



# General Assembly

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## Human Rights Council

### Fourth session

#### Summary record of the 25th meeting

Held at the Palais des Nations, Geneva, on Tuesday, 27 March 2007, at 12 noon

*President:* Mr. de Alba ..... (Mexico)  
*later:* Mr. Burayzat (Vice-President) ..... (Jordan)

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Implementation of General Assembly resolution 60/251 of 15 March 2006 entitled “Human Rights Council” (*continued*)

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*The meeting was called to order at 12.10 p.m.*

**Implementation of General Assembly resolution 60/251 of 15 March 2006 entitled  
“Human Rights Council” (continued)**

*Presentation of reports followed by an interactive dialogue (continued)*

*Report of the Special Rapporteur on freedom of religion or belief (A/HRC/4/21 and Add.1 to 3)*

1. **Ms. Jahangir** (Special Rapporteur on freedom of religion or belief), stressing the importance of preventive measures to promote religious tolerance, said that in the past year she had engaged in constructive dialogue with 34 Governments by sending communications and urgent appeals, some of which dealt with particularly alarming issues. State agents continued to torture individuals to force them to abandon their faith, and members of religious minorities accused of blasphemy were still held in places of detention where they feared for their safety, and their lawyers were threatened. Women suffered from the worst forms of humiliation committed in the name of religion, and were often forced to observe dress codes. Such measures would only be taken in exceptional circumstances, when necessary to protect public safety or fundamental rights and freedoms. In a number of countries, even where no specific legislation existed, women were turned away from educational institutions and jobs in both the private and public sectors for wearing a religious symbol.
2. In a number of countries, prison staff remained insensitive to the spiritual needs of prisoners or, worse, forced them to go against their beliefs. Religious books were disallowed, the dietary rules of prisoners' religions were ignored, and certain religious practices were disallowed. Prison staff should be sensitized to the need to respect prisoners' religious rights.
3. She was grateful to the Governments that had responded to her communications, which were listed in addendum 1 to her report.
4. Country visits were a fundamental part of her activities and allowed her to talk directly with Government and non-governmental representatives and to get first-hand information directly from the source. In 2006 she had visited Azerbaijan and Maldives (the reports of which were contained in documents A/HRC/4/21/Add.2 and Add.3, respectively) and planned to visit the United Kingdom of Great Britain and Northern Ireland in June 2007. She was also grateful to the Governments of Angola, India, Israel and Turkmenistan for inviting her to visit their countries to assess the situation for herself.
5. Azerbaijan, which she had visited from 26 February to 5 March 2006, was a country with a high level of religious tolerance and religious harmony. She was concerned, however, that in some cases the authorities might have blurred the thin line that distinguished facilitation from control of religious freedoms. Different aspects of that control had resulted in actual limitations of the collective right to freedom of religion or belief. She was particularly concerned that, out of fear, some religious communities had been reluctant to meet with her. She urged the Government to pay special attention to any form of intolerance towards religious minorities, to take the appropriate measures to address incitement to religious hatred and to strengthen the independence of the judiciary.
6. During her visit to Maldives from 6 to 9 August 2006, she had been pleased to see that national unity was highly prized in that country, but she was concerned that the concept of national unity appeared to have become inextricably linked to that of religious unity or even religious homogeneity. Maldivian citizenship was based on religious belief, and political rights were only guaranteed to Muslims. Non-Muslim foreign workers and

professionals — even diplomats — could not exercise their religious rights in public. She welcomed the fact that, subsequent to her visit, Maldives had acceded to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. She regretted, however, that the Government had entered a reservation to article 18 of the latter.

7. Together with Mr. Doudou Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, she had prepared a report on incitement to racial and religious hatred and the promotion of tolerance (A/HRC/2/3), in which they had recommended that the Human Rights Council should call upon Governments of Member States to express and demonstrate a firm political will and commitment to combating the rise of racial and religious intolerance.

8. She was currently preparing a new “framework for communications”, the first version of which had been annexed to her previous report. The framework would enable potential authors to submit more tailored communications.

9. There were several root causes of religious intolerance and they varied from one society to another. Political and religious leaders needed to react to intolerance in a balanced manner. It was essential to detect early signs of developments that might lead to religious persecution or intolerant behaviour and to respond appropriately, knowing that extreme measures only gave rise to further extremism.

*Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/HRC/4/27 and Add.1)*

10. **Mr. Ligabo** (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression) said that the exercise of the right to freedom of opinion and expression was a significant indicator of the level of protection and respect of all other human rights in a given society. While emphasizing how essential freedom of the media, and especially freedom of the press, was for the functioning of democracies, he regretted that new technologies were often used as tools for political propaganda and conduits for racial discrimination and hate speech. He was concerned for the safety of media professionals, 13 of whom had been killed since the beginning of 2007. He wished to pay tribute to journalists living in poor countries, working with minimal equipment for a token salary, and to those in war-torn areas who reported with great compassion and professionalism on the suffering of the most vulnerable groups of societies, including women, children, the elderly and the wounded. For those modern-day heroes, freedom of expression was an indispensable component of the promotion of all other human rights.

11. The only legal protection in place for journalists was Additional Protocol I to the Geneva Conventions of 1949, in which journalists were considered as comparable to civilians. That protection needed to be enlarged without delay to include all media professionals and reinforced by specific preventive measures and by the guarantee that the fight against impunity for perpetrators would be stepped up. The killing of media professionals should be covered by the international laws of war, with an emphasis on prevention. Media enterprises should ensure that their employees were properly covered by life insurance that provided financial compensation in case of injury or death. Governments, for their part, should take all necessary measures to protect journalists and provide an enabling environment for their activities and should carry out prompt investigations into killings of journalists and attacks on them, including in war and conflict zones.

12. He hoped that the proposal contained in his report for a United Nations voluntary fund on the safety of media professionals would be supported by Council members.

13. Censorship, another major obstacle to freedom of expression, was on the rise throughout the world, despite the adoption by a number of countries of legislation to decriminalize defamation. The right to question ideologies, political figures or any other social or economic actor was thoroughly legitimate and represented a significant part of the work of media professionals, opinion-makers and intellectuals. In particular, the exercise of freedom of speech should always be guaranteed for the examination of historical events. Regrettably, those who dared to express opinions different from those of the authorities were often treated like ordinary criminals and were subjected to heavy fines or even imprisonment for defamation.

14. Unlimited freedom of expression, usually invoked by influential media concentrations, often masked support for discriminatory policies. Stereotyping certain groups and insulting the deep-rooted religious feelings of members of certain ethnic groups jeopardized social and cultural balances. The exercise of the right to freedom of expression carried with it special duties and responsibilities and required good judgement, tolerance and a sense of responsibility.

15. The universal availability of modern communication tools, such as low-cost computers and mobile telephones, could improve the dissemination of education and knowledge, especially in less developed countries. In some countries, however, political repression was an obstacle to digital democracy, and public bodies tried to hide information from their citizens or distort that information. The indiscriminate use of confidential and secret clauses seriously undermined core democratic values such as citizens' right to information, transparency and democratic control of public affairs. Individuals should have the right to submit a complaint to an independent body when their right of access to information was violated. Finally, public authorities were responsible for protecting confidential information under their control; journalists should therefore not be held liable for publishing classified or confidential information when they had obtained it in a lawful way. Governments should, however, make sure that the right to privacy, especially in relation to family life and children, was sufficiently protected without curtailing the right of access to information.

*Report of the Chairperson-Rapporteur of the Working Group on Arbitrary Detention  
(A/HRC/4/40 and Add.1 to 5)*

16. **Ms. Zerrougui** (Chairperson-Rapporteur of the Working Group on Arbitrary Detention) said that in 2006 the Working Group had held three annual sessions and had made official visits to Ecuador, Honduras, Nicaragua and Turkey, bringing the total number of countries the Working Group had visited since its establishment to 21. The Working Group was the only non-treaty-based human rights mechanism whose mandate expressly provided for the consideration of individual complaints. In the year 2006, it had adopted 47 opinions concerning 23 countries and 99 individuals, addressing issues such as the applicability of international human rights law in international and non-international armed conflicts; detention in secret facilities of persons suspected of terrorist activities and their transfer from one country to another without any extradition proceedings; prolonged detention of foreigners pending expulsion; and the prevention of arbitrary detention in the context of international transfers of detainees, particularly in countering terrorism. While recognizing the need to strengthen cooperation among States in order to bring to justice perpetrators of terrorist attacks, their accomplices and financial supporters, the Working Group wished to stress two fundamental principles of international law, namely the preference for criminal justice as the proper venue for holding perpetrators of acts of terrorism accountable, and the principle of non-refoulement.

17. Several international conventions adopted under the auspices of the United Nations stipulated that terrorist suspects should be prosecuted or extradited to a State prepared to

prosecute them within the framework of international judicial assistance. The Working Group strongly believed that, under international law, neither prolonged administrative detention nor formless renditions provided a sound alternative for fighting international terrorism. Extradition and expulsion proceedings provided the individuals concerned with an opportunity to challenge their removal, which was essential to uphold the principle of non-refoulement enshrined in numerous international instruments.

18. The cases brought to the attention of the Working Group evidenced the need for Governments to take into account the risk of arbitrary detention when asked to extradite, deport, expel or otherwise hand over an individual to the authorities of another State.

19. The Working Group noted with concern that States increasingly sought guarantees that detention would continue in the country of destination, even in the absence of an adequate legal basis.

20. In its report, the Working Group made a number of recommendations to States, including recommendations to develop measures ensuring respect for the rights of detainees; to credit time spent in pretrial detention towards the sentence to be served; to release without delay detainees acquitted in their trial of first instance; to enact domestic legislation stipulating that the maximum duration of remand detention should never exceed the maximum sanction established for the offence the accused was charged with; and to put in place effective remedies to ensure compliance with limits on the duration of remand detention.

21. In the context of countering terrorism, Governments removing persons from their territory and placing them in the custody of another Government should offer sufficient safeguards against the risk of extrajudicial execution, torture or other cruel, inhuman or degrading treatment, arbitrary detention or denial of a fair trial. She strongly urged States not to engage in so-called renditions, which undermined such guarantees and opened the way to arbitrary detention.

22. During its country visits to Ecuador, Honduras, Nicaragua and Turkey, the Working Group had met with the relevant authorities responsible for the administration of justice, law enforcement and the implementation of migration laws, as well as with members of the legislature, bar associations and civil society organizations. It had been allowed to visit all the detention centres it had requested to see beforehand, including police holding cells, prisons, migrant holding facilities and psychiatric hospitals. It had also been able to freely and privately interview detainees of its own choosing.

23. With regard to Ecuador, the Working Group noted the efforts made by the Government to resolve the crisis in the judiciary of late 2004 and April 2005, observed that the Constitution and the Code of Criminal Procedure provided safeguards against arbitrary detention in full compliance with international standards, and welcomed the drafting and application of the new Code on Children and Adolescents and the operation of the Youth Guidance Centre in Quito. The Group also commended the authorities at the social rehabilitation centres for their flexibility in enabling detainees to have contact with their relatives.

24. The Working Group's main concern was the introduction of mandatory provisional detention (*detención en firme*) pursuant to the adoption in 2003 of an amendment to the Code of Criminal Procedure making remand detention of a suspect mandatory until the proceedings were completed, even if the constitutional limits on the duration of remand detention had been exceeded. The Working Group also regretted that the adversarial system introduced in 2001 had not yet been put into practice, there was no genuine system of legal assistance for indigent defendants, conditions of detention were deplorable and, except in Cuenca, habeas corpus and *amparo* offered little practical protection against arbitrary detention. Accordingly, the Working Group recommended that Ecuador should repeal

*detención en firme*, urgently establish a genuine system of public defenders, provide the judicial branch and the prison system with the funding required to ensure an appropriate administration of justice in the country, avoid detaining minors and immigrants at police stations, and expeditiously solve the problem of overcrowding in prisons and police cells.

25. With regard to Nicaragua, the Working Group noted that since the promulgation of the 1987 Constitution, Nicaragua had implemented wide-ranging changes to its legal system. Those changes included the adoption in 2001 of the Code of Criminal Procedure, which had made it possible to shorten the duration of criminal proceedings, reduce the number of detainees in pretrial custody, adopt new provisions on the detention of minors, implement programmes for the prevention of juvenile delinquency, and emphasize re-education and rehabilitation.

26. The Working Group observed, however, that the detention registers in police stations were not adequate and that non-compliance with the conditions and time limits for detention stipulated in the new Code of Criminal Procedure was increasing. The Working Group further expressed concern about the disproportionate severity of criminal penalties handed down for offences relating to the use and sale of narcotics and about the fact that a civil court judge could order the detention of a person for up to 1 year for failure to comply with the conditions of a loan agreement or a contractual obligation. Under international law, detention could not be imposed on the ground of failure to fulfil a contractual obligation. That law should therefore be removed from the statute books. The Working Group also recommended, as a matter of urgency, changes to the situation of detainees in Bluefields, on the Caribbean coast. Because the prison was full, some detainees remained for months or even years in police station holding cells in intolerable conditions.

27. With regard to its visit to Honduras, the Working Group observed that the legal and institutional framework governing deprivation of liberty had changed profoundly since the early 1990s. The entry into force of the new Code of Criminal Procedure in 2002 had significantly reduced the number of detainees held on remand, and a separate juvenile justice system had been established. Honduras even guaranteed the right not to be arbitrarily deprived of liberty.

28. The Working Group observed, however, several respects in which the reality did not live up to the high standards set out in the Constitution and the laws of Honduras. It emphasized in particular the ineffectiveness of the institutions mandated to monitor the legality of detention, the serious shortcomings in the system of public defenders, and the absence of real checks and balances on the powers of the police. The Working Group also expressed concern with regard to the members of the violent youth gangs known as *maras* and the 1,800 detainees in remand custody who were already being detained when the new Code of Criminal Procedure had entered into force and were currently still awaiting trial or had already been acquitted by a court of first instance.

29. The Working Group therefore recommended that the Government should strengthen controls over the legality of detention at all stages of the criminal justice process and should urgently address the situation of detainees held under the old Code of Criminal Procedure. It also recommended the establishment of a penitentiary system independent of the police and the strengthening of prevention, law enforcement and criminal justice in order to combat the phenomenon of the *maras*.

As far as Turkey was concerned, the Working Group observed that both the criminal justice system and the penitentiary system were well organized, well administered and well funded. Significant progress had been made since the reform of the law governing criminal detention in the 1990s, particularly in the fight against coerced confessions, the shortening of the duration of police custody, the introduction of limits on the duration of pretrial

detention, and the guarantee of the right of immediate access to a lawyer upon arrest. The Working Group also welcomed the reform of the juvenile justice system.

30. The Working Group expressed concern, however, about the prosecution, trial and detention of terrorist suspects. The definition of terrorism was overly broad, and the suspects' right of access to counsel was restricted. Of greatest concern was the situation of persons held in remand detention for several years without a trial. The Working Group also regretted the use of deprivation of liberty outside the criminal justice system, as in the case of migrants and rejected asylum-seekers pending expulsion. It noted weaknesses in the judicial control of deprivation of liberty in psychiatric hospitals. It therefore recommended amending the definition of terrorism, releasing detainees held on remand for more than 10 years without a trial, and rendering applicable to all pending proceedings the ban on statements obtained by the police from the accused in the absence of a lawyer. The Working Group further recommended fully implementing the recently enacted law on the juvenile justice system. As for detention outside the criminal justice system, the Working Group asked the Government to take legislative and administrative measures to ensure that detention was grounded in a sufficient legal framework and was subject to review by a judicial body.

31. **Mr. Amirbayov** (Azerbaijan) said that his country, with its long-standing tradition of tolerance, non-discrimination and peace, attached great importance to intercultural and inter-religious dialogue. Even though the population of Azerbaijan was predominantly Muslim, the country had always been committed to the principle of equality among its citizens, which explained how Muslims, Christians and Jews had been living side by side for many centuries in conditions of peace, tolerance and mutual respect. Government resources were used to repair Christian and Jewish places of worship, and in many cases the national authorities allocated lands for the construction of new places of worship. The Government was aware, however, that problems did exist. It accepted some of the concerns raised by the Special Rapporteur on freedom of religion or belief and attributed some of the acts reported mainly to a lack of professionalism on the part of some officials. Some other concerns, however, were based on inaccurate information provided by religious communities. The tension that had existed between the State Committee on Work with Religious Associations and the Caucasus Muslim Board was no longer relevant, since the two bodies had decided to conduct joint activities to further improve the religious situation in the country. The Government of Azerbaijan rejected the claim that it controlled the mass media. The national authorities could only intervene under certain circumstances, such as in cases where the media fuelled religious intolerance and radicalism.

32. Representatives of non-traditional religious communities had been systematically in breach of national legislation, when they should have been abiding by that legislation and rejecting all forms of intolerance, radicalism and extremism.

33. Registration of religious associations was necessary in order to constitute a legal entity, but it was not compulsory and was not a precondition for them to exercise their right to freedom of religion or belief. Of the approximately 1,300 religious communities operating in Azerbaijan, only 348 were registered. The authorities had taken appropriate measures to simplify the registration procedure and to make it more transparent.

34. The Government of Azerbaijan took careful note of the Special Rapporteur's recommendations and was committed to undertaking all necessary measures to address the gaps brought to its attention.

35. **Mr. Sobir** (Observer for Maldives) said that Ms. Jahangir's report gave a balanced assessment of freedom of religion in the Maldives and made a number of useful recommendations. The Maldives was currently embarking on a sweeping programme of constitutional, democratic and human rights reform. The Government was also aware of the

need for cooperation with the international community, which was why it had not only extended an open invitation to Ms. Jahangir and all other Human Rights Council special procedures mandate-holders to visit the country, but had also signed the International Covenant on Civil and Political Rights and its Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance. The Maldives had also cooperated with the Office of the United Nations High Commissioner for Human Rights to establish an independent national human rights commission in accordance with the Paris Principles.

36. The Maldives was a moderate and peaceful Islamic country with a proud Islamic heritage stretching back almost 900 years. The country had always attached great importance to maintaining national unity and harmony, and Islamic belief and identity had always played a crucial role in that respect. The current challenge facing his country was therefore to preserve its identity and unity while at the same time striving to conform to international standards and ensuring that its laws and practices did not discriminate against other religions. His Government welcomed the conclusions and recommendations contained in Ms. Jahangir's report and was committed to carefully examining them over the coming months.

37. *Mr. Burayzat (Jordan), Vice-Chairperson, took the Chair.*

38. **Mr. Santos** (Ecuador) thanked the Working Group on Arbitrary Detention for recognizing the efforts Ecuador had made to adopt international standards in its criminal justice system and ensure the protection of human rights within that framework. His country cooperated with all human rights bodies and mechanisms and encouraged them to visit the country. He had the honour to announce, on behalf of his delegation, that in 2006 the Constitutional Court of Ecuador had declared *detención en firme* unconstitutional, which was the Working Group's primary concern, so that practice was no longer in force.

39. His Government agreed with the Working Group on the importance of establishing, within the criminal justice system, extradition procedures that respected human rights and minimum standards for individuals deprived of their liberty, as well as the principle of non-refoulement. Particular attention should be paid to the international transfer of detainees in the context of counter-terrorism, which was characterized by numerous excesses and other violations of civil rights. He also agreed with the Working Group about the practice of asking countries of destination for diplomatic assurances, which was an infringement of defence rights.

40. **Ms. Maretín Gallegos** (Observer for Nicaragua) said that with the adoption of the Code of Criminal Procedure in 2001, both the length of proceedings and the number of detainees in pretrial custody had been reduced. Nicaragua was one of the few Latin American countries where the number of persons held in custody awaiting trial was considerably lower than the number of detainees serving sentences, and her Government had spared no effort to improve the situation of minors in detention. In an effort to strengthen the penitentiary system, her Government had launched projects to renovate detention centres and to provide vocational training for detainees, and in order to promote their social reintegration the Government had signed agreements with some universities that offered detainees the chance to continue their studies.

41. President Ortega's Government had allocated more resources to fight crime and violence and to implement human rights policies and programmes, including in-service training for members of the national police on current policing standards, respect for citizens' rights, and the need to ensure that all detention was carried out in application of a



court judgement. The national police had already given an order to carry out the Working Group's recommendation to improve registers of detainees held in police stations.

42. With regard to the Working Group's concern about the severity of criminal penalties handed down for offences relating to the use and sale of narcotics, her Government considered such crimes to be a threat to national security on the same level as arms trafficking, terrorism, money-laundering or trafficking in persons.

43. As for the issue of penalties imposed on individuals who failed to comply with the conditions of a loan agreement or a contractual obligation, article 41 of the Constitution stipulated that no one could be detained for debt.

44. In an effort to follow up on the Chairperson-Rapporteur's recommendation to build a new prison in the town of Bluefields and another in the Atlántico Norte autonomous region, her Government had approached donors to try to collect the necessary funds for the construction of the prison. Lastly, she wished to draw attention to the aid provided by Denmark and Japan for the creation of programmes and projects to promote and protect human rights.

45. **Ms. Prudott** (Observer for Honduras) said that despite a lack of resources, her Government was making efforts to set up a permanent framework to better enforce the law in practice. It had adopted two bills in February 2007, one on reforming the penitentiary system and the other on modernizing the police force. The former transferred management of the prison service to a penitentiary institute employing career staff and emphasized the rehabilitation and reintegration of detainees. The latter, which was currently before Congress, would reform the Police Act and strengthen the role of the Public Prosecutor's Office in monitoring the activities of law enforcement officers, with the primary objective of ensuring that their activities were in accordance with national and international human rights law.

46. The Government of Honduras was just as concerned about the situation in prisons as were human rights organizations and civil society. As part of the humanitarian cooperation efforts of the Organization of American States and the Government of Argentina, the "White Helmets Initiative" had been set up in Honduras to take a census of the various categories of detainees. Once the results were available, the penitentiary institute would be able to offer personalized treatment to each detainee.

47. In response to the Working Group's recommendations, an order had been issued to immediately free detainees who had been acquitted by the trial court, even if an appeal had been lodged. The legality of detention was being more closely monitored, in accordance with the Working Group's recommendation. At the time of the Working Group's visit to Honduras, there had been only two judges responsible for the execution of sentences in the country, and they had not been responsible for enforcing procedures initiated under past legislation. Currently there were five such judges, who were responsible for ensuring the legality of detention for two categories of detainees: individuals who had already been in remand custody when the new Code of Criminal Procedure had entered into force and youth members of the violent gangs known as *maras*. The system of public defenders had also been strengthened, and a national programme on prevention, rehabilitation and social reintegration for members of the *maras* and gangs had been set up with the help of a large number of civil society organizations that had received Government funds. Lastly, she agreed with the Working Group that the best way to combat an upsurge in crime was to take preventive measures and provide the security forces with adequate resources.

48. **Mr. Üzümcü** (Turkey) said he appreciated that the achievements made through the far-reaching reform process implemented in Turkey since 2001 had been acknowledged by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, including the shortening of the duration of police custody, the introduction of limits on the duration of

pretrial detention, the fight against coerced confessions, the right of immediate access to a lawyer upon arrest, and the reform of the juvenile justice system. The new Code of Criminal Procedure that had entered into force in 2005 had strengthened defence rights.

49. Regarding the Working Group's concern about the restriction on access to a lawyer for terrorist suspects, he explained that it was an exceptional precautionary measure taken by the court and that such a court order was subject to appeal.

50. Concerning the length of remand detention, he said that the interpretation of article 102 of the Code of Criminal Procedure provided in the report was correct. The article stated that the maximum duration of such detention for serious offences was 2 years, which could be extended to 3 under compelling circumstances. From 1 April 2008, those periods would be doubled for terrorist crimes, bringing the maximum duration of remand detention in cases involving terrorist crimes to 6 years.

51. With regard to the legal framework for the residence of foreigners awaiting deportation, that issue had been included in the National Action Plan on Asylum and Migration adopted in 2005, and measures were currently under consideration to rectify the situation. The recommendations of the Working Group on that matter would be taken into account.

52. With regard to shortcomings in the procedural safeguards for patients placed in psychiatric hospitals, the patient's procedural rights and the judicial control over their situation were provided for in the Turkish Civil Code. Article 433 of the Code stated that the authority to place or hold a person in a psychiatric hospital or to release a patient from such an institution rested with the competent justice of the peace. The patient had the right to appeal the decision of the justice of the peace to a higher court.

53. **Mr. Isbayene** (Morocco), responding to the conclusions of the Working Group on Arbitrary Detention, said that his Government wished to improve detention conditions and provide social services for detainees to facilitate their reintegration, thereby complying with current international norms in that regard. The new law on the penitentiary system was aimed at improving detention conditions, protecting the dignity of detainees and providing them with health services and training courses, as well as sport and recreation activities. Detainees could also be visited by their lawyers, members of their families and representatives of civil society.

54. Prison staff received human rights training, and measures were taken to prohibit torture in prisons. Detainees could file a complaint if their rights were violated; in 2006, 4 of the 11 civil servants accused of assaulting prisoners had been convicted, and disciplinary action had been taken against 5 of them.

55. In reference to the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, he agreed that it was important to guarantee the rights of journalists and to ensure that they could work in safety, but at the same time journalists should encourage constructive dialogue among the various members of society rather than inciting intolerance.

56. **Mr. Reyes** (Cuba) said that it was essential that the Government of the United States of America should follow up on Opinion No. 19/2005 of the Working Group on Arbitrary Detention, issued on 25 May 2005, in which the Working Group had concluded that the deprivation of liberty of five young antiterrorist Cuban heroes within the territory of the United States of America was arbitrary. The wives of two of the detainees had been systematically denied the exercise of their right to visit their husbands. On 9 August 2005, a three-judge panel with the Federal Appeals Court in Atlanta had unanimously recognized the right of those five young men to a fair trial; that decision had been overturned a year later on 9 August 2006 and an unjust sentence had then been handed down by the same

court. He asked the Working Group on Arbitrary Detention to re-examine the case of those individuals arbitrarily detained in the United States of America.

57. **Mr. do Nascimento** (Observer for Angola) said that he wished to clarify some facts regarding the registration of religious entities in Angola, as mentioned in the report of the Special Rapporteur on freedom of religion or belief. Angola was a country of tolerance where freedom of religion or belief was guaranteed by the State, and no one could be discriminated against on the ground of their religion or belief. The requirements for obtaining legal status did not apply to just one specific religious entity as indicated in the report: the 20 officially recognized religious communities had all been subject to the same registration procedures and requirements. While the Muslim community had not yet obtained legal status, its members could freely and openly exercise their religion. Places of worship were also subject to a number of requirements under the relevant law, and all those that had been built illegally, such as the six mosques mentioned in the report, must be shut down. He reiterated the invitation extended to the Special Rapporteur to visit the country.

58. **Mr. Hayee** (Pakistan), speaking on behalf of the Organization of the Islamic Conference, said that that organization believed in the supremacy of the right to freedom of opinion and expression, though that right was not absolute and did not preclude the protection of people from racist and xenophobic language. By virtue of article 19, paragraph 3, of the International Covenant on Civil and Political Rights, the exercise of that right carried with it certain responsibilities and was subject to certain restrictions. Referring to paragraph 45 of the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/HRC/4/27), which said that polarization based on distorted arguments could spread ethnic and religious hatred, thus endangering delicate social and cultural balances, he indicated that the Organization of the Islamic Conference continued to make efforts at all levels to ensure that the exercise of the right to freedom of expression was not limited for political reasons.

59. Independent media authorities and media associations should be vigilant about the use of forms of expression characterized by defamation of religions and discriminatory connotations of ethnic and vulnerable groups, which were unworthy of their profession and ultimately jeopardized the integrity of the media. The Organization of the Islamic Conference was in favour of systematically organizing human rights training for members of media associations in order to enhance professional ethics, and encouraged the Special Rapporteur to draw up guidelines to help the media prepare a code of ethics so they could better enjoy the right to freedom of expression and opinion.

60. **Mr. Qerimaj** (Observer for Albania) said that moderation and religious and cultural tolerance were among the values cherished in Albanian society and that affiliation with one of the monotheistic religions practised in the country had never resulted in any form of discrimination, discord or conflict within society. He asked the Special Rapporteur on freedom of religion or belief under what circumstances the “unlawful conversions” mentioned in her report were carried out and whether it was possible to prohibit such practices.

61. Referring to paragraph 36 of the report, which said that denying girls and women the right to wear religious symbols when they freely chose to do so might pose a problem in terms of international human rights law, as did the forcible imposition of religious dress codes, he wished to know whether the Special Rapporteur was aware of any cases where wearing symbols in public institutions or private secular institutions such as schools had been authorized.

62. **Mr. Schmidt** (United Nations Educational, Scientific and Cultural Organization (UNESCO)) said that UNESCO was constantly striving to improve press freedom and its corollary, freedom of expression, which were central to building strong democracies.

Freedom of expression was not the monopoly of one geographic region, one culture or one civilization, and was not a luxury confined to the developed world; on the contrary, it was just as important for developing countries. No society could achieve stability or prosperity without access to information.

63. Referring to Mr. Ligabo's report, he said that violence against media professionals was the ultimate threat to freedom of expression. As many as 75 journalists and 32 media staff had been killed in 2006, and more than 500 journalists had been killed in the past decade, often for simply doing their jobs, yet few of their killers were ever brought to justice. In order to shed more light on that situation, UNESCO would focus its celebration of World Press Freedom Day, which would take place in Medellín, Colombia, on 3 May 2007, on the safety of journalists and on the impunity that still ruled in that area.

64. **Mr. Singh** (India), noting that his country was privileged to be home to almost all religions of the world, said that respect for religions came only with genuine respect for democracy, tolerance and pluralism. India was a secular State that had no official religion, but the Constitution guaranteed a person's freedom of religion, ensured freedom for those who professed to have no religion, and prohibited any discrimination on the ground of religion. Every religious denomination had the right to establish and maintain institutions for religious, educational and charitable purposes. In order to guarantee secularism, no religious instruction could be imparted in any State educational institution, and no individual could be compelled to take part in any religious instruction without his or her consent.

65. **Ms. Khvan** (Russian Federation), referring to Ms. Jahangir's report, asked what the responsibility of non-State actors was in cases of human rights violations, especially infringements of the freedom of religion or belief and manifestations of intolerance. She asked whether the Special Rapporteur on freedom of religion or belief planned to look into the issue of sectarian organizations that used religious rhetoric to pursue extremist activities, and whether the Human Rights Committee planned to adopt complementary standards on the relationship between freedom of expression, freedom of religion and non-discrimination, including by drafting a general comment on article 20 of the International Covenant on Civil and Political Rights.

66. Turning to Mr. Ligabo's report, and to the issue of the Danish cartoons in particular, she stressed the importance of exercising the right to freedom of expression within the limits prescribed by article 19 of the Covenant, without impeding the exercise of other rights. She asked what measures the Special Rapporteur believed should be taken against individuals who published biased information.

67. **Ms. Mudie** (Australia), speaking on behalf of Canada, Australia and New Zealand, said that the Governments of those three countries attached great importance to the right to freedom of thought, conscience and religion, as well as respect for cultural, ethnic and religious differences. That was why the three States had co-sponsored resolutions of the United Nations General Assembly and the former Commission on Human Rights calling on States to take all necessary action to combat hatred, intolerance or acts of violence, intimidation or coercion based on religion or belief. They were also actively engaged in the promotion of religious tolerance and the establishment of interfaith dialogue in the Asia-Pacific Region, as exemplified by the many forums organized on that subject at the regional level. Faith and community leaders had a key role to play in denying extremists any religious or moral legitimacy and in building trust between communities.

68. Human rights education was a priority for the Governments of Canada, Australia and New Zealand, because they considered it to be the most lasting and effective way to prevent all forms of discrimination and promote religious tolerance. The national human

rights institutions in the three countries were very active in human rights education and awareness-raising, including in relation to religious intolerance.

69. In light of the reports of ill-treatment of persons belonging to minorities around the world, she asked how the Special Rapporteur thought interfaith dialogue could help promote religious tolerance and understanding. She also wished to hear the Special Rapporteur's views on how to ensure that the voices of women, who often suffered from aggravated discrimination, were heard in those dialogues.

70. **Mr. Berg** (Germany), speaking on behalf of the European Union, reaffirmed the European Union's attachment to freedom of religion or belief. Referring to paragraph 9 of Ms. Jahangir's report, he asked which regions had shown a positive trend in the amount of information received in response to the communications sent to 34 countries, and whether the Governments concerned had also reacted more positively to the Special Rapporteur's requests. Noting that, by nature, the violations of the right to freedom of religion or belief reported in those communications were often accompanied by human rights violations, and even in certain cases by acts of torture or the death of a detainee, he asked whether the Special Rapporteur planned to visit Eritrea, the Democratic People's Republic of Korea or Uzbekistan. Lastly, he would be interested to hear the Special Rapporteur's views on how the Council could depoliticize issues relating to religion or belief.

71. Turning to Mr. Ligabo's report, he asked for further information on the Special Rapporteur's specific plans regarding the study to be conducted on the security and protection of journalists and other media professionals. Referring to paragraph 40 of the Special Rapporteur's report, which stated that limitations had been imposed on freedom of expression on the Internet, he requested further information on the nature of those limitations and asked whether they were on the rise. He also wondered when the Special Rapporteur planned to visit Zimbabwe and what the Special Rapporteur thought about the situation in Belarus and about how the right to freedom of expression was respected in that country, in the light of the events of 25 March 2007 in Minsk.

72. With regard to Ms. Zerrougui's report, he said he wished to know whether the Chairperson-Rapporteur of the Working Group on Arbitrary Detention had consulted other special rapporteurs in her examination of arbitrary detentions linked to the fight against terrorism. He asked whether the number of arbitrary detentions involving international transfers was on the rise and, if so, why. He wondered what measures the Special Rapporteur would suggest to safeguard international obligations in international transfers of detainees and what best practices she would recommend for States that did not allocate sufficient resources to the prison service and legal aid.

73. **Mr. Taranda** (Observer for Belarus) said that he was pleased with the cooperation with the Working Group on Arbitrary Detention, which had visited Belarus. New provisions adopted in 2007 guaranteed the independence of judges, while the new Code of Criminal Procedure enshrined the principle of presumption of innocence and due process of law. As part of the programme to improve the penitentiary system, new detention centres and custody cells had been built to prevent prison overcrowding and improve living conditions for detainees. His Government planned to establish juvenile courts and to allow civil society to monitor living conditions in prisons, and would continue to cooperate with the Working Group.

74. **Ms. Tomashvili** (Georgia) pointed out that Mr. Hussain, the former Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, had stated in his 2001 report (E/CN.4/2001/64) that an increasing number of actions by non-State individuals and entities was having a marked and severely negative impact on the enjoyment of rights relevant to the Special Rapporteur's mandate and that there were circumstances in which the Government did not have effective control of

territory within its own boundaries. In that respect, the Government of Georgia had serious concerns about the breakaway regions of Abkhazia, Georgia, and South Ossetia, Georgia, where it did not exercise effective control. She once again brought to the attention of the international community the issue of the three individuals who had been detained by the de facto Abkhaz authorities for peacefully expressing their opinion on the so-called parliamentary elections, and called on the Special Rapporteur to look into that issue.

75. **Ms. Levasseur** (Canada), speaking on behalf of Canada, Australia and New Zealand, said that, like the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, she deplored the worrying number of journalists and media professionals killed in 2006, not to mention those who were arbitrarily detained, harassed or threatened or who had disappeared. She also deplored the fact that impunity continued to be the norm and that such crimes served to silence persons who tried to investigate crimes and acts of corruption or to disseminate the views of the political opposition. In other words, journalists were paying the price for the lack of transparency and justice in society.

76. She welcomed the joint initiative by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and his counterparts in the Organization of American States, the Organization for Security and Cooperation in Europe and the African Commission on Human and Peoples' Rights, all of whom had stressed the central role played by the press in the development of democracy and human rights throughout the world. She asked what projects were planned as part of that cooperation and what type of joint action could be taken in the future.

77. **Ms. Volken** (Switzerland), noting that in some countries citizens were required to indicate on their identity cards which official religion they belonged to even if they were non-believers or belonged to a minority religion, asked what steps the Special Rapporteur on freedom of religion or belief planned to take to ensure that the rights of religious minorities or non-believers were better protected.

78. **Mr. Siahaan** (Indonesia), referring to the report of the Special Rapporteur on freedom of religion or belief, said that his Government viewed freedom of religion or belief as a non-derogable right and one which fell within the responsibility of the Government to protect. His Government was committed to promoting inclusive interfaith dialogue with various stakeholders at the national, interregional and global levels and questioned whether antiterrorism policies could override the sanctity of a religion. The rights to freedom of religion or belief and to freedom of opinion and expression were interlinked and interdependent and it was therefore important to ensure a balance in the respect of those rights. In order to promote tolerance, the root causes of intolerance and discrimination must be addressed through awareness-raising activities and constructive dialogue with the various stakeholders.

79. **Mr. Rahman** (Bangladesh) said that discrimination on the ground of religion or belief constituted an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and that his Government was concerned at the increase in instances of intolerance and discrimination on that ground. Violence, intimidation and coercion motivated by religious intolerance occurred in many parts of the world and threatened the enjoyment of human rights and fundamental freedoms. Places of worship were often desecrated and should be protected.

80. Throughout the world there was a growing tendency to violate freedom of religion or belief through statements made in the name of freedom of expression. In recent years there had been a media campaign of Islamophobia on an international scale, which was not helpful in creating an environment of understanding, tolerance and mutual respect. Efforts must be made to combat religious stereotypes in the media and on the Internet.

81. Many countries resorted to measures that undermined respect for fundamental human rights, including freedom of religion. Certain groups and communities were subjected to systematic suspicion or blacklisting, which was contrary to the principle of non-discrimination. Migrants and refugees of a particular faith were often victims of such discrimination. Dialogue among civilizations, cultures and religions was essential to enjoying freedom of religion or belief.

82. **Ms. De Pirro** (Observer for the United States of America) said that her delegation agreed with the comments of the Working Group on Arbitrary Detention on the need for international cooperation to combat terrorism and on diplomatic assurances. However, her Government firmly disagreed with the suggestion that persons held at Guantanamo Bay were being detained arbitrarily or unlawfully. That said, her Government wished to move towards closing the facility at Guantanamo Bay and was counting on States of the international community to assist by accepting back their nationals, and on occasion third-country nationals, who were eligible for transfer or release.

83. Her Government was of the view that renditions were an established way for States to ensure that dangerous terrorists did not remain at large, on condition that those States were certain that returnees would not be subjected to torture.

84. Noting the growing trend of discrimination against religious minorities and new religious movements, she wished to know whether, in Ms. Jahangir's view, the promulgation of blasphemy law ran counter to religious freedom.

85. She opposed the efforts of non-democratic Governments to restrict the rights of their citizens to participate in the online exchange of information, ideas and ideals, and asked how, in Mr. Ligabo's view, the Council could help prevent threats to freedom of expression on the Internet.

86. **Mr. Saidov** (Observer for Uzbekistan) said that while 80 per cent of the population of Uzbekistan was Muslim, 16 religious communities coexisted in the country, where there was a high level of religious tolerance and harmony. There were currently more than 2,000 religious organizations in the country, compared to 200 just 10 years earlier. Discrimination on the ground of wearing religious symbols and the dissemination of hate speech were prohibited by law.

87. His Government had cooperated closely with the Working Group on Arbitrary Detention and had provided it with factual information on the Uzbek nationals mentioned in the Chairperson-Rapporteur's report dated 9 January 2007 (A/HRC/4/40). Lastly, as part of the modernization of the justice system, his Government had introduced habeas corpus into domestic law.

88. **Ms. de Groot** (Netherlands) asked which national measures to combat terrorism had been, in the view of the Special Rapporteur on freedom of religion or belief, particularly harmful to the exercise of freedom of religion or belief throughout the world. She also asked how the Special Rapporteur interpreted "the scope of application for freedom of religion or belief in a large sense", as mentioned in paragraph 54 of her report. Lastly, she asked whether the situation of Baha'is in Iran had worsened since the previous year and whether monitoring of them had intensified along with the persecution they suffered.

89. Recalling her Government's concern about Internet censorship and the records kept on Internet users in some countries such as China and Viet Nam, she asked if the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression believed that keeping records on Internet users constituted a violation of the right to freedom of opinion and expression and, if so, to what extent. Lastly, noting the upsurge in violence against media professionals in 2006, she asked what role the international community could play in combating that type of violence.

90. **Mr. Douale** (Djibouti), said that the persecution and killing of journalists and media professionals should be a major concern for the Council. He approved of Mr. Ligabo's proposal to pay special attention to the safety and protection of journalists, particularly in armed conflicts, and to conduct a study on the causes of violence against media professionals. In view of the worrying growth of what he called "anti-freedom excesses", such as incitement to hatred, religious intolerance and discrimination, he stressed that everyone needed to show discernment, tolerance and a sense of responsibility in exercising the right to freedom of expression. Given that the Internet made possible the anarchic dissemination of ideas and opinions that encouraged polarization and conflicts as much as the spread of democracy, he asked what the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression saw as the obstacles to the creation of an international organization that would govern the Internet with a firm human rights approach.

91. **Ms. Stiborova** (Czech Republic) said she would appreciate it if Mr. Ligabo would describe the new norms that would "pursue the same goals as defamation laws under a different legal terminology", as mentioned in paragraph 82 of his report. Noting Mr. Ligabo's proposal to establish an independent authority on communications and a media ombudsperson, which could, respectively, be entrusted with "the implementation of relevant laws and regulations and with a mediator's functions with regard to media offences without recurring to criminal law", she wished to know what role legal institutions would play within that framework. She would like the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to address in his next report the issue of violations of the right to freedom of expression on the grounds of sexual orientation and sexual identity.

92. **Ms. Elamin** (Sudan) said that freedom of opinion and expression was not incompatible with freedom of religion or belief, except in cases of excess, as had been the case with the cartoons of the Prophet published in a Danish newspaper that had created a wave of anger in the Muslim world. The defamation of religion was a sign of intolerance and rejection of the "other"; such defamation was contrary to the universal nature of fundamental rights and constituted a threat to international peace and security.

93. The Interim Constitution of 2005 adopted upon the signing of the peace agreement guaranteed freedom of expression and opinion within the multicultural society of the Sudan. The only incident known to have affected the Sudanese press was the murder of a journalist, and the alleged offenders were currently facing criminal prosecution.

94. **Mr. Kim** Pil-woo (Republic of Korea) said that the principles of freedom of religion and freedom of expression were not in the least contradictory and that the exercise of freedom of expression demanded rationality and a sense of responsibility. His delegation shared the view held by Mr. Ligabo on the need for an international organization on Internet governance that would govern the Internet with a firm human rights approach and narrow the digital divide. In that regard, his delegation believed that the Human Rights Council should closely follow the international debates on Internet governance currently under way within or outside the United Nations and, if necessary, should make the Council's voice heard.

95. **Ms. Sagretti** (Italy) said that the issue of dialogue among religions and cultures was particularly important and should be dealt with in an atmosphere of openness and mutual respect. That was why her Government had welcomed the idea of starting a high-level dialogue within the Council on those themes, using the format of round tables. Although that idea had not yet been put into practice, she hoped that a dialogue on issues related to religious freedom and cultural identity would be kept on the Council's agenda.



96. **Ms. Pictet-Althann** (Sovereign Military Order of Malta) said that the interrelation and complementary relationship between freedom of religion or belief and freedom of opinion and expression had already been examined during the second session of the Council, at which the Council had been called on to study the interpretation of article 20 of the International Covenant on Civil and Political Rights. She wished to know what steps had been taken in that respect.

97. **Mr. Keisalo** (Finland) asked if the Special Rapporteur on freedom of religion or belief, in carrying out her mandate, had heard of any measures that could serve as an example for national strategies to prevent and eliminate practices that were harmful to women and girls. He asked if Mr. Ligabo could provide an assessment of the obstacles to empowering women and narrowing the digital gap. Noting with concern that only 54 responses had been received to the 156 urgent appeals issued by the Working Group on Arbitrary Detention, he asked how, in Ms. Zerrougui's view, the Human Rights Council could ensure that the Governments concerned acted more promptly when urgent appeals were issued.

98. **Mr. Keo Pheak Kdey** (Observer for Cambodia) said that the information on which the Working Group on Arbitrary Detention had based its Opinion No. 39/2005 (A/HRC/4/40/Add.1) had been incomplete. Mr. Channy Cheam had committed acts that no Government in the world would tolerate: he had organized illegal armed forces against the Government, contravening Cambodian law and threatening national security. On 9 August 2005, a military court had sentenced Mr. Channy Cheam to 7 years' imprisonment, but he had been acquitted at the beginning of 2006. The case was thus no longer relevant.

99. **Mr. Apitonian** (Observer for Armenia) said that the monuments referred to in paragraphs 71 and 72 of the report of the Special Rapporteur on freedom of religion or belief on her mission to Azerbaijan (A/HRC/4/21/Add.2) were tombstones dating from the Middle Ages in a Christian Armenian cemetery in Djulfa, in southern Nakhichevan. They had been deliberately destroyed by the Azerbaijani army since 2001, even though there was nothing in that area to justify military intervention. Those actions were therefore acts of vandalism motivated by intolerance and hatred and had caused irreparable damage to the world cultural heritage and the heritage of Christian civilization. He regretted that no follow-up had been given to the concerns communicated to the Azerbaijani authorities on the issue by Mr. Amor, former Special Rapporteur on freedom of religion or belief. He encouraged Ms. Jahangir to re-examine the issue.

100. **Ms. Mudie** (Australia), referring to the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, said that she was deeply concerned by the treatment of civil society and the press in Zimbabwe, and by the draconian Public Order and Security Act used by the Mugabe regime to silence dissent. She was also concerned by the current situation in Sri Lanka, where the Government continued to extend state-of-emergency regulations, which impacted the legitimate activities of the press and civil society. She was also concerned by the situation in Fiji, where pro-democracy dissent had been forced underground following the military coup in December 2006, the media engaged in self-censorship, and pro-democracy activists, lawyers and journalists suffered intimidation.

101. Given the above, her Government called on all States parties to the International Covenant on Civil and Political Rights, including Zimbabwe and Sri Lanka, to meet their international obligations under the Covenant, and called on countries that had not yet acceded to the Covenant, such as Fiji, to do so. She also urged all countries to abstain from the use of force or intimidation, to ensure that the media and civil society were able to operate effectively, free from unwarranted interference, and to protect the right of individuals to freedom of opinion and expression.

102. **Mr. Jolle** (Observer for Norway) asked whether any progress had been made regarding Mr. Ligabo's recommendation that all States should guarantee freedom of opinion and expression on the Internet by extending to website creators and bloggers the same legal protection as to media professionals.

103. He wished to know what response had been given to the recommendation of the Working Group on Arbitrary Detention to study the recent growth in prison populations with a view to better respecting the rights of detainees. Perhaps Ms. Zerrougui could indicate whether States had responded to the Working Group's call to join political and technical efforts in order to ensure and guarantee the basic needs and rights of people in detention, and if so, what progress had been made.

*The meeting rose at 3.10 p.m.*