced disappearances, torture and extrajudicial killings. The United States had encouraged the Government to conduct proper investigations and, where appropriate, to arrest and prosecute those responsible for human rights abuses against civilians. He encouraged the Government of Sri Lanka to reconsider its rejection of an expanded mandate and staff for the Office of the High Commissioner in Colombo.
95. His delegation welcomed the release of many of those detained in Pakistan after the imposition of the state of emergency and reiterated its support for a rapid return to a democratic process, including through lifting the state of emergency so that citizens and political parties could prepare for the upcoming elections, which should be free, fair, inclusive and transparent, with free reporting by the media.
96. Lastly, concerning the death penalty, the United States did not share the High Commissioner's view that there had been broad cross-regional agreement on its elimination. Rather, the recent debate and action on that subject had been characterized by extraordinary acrimony and division. He hoped that future debate on the issue would avoid such divisiveness and focus on the need for countries to adhere to international legal standards.
97. Mr. LOULICHKI (Observer for Morocco) said that the interaction between the High Commissioner and the Council was of great significance and should be strengthened while respecting the specificities of both entities.
98. His delegation welcomed the adoption of the institution-building package, a balanced text which had maintained its universal quality after extensive negotiations. His Government accorded particular attention to the universal periodic review mechanism and, as it would be one of the first countries to submit to the review, was already well advanced in the drafting of its national report. Its mechanisms for inter-ministerial coordination and consultation with other stakeholders from civil society and national institutions were operational.

99. Morocco's involvement in the process was exemplified by two initiatives: a parallel event at the Council to examine best practices in drafting national reports and a seminar on the review process to be organized by the International Organization of la Francophonie (OIF) in Morocco in February 2008.

100. Mr. DAHLGREN (Observer for Sweden) said his Government fully aligned itself with the statement made by the representative of Portugal on behalf of the European Union. He welcomed the High Commissioner's report on her visit to Sri Lanka and noted that the Representative of the Secretary-General on the human rights of internally displaced persons had been invited to visit that country in the near future.

101. As the High Commissioner's report confirmed the deteriorating situation in Sri Lanka, urgent action was needed to ensure that human rights were respected and to counter the widespread culture of impunity that facilitated the abuse and violation of human rights. He urged the Government of Sri Lanka to explore all possible ways to strengthen respect for human rights in the current situation, including through continued negotiations with OHCHR on setting up a credible and independent international monitoring presence, and long-term capacity building to meet the human rights challenges.

102. Mr. DOEBBLER (Nord Sud XXI), speaking also on behalf of the Arab Jurists Union, expressed regret that the deplorable human rights situation in Iraq was not being addressed by the Council. He drew attention to the Iraqi International Initiative on Refugees, which called on the United Nations to provide a significant proportion of the resources acquired through the sale of Iraqi oil to Iraqi refugees. The two existing Iraq trust funds should prioritize support to Iraqi refugees and their host countries. He called on the High Commissioner and the Council to address that matter.

103. Noting that little effective action had been taken to ensure the protection of the human rights of Palestinians, he expressed the hope that the Office of the High Commissioner and the Council would prioritize making an effective contribution in that regard.

104. Ms. GIL (International NGO Forum on Indonesian Development), speaking also on behalf of the Asian Forum for Human Rights and Development, said that there was an urgent need for a strong OHCHR presence in Sri Lanka, since the existing institutions and mechanisms established by the Government, including the Sri Lankan Human Rights Commission, had failed in their mandate to promote and protect human rights in the country. She therefore expressed support for the idea of appointing an independent actor to gather information and publicly report on the human rights situation there.

105. Mr. HAIDER (International Federation for Human Rights), speaking also on behalf of the Human Rights Commission of Pakistan, expressed deep concern about the deteriorating human rights situation in Pakistan. In the weeks following the declaration of the state of emergency, thousands of citizens, including the Chief Justice and judges of the superior courts, lawyers, journalists, teachers and students, trade union leaders and human rights defenders had been detained, tortured and put under house arrest.



106. He urged the Government of Pakistan to immediately release and reinstate Chief Justice Chaudhry and the judges of the Supreme Court and high courts who had been dismissed following their refusal to take an oath under the provisional constitutional order; to lift the state of emergency and the provisional constitutional order no later than 16 December 2007 and to restore the Constitution; to appoint a truly independent, impartial and effective election commission; to free all lawyers, journalists, civil society activists and political prisoners immediately; to appoint neutral caretaker governments at the federal and provincial levels; to withdraw all amendments to the Pakistan Electronic Media Regulatory Authority Ordinance and restrictions on the electronic and print media; and to withdraw all amendments to the Pakistan Army Act. He called on the Council to adopt effective measures for the implementation of those recommendations and to adopt a resolution strongly condemning the current situation.

107. Mr. KASHMIRI (Interfaith International) said that pro-democracy activists in Pakistan were being detained and tortured in various prisons, hundreds of lawyers, political leaders, human rights activists and even judges were facing sedition charges, and scores of civilians had been killed or kidnapped by the security agencies. Pakistan had become an epicentre of Islamic extremism, with various militant and terrorist groups finding not only shelter and succour, but also enjoying the active support of the army and its intelligence agencies.

108. The prevailing situation and the climate of instability in Pakistan should be a cause of concern to the international community, particularly since there was a risk that Pakistan's nuclear assets might fall into the hands of Al-Qaida or other terrorist organizations. His organization called for the International Atomic Energy Agency, the International Court of Justice and other United Nations bodies to establish an impartial tribunal to investigate and expose the extent of Pakistan's illegal nuclear network. He also called on the Member States of the United Nations to urge Pakistan to meet internationally accepted standards for independent courts and parliamentary integrity. Pakistan's membership of the Council should be suspended until the state of emergency was lifted, the Constitution was restored, and all detainees, including judges under house arrest, were released.

109. Mr. SPLINTER (Amnesty International) noted that President Musharraf's summary dismissal of Pakistan's Chief Justice and other judges was flagrantly in breach of the Constitution and the United Nations Basic Principles on the Independence of the Judiciary. Amnesty International was deeply concerned that the arbitrary replacement of judges of the superior courts removed crucial safeguards against human rights violations and impunity for perpetrators at a time when they were needed most.

110. Amnesty International's findings corresponded with the observations made by the High Commissioner concerning Sri Lanka, namely that people from across a broad political spectrum and from various communities lacked confidence in the ability of the existing institutions to provide adequate safeguards against the most serious human rights abuses. He expressed the hope that the move by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights to downgrade the status of the Sri Lankan Human Rights Commission to the category of "not independent" would prompt the Government to act to meet its international legal obligation to provide effective protection for the civilian population. The serious abuses by the Liberation Tigers of Tamil Eelam (LTTE) were cause for concern, but were no excuse for further Government delay.

111. Mr. MACHON (International Commission of Jurists) said that his organization deplored the fact that no agreement had been reached with the Government of Sri Lanka on options for the establishment of an OHCHR field presence that would provide for monitoring and assistance to enhance human rights protection. In the last week of November 2007 alone, at least 33 people, including children, had reportedly been killed in deliberate attacks on civilians by both the Government armed forces and the LTTE. The Council and the international community must take prompt action to urge the Government and the LTTE to allow for international human rights monitoring and protection. He asked the High Commissioner what further steps had been taken in the follow-up to her visit.

112. He expressed grave concern that emergency rule had inflicted severe, long-term damage on the judiciary and civil society in Pakistan. His organization was particularly concerned about the continued detention of a number of lawyers and the fact that 13 judges of the Supreme Court, as well as their families, were effectively under arbitrary house arrest. In such an environment, free and fair elections would not be possible, as the electoral process must be overseen by an independent, civilian judiciary.

113. The Council should express its concern at the ongoing violations of human rights and the rule of law in Pakistan and should urge the Government of Pakistan to lift the state of emergency and fully restore the Constitution. The International Commission of Jurists called on the Council to request its special procedures mandate-holders on the independence of judges and lawyers, arbitrary detention, freedom of opinion and expression, human rights, terrorism and torture to assess the current human rights situation, including by seeking an immediate visit to the country. He asked whether the High Commissioner would seek to visit Pakistan in the immediate future to explore those serious human rights concerns.

114. Mr. NAWEED (Asian Legal Resource Centre) said that his organization was shocked that a member of the Council had arbitrarily detained Special Rapporteur Asma Jahangir and threatened Special Representative Hina Jilani with arrest if she returned to Pakistan. He welcomed the High Commissioner's recommendation that all corrective measures be taken to restore confidence in a fully independent judicial system in Pakistan, and asked for clarification on what measures were envisaged. The international community should call for the Chief Justice and all other recently ousted members of the judiciary to be released and reinstated without delay.

115. The Council should strongly condemn Pakistan's actions and send a team of experts to investigate human rights violations in the country. Furthermore, the country should be immediately removed from the special procedures mandate-holders selection process.

116. Ms. De RIVERO (Human Rights Watch) said that lack of protection for civilians remained a key concern in Sri Lanka. In just four days in November, attacks by both sides had left 49 civilians dead and 60 injured. On 1 and 2 December, Sri Lankan security forces had arbitrarily and discriminatorily arrested more than 2,000 Tamils in Colombo and surrounding areas following bombings in the capital on 28 November. There were some 208,000 internally displaced persons in Sri Lanka, and according to the Sri Lanka Monitoring Mission, in Batticaloa district they were being pressured by the Government to return to their original homes despite their unwillingness to do so owing to security and other concerns. There continued to be many

enforced disappearances, primarily attributed to Government security forces. The presidential Commission of Inquiry had not made much headway on the 16 serious cases on its list and issues pertaining to witness protection remained unresolved.

117. Human Rights Watch regretted that the Sri Lankan Government had not accepted the High Commissioner's proposal for the establishment of a United Nations human rights field operation with a strong monitoring mandate and called on all members of the Council to indicate their support for the creation of such a mechanism and to work actively to encourage the Government to consent to its establishment.

118. He also expressed grave concern about the situation in Pakistan. The legal measures adopted to repress the media, control the legal profession and widen the use of military powers to suppress basic rights were likely to remain in place after the state of emergency was lifted. Human Rights Watch called on Pakistan to repeal all of the legal measures adopted in the context of the state of emergency which violated human rights law, to release all those arbitrarily detained, and to restore the independence of the judiciary. It recommended that the Working Group on Arbitrary Detention investigate the arrests and detentions and urged the Special Rapporteur on the independence of judges and lawyers to visit the country. It called on all members of the Council to closely examine the situation in Pakistan.

119. Human Rights Watch welcomed the High Commissioner's commitment to ensuring a strong human rights dimension in the United Nations strategy for Somalia. Indiscriminate and targeted attacks by the warring parties had wounded and killed dozens of civilians in Mogadishu and forced hundreds of thousands to flee, while tens of thousands remained trapped in the city, many of them wounded and unable to access medical care and other basic services. The Council should act urgently to examine the situation in Somalia and appoint a commission of inquiry to document the serious violations taking place.

120. The PRESIDENT informed the Council that the casualties from the bombings in Algiers that day included at least 10 United Nations staff members. He expressed his sympathy to the High Commissioner on the loss of those colleagues.

121. Ms. ARBOUR (United Nations High Commissioner for Human Rights) extended her condolences to the Ambassador of Algeria on her own behalf and that of her colleagues.

122. Her update had focused primarily on activities she or her colleagues had undertaken since previous meetings and on issues of concern that, in her view, were not fully addressed elsewhere. She had not discussed the situation in Iraq since the human rights section of the United Nations Assistance Mission for Iraq (UNAMI) produced a quarterly public report which detailed serious human rights violations by all parties in Iraq and focused on civilian casualties and conditions of detention, including torture. The report was available on the OHCHR website.

123. Mr. WIJESINGHE (Sri Lanka), speaking in exercise of the right of reply, said that he appreciated the concern expressed for the people of Sri Lanka. However, he noted that some statements had appeared to reflect a lack of understanding of the challenges posed by terrorism. The Government had done its utmost to cooperate with the United Nations system, and would

welcome its assistance. Unfortunately, the necessary support had not been forthcoming in many areas, and he expressed the hope that technical assistance would be provided in the follow-up to the High Commissioner's visit.

124. In response to the representative of the Netherlands, he pointed out that the International Independent Group of Eminent Persons had not yet resigned, and that the Government welcomed its assistance. He read out a letter from the Chairman of the Group to the President of Sri Lanka, which stated that the Group had met in November 2007 and, after careful deliberation, had decided that by the end of March 2008, after one year of work, it would be at the point of having achieved all that was possible within its mandate. The letter recalled that the Group had previously concluded that the structure and operations of the presidential Commission of Inquiry lacked transparency and fell short of international norms and standards, and had offered recommendations concerning factors undermining the independence of the Commission, shortcomings in investigation procedures, and the absence of effective witness protection. The members would conclude their mandate at the end of March 2008 and submit a final report to the President. The Government was not attempting to conceal any of the Group's criticisms, and it was clear that the Group was not resigning en masse out of frustration.

125. He acknowledged that there had been many civilian deaths, but pointed out that the vast majority had been due to terrorism, and in that respect urged caution when quoting statistics. The Government hoped to continue its dialogue with the Office of the High Commissioner with a view to strengthening national institutions.

126. Mr. FATHALLAH (Iraq), speaking in exercise of the right of reply, stressed that his Government was actively seeking to improve the human rights situation in Iraq. Indeed, the Minister for Human Rights had invited the High Commissioner to visit the country to assess the situation for herself. The Ministry for Human Rights, in cooperation with other ministries, was endeavouring to develop a culture of human rights in the country, particularly among law enforcement agencies. The Government aimed to sign the Convention against Torture in 2008 and the Special Rapporteur on torture would be invited to visit the country. Efforts were also under way to ratify the Conventions on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance. A draft law on the establishment of an independent commission on human rights was currently under consideration.

The meeting rose at 2.45 p.m.