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HUMAN RIGHTS COUNCIL

Sixth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 19 September 2007, at 10 a.m.

President: Mr. COSTEA (Romania)

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The meeting was called to order at 10.20 a.m.

HUMAN RIGHTS BODIES AND MECHANISMS (agenda item 5) (A/HRC/6/9, A/HRC/6/NGO/2 and A/HRC/6/NGO/6)

UNIVERSAL PERIODIC REVIEW (agenda item 6) (A/HRC/6/NGO/23 and A/HRC/6/NGO/38) (continued)

General debate

1. Ms. VALENTE (Observer for Portugal), speaking on behalf of the European Union, the candidate countries Croatia, The former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process and potential candidate countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; the European Free Trade Association country member of the European Economic Area, Liechtenstein; and, in addition, Armenia, Georgia, Moldova and Ukraine, said that the Council's institution-building exercise had been accomplished through mutual concessions and in a spirit of cross-regional dialogue. However, a number of challenges remained. A key part of the sixth session was being dedicated to pending institution-building issues and to ensuring the effectiveness of the Council's mechanisms and instruments. The European Union believed that it was time for the Council to turn its attention to the implementation of the institution-building package.
2. The technical and objective requirements for the submission of candidatures to the Advisory Committee must ensure that candidates were truly independent. Independence and impartiality could be ensured by the application of the exclusion criteria provided for in Council resolution 5/1. Criteria on the recognized competence of candidates should be further refined by requirements relating to academic qualifications and/or professional experience, personal availability and a general knowledge of the United Nations system and human rights issues.
3. The criteria for special procedure mandate-holders would be useful only if a public list of independent, human-rights-oriented and highly qualified experts was drawn up. In that regard, it was important for the Council to take a decision on that matter in the first part of its sixth session so that the public list could be prepared by the end of 2007. When refining the criteria of "recognized competence and experience in the field of human rights", the Council should have objective requirements that genuinely guaranteed that eligible candidates were highly qualified experts.
4. It was important to avoid any gap when setting up the Working Group on Communications in order to ensure that victims' communications were handled in an effective and timely manner by a victim-oriented complaints mechanism.
5. Ms. TOMIČ (Slovenia) said that, since objective and reliable information would be the cornerstone of all the work under the universal periodic review mechanism, it was important to develop guidelines that respected the principles agreed in the institution-building text. The universal periodic review would demand concrete, substantiated and updated information that would give a meaningful purpose to the exercise and an overview of the human rights situation in the country under review. For example, any information on domestic legislation provided by States under review should always be complemented by information on its implementation, thus

allowing the Council to assess the legislation's true impact. It was also important to have information on States' cooperation with regional and international human rights' protection and promotion frameworks. The universal periodic review should identify the achievements and best practices of, and the main challenges faced by, the country under review.

6. The Council should take a decision on the guidelines in the first part of its sixth session in order to enable the working group on the universal periodic review to hold its first session as soon as possible. While States would need adequate time to prepare for the review, her delegation believed that the Council had a responsibility towards the international community to show timely results of its work. She welcomed the fact that some countries had volunteered for the first universal periodic review exercise.

7. The effectiveness and success of the universal periodic review would be measured by the Council in the follow-ups to the reviews and, first and foremost, by the people of each reviewed country who relied on the United Nations to initiate concrete improvements on the ground.

8. Mr. SHALABY (Egypt), speaking on behalf of the Group of African States, said that the success of the Council would to a large degree depend on the success of the universal periodic review. That process should therefore remain intergovernmental in nature and not duplicate other human rights mechanisms, particularly the work of the treaty bodies. The review exercise should be a cooperative process in which the international community ensured that the needs of individual member States for capacity-building and technical and financial support were met. The overriding objective was to ensure the universality of the principles governing the review process, and that all rights in all countries were examined without any double standard or selectivity.

9. The first session of the working group on the universal periodic review should be held after the Council's March 2008 session. Member States, particularly those countries that would be the first to come under review, must have enough time to prepare and engage in the broad consultation process needed to prepare their national report. He looked forward to the selection of countries to be reviewed in the first four-year cycle since the completion of the list of countries to be reviewed would give countries sufficient time to prepare.

10. When assembling the various summaries and compilations related to the universal periodic review, the Office of the United Nations High Commissioner for Human Rights (OHCHR) should abide by the structure and guidelines adopted by the Council. The Office should provide member States with a road map to assist them in their national efforts to prepare for the review, preferably as soon as the Council finalized its list of the countries to be reviewed in 2008. Since developing countries in general, and the least developed countries in particular, faced institutional constraints to preparing a multitude of national reports for treaty bodies, OHCHR should assist them in that process. The additional resources allocated to the Office would provide it with the flexibility to undertake such assistance.

11. He requested clarification on the status of the two funds to be set up for facilitating States' participation in the universal periodic review and for technical cooperation and assistance for implementing the recommendations resulting from the universal periodic review.

12. He looked forward to transparent and inclusive consultations on the most appropriate mechanism to continue the work of the former working groups of the Sub-Commission on the Promotion and Protection of Human Rights. In particular, the Social Forum should continue in one form or another, as it had undertaken important issues and themes for the developing countries, including the African countries.

13. Mr. NWOBU (Nigeria) said that there should be a clear road map for each stage of implementation of the universal periodic review mechanism. The review process should begin no earlier than March 2008. The funding mechanism for developing countries must be created before the review process began. If that was not possible, the Council must come up with transitional funding arrangements.

14. Ms. BLAZSEK (Observer for Hungary) welcomed the proposal to establish a special rapporteur on contemporary forms of slavery. She fully supported Austria's proposal to establish a new forum on minority issues. The former Working Group on Minorities had raised the standard of debate on the issue and had enabled NGOs to engage in dialogue with their Governments at the national level. It was important to continue the Working Group's practice of permitting the participation of civil society organizations without formal consultative status. Legitimate concerns regarding some of those organizations should not impede the participation of other well-meaning NGOs.

15. Mr. Ó CEALLAIGH (Observer for Ireland) said that, even as the world observed the two-hundredth anniversary of the abolition of the transatlantic slave trade, slavery and slavery-like practices persisted: more than 12 million people continued to be subjected to contemporary forms of slavery around the world. There was a real need for the United Nations human rights system to focus its attention on that issue. The appointment of a special rapporteur on contemporary forms of slavery with a mandate that would succeed that of the Working Group on Contemporary Forms of Slavery, would be an appropriate means of demonstrating the Council's determination to combat that scourge. The new special rapporteur should cooperate fully with the existing human rights mechanisms in order to avoid duplication, and should take a proactive role in promoting the effective implementation of the relevant international norms and standards.

16. Mr. METSO (Observer for Finland) said that his delegation welcomed Austria's initiative to create a forum on minority issues. The main advantages of such a forum would be broad-based participation, synergies with existing mechanisms, and flexibility of structure. Of particular importance were the synergies with the Independent Expert on Minority Issues, since the two mechanisms, although quite different, would complement one another.

17. Mr. MULUGETA ABEBE (Observer for Ethiopia) said that his delegation welcomed the Council's readiness to begin the universal periodic review as expeditiously as possible and was heartened by the High Commissioner's undertaking to support delegations where necessary until an appropriate trust fund became available. It would, however, be up to the Council to determine how such alternative support should be used.

18. One aspect of the review that remained unclear concerned the compilation to be prepared by OHCHR, containing information from a range of sources in a document of a maximum

of 10 pages. He suggested that OHCHR should undertake a simulation of that exercise and invite States to comment. It would also be necessary to consider how the troika of rapporteurs would work in practice.

19. Mr. UZUNOVSKI (Observer for The former Yugoslav Republic of Macedonia) said that a forum on minority issues, as proposed by Austria, would be an innovative way of promoting and protecting rights of minorities and would provide the Council with an opportunity for more intensive cooperation with the Independent Expert on Minority Issues. It would also help to strengthen the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

20. Mr. MAŽEIKS (Observer for Latvia), speaking on behalf of Canada, Croatia, Ecuador, Guatemala, Iceland, Liechtenstein, the Maldives, New Zealand, Norway, Paraguay, Serbia, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine and the States members of the European Union, said that countries could show their willingness to cooperate fully with special procedures by extending standing invitations to all such procedures. However, the number of countries that had extended such invitations had been growing too slowly, and he proposed that the Council should endeavour to universalize standing invitations. To that end, candidate States for the Council should be encouraged to extend standing invitations as part of their overall commitment, and current members of the Council that had not extended standing invitations should be encouraged to do so. In addition, OHCHR and other bodies could be invited to disseminate information on best practices in cooperating with special procedures. OHCHR could display the list of countries that had issued standing invitations more prominently on its website.

21. Ms. DUONG (Observer for Switzerland) said that convincing results in the universal periodic review could be obtained only if the process was implemented without delay. The first reviews should therefore be planned for spring 2008, and Switzerland wished to volunteer for the first round.

22. Her delegation supported the proposal to establish a forum on minority issues, since it was essential to have a platform that allowed minorities to play an active part in the United Nations system of promotion and protection of human rights. Switzerland was in favour of the proposal to transform the Working Group on Contemporary Forms of Slavery into a special procedure.

23. Mr. SIDOTI (International Service for Human Rights) said that the proposed criteria for membership of the Human Rights Council's Advisory Committee and for mandate-holders were so low that millions of people would be eligible to serve in those capacities. Concern had been expressed that the criteria originally proposed would exclude candidates from developing countries. Such criteria would also exclude candidates from some developed countries. That was only fair, since the criteria should lead to the appointment of highly qualified individuals.

24. Another worrying trend was delay. While he agreed that the Council should ensure that member States had sufficient time to prepare for the universal periodic review, he believed that the process should have begun in 2006. The need to establish a technical assistance fund should not be used as an excuse for further delay.

25. Ms. SCANNELLA (Amnesty International) said that, in the coming year, the Council would have a rare opportunity to redress the lack of an overall institutional framework for the special procedures mandates by establishing a comprehensive and coherent system in which the mandate-holders could work together for the effective promotion and protection of human rights. A key element in constructing such a system involved identifying gaps in the existing one. The Council should first review existing mandates against three measures: the International Bill of Human Rights and its implementation, on the basis of which a number of rights not yet subject to a special procedure mandate could be identified; specific groups that were only partially covered by existing mandates; and gaps in the coverage of countries by the thematic special procedures. The Council could then decide whether or not there was a need to fill the gap and, if so, how. That required the Council to agree on a process applicable in all cases where the creation of a new mandate, or the change or merger of an existing one, was contemplated. The advice of the special procedures mandate-holders and of the High Commissioner for Human Rights would be a key element of that process. It was also necessary to support OHCHR in developing mechanisms and procedures to ensure coherence and consistency between mandates.

26. Mr. OHENJO (Minority Rights Group International), speaking also on behalf of the International Movement Against All Forms of Discrimination and Racism, the International Federation for the protection of Ethnic, Religious, Linguistic and Other Minorities, the Centre for Housing Rights and Evictions, the Society for Threatened Peoples, the Islamic Human Rights Commission, the Asian Legal Resource Centre, Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP) and Forum Asia, said that the Working Group on Minorities had been successful in bringing minority rights and concerns to the attention of the United Nations. He welcomed Austria's initiative on a new forum to continue the work of the Working Group. The forum should provide a platform where minorities could raise issues and engage in constructive dialogue with Governments; contribute to the practical understanding and implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; and work towards mainstreaming minority rights in the United Nations. While the mandate of the Independent Expert on minority issues was valuable, neither her work alone nor a forum was sufficient to address the problems faced by the 20 per cent of the world's population who were members of minorities. The work of the Independent Expert was different from that of a forum, since it did not give minorities an opportunity to bring their issues to the United Nations and hold direct dialogue with Governments. Nevertheless, there should be a strong link between the forum and the Independent Expert in order to ensure good cooperation.

27. The Human Rights Council should establish an effective forum where minorities could raise issues and engage in dialogue with Governments. The forum should facilitate the participation of NGOs, regardless of their status with the Economic and Social Council.

28. Mr. BARNES (Indian Council of South America) said that future United Nations instruments that dealt with indigenous peoples should use the term "right of peoples" and not "of people". The mandate contained in General Assembly resolution 60/251 should be inclusive and not selective with regard to allowing indigenous nations and peoples to bring their concerns to the United Nations. International law on indigenous peoples must be interpreted in such a way as to ensure that they had the right to be fully informed and to consent to any decisions affecting them.

29. Ms. JOURDAN (Association of World Citizens) said that, while there were well-established regulations against slavery, their implementation left much to be desired. Each meeting of the former Working Group on Contemporary Forms of Slavery had dealt with the misery of men, women and children who had been subjected to trafficking and various forms of exploitation. In 2006, the Special Rapporteur on contemporary forms of slavery had explicitly condemned the persistent practice on the part of countries of origin that consisted in ignoring the problem of debt bondage and slavery-like conditions in which victims of trafficking lived in their territories and abroad. Governments were still not taking effective action against trafficking in persons, and parliaments were not adopting the legislative reforms needed to combat that phenomenon. The Working Group had been an appropriate platform for promoting a dialogue and a coordinated approach between States and civil society with a view to setting up rapid-response programmes and introducing the relevant national legislation. The Working Group had also been active in gathering information from various sources around the world. The Working Group should be maintained and should continue to fulfil its crucial monitoring and reporting function.

30. Mr. PIAL MEZALA (International League for the Rights and Liberation of Peoples) said that the Working Group on Indigenous Populations had been the appropriate forum for exchanges of views between States and civil society on issues relating to indigenous peoples. If the Working Group was not replaced by a similar mechanism, the system for promotion and protection of human rights would be significantly weakened. His organization supported the initiative put forward by indigenous organizations, for the establishment of an indigenous expert body. Such a body could assist the Council in implementing its decisions and the recently adopted United Nations Declaration on the Rights of Indigenous Peoples.

31. Ms. CHARTERS (International Indian Treaty Council), speaking also on behalf of the International Organization for Indigenous Resource Development, said that the Global Indigenous Peoples' Caucus had adopted a resolution recommending that the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people should be maintained and strengthened, that an item on indigenous peoples' rights should be included in the Council's agenda, and that the Council's Advisory Committee should include experts on indigenous peoples' rights. The Global Caucus had strongly endorsed the establishment of an expert group on the rights of indigenous peoples as the successor to the Working Group on Indigenous Populations. The expert group would provide practical advice to the Council on the best means of implementing the human rights of indigenous peoples, cooperate with the Special Rapporteur, and submit regular reports to the Council and assist it in organizing its work. States and indigenous peoples should meet informally to finalize a resolution to establish the expert group for adoption before the end of 2007.

32. Mr. PARY (Indian Movement "Tupaj Amaru") said that the Council needed to set up a more innovative and effective body to replace the Working Group on Indigenous Populations. An indigenous advisory body should have broad powers and the capacity to take action, and be open to representatives of indigenous communities and observers. Its functions should be to examine and evaluate events relating to the human rights of indigenous peoples throughout the world; to receive individual and collective complaints concerning grave and systematic violations of those rights and to submit recommendations to the Council; to investigate such controversial matters as the right to collective ownership of land and to permanent sovereignty over natural resources, the demilitarization of indigenous lands and territories and the cultural

and intellectual heritage of indigenous peoples; to counter attempts to undermine the physical and mental integrity of indigenous peoples and to prevent the dissemination of racist propaganda and incitement to violence, hatred and terrorism; to coordinate its work with that of the special rapporteurs, the Permanent Forum on Indigenous Issues, the treaty-making bodies and OHCHR; to provide specialized advisory services to the Council on indigenous affairs; and to draft new standards as assigned to it by the Council. The advisory body should be composed of three governmental experts and three indigenous experts; the indigenous candidates should be elected and put forward for the Council's consideration by the indigenous communities themselves.

33. Mr. ALARCÓN (Juridicial Commission for Auto-Development of First Andean Peoples) welcomed the recommendation to establish an expert body on indigenous peoples to continue the work of the Working Group on Indigenous Populations. The expert body should facilitate the establishment of a new phase of work that focused on dialogue between the Council and indigenous peoples. It should make practical proposals that the Council could implement in order to promote and protect the human rights of all indigenous peoples. It should be a proactive body that could guide the work of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people.

34. Mr. UEMURA (Shimin Gaikou Centre) said that the United Nations Declaration on the Rights of Indigenous Peoples, would provide a real platform for action to promote and protect the human rights of indigenous peoples. The Working Group on Indigenous Populations had amply demonstrated that working groups had an essential role to play in standard-setting activities. In the light of the recent adoption of the Declaration, the role of that Working Group or a new expert body on indigenous peoples would be more crucial than ever.

35. Ms. SARDA (Action Canada for Population and Development), speaking also on behalf of a coalition of non-governmental organizations working on gender issues in Africa, Latin America and Asia, supported the proposal to establish a body of independent experts on indigenous peoples. The new body should monitor the implementation of legal instruments and policies to protect the rights of indigenous peoples at the national and international level. An important part of its work would be to advise the Council on how to promote implementation of the rights of indigenous peoples, particularly the rights of indigenous women and girls. The establishment of the new body would mark a new phase in the work of the United Nations to ensure that the enjoyment of human rights was extended to all individuals.

36. Mr. QURESHI (European Union of Public Relations) said that some 30 per cent of the world's population belonged to minorities, and their exercise of their human rights was fundamental to preventing conflicts and restoring cooperation and peace. The mandate of the Working Group on Minorities had been limited to the analysis of the problems of minorities through studies and discussions with the Independent Expert on minority issues, with no modality for following up recommendations made by NGOs. One problem that had faced the Working Group was the lack of a single definition of the term "minority". Minorities could be based on religion, race, caste, language, or social group. Moreover, some minorities were spread over several countries and were often in conflict with each other. Those issues deserved greater attention from the Working Group.

37. Mr. MALEZER (Foundation for Aboriginal and Islander Research Action) said that, while the appointment of a Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the creation of the Permanent Forum on Indigenous Issues and the proclamation of the second International Decade of the World's Indigenous People had been important, the Working Group on Indigenous Populations had continued to function effectively as the expert body on the human rights of indigenous peoples. Since the mandate of the Special Rapporteur was a proven, effective mechanism for addressing indigenous issues at the thematic and practical levels, he fully supported the renewal of that mandate. The creation of the Permanent Forum had not reduced the need for the Working Group, and effective cooperation should be developed between the two.

38. The establishment of an expert body on indigenous peoples had become more crucial since the adoption of the Declaration on the Rights of Indigenous Peoples. The capacities of the proposed expert body on indigenous peoples should include input from indigenous peoples at the community level, development of indigenous studies, accumulation of indigenous expertise, and awareness-raising and human rights promotion among indigenous peoples. The expert body should maintain working relationships with the Permanent Forum and the Special Rapporteur.

39. Mr. MLAWNCHING (International Work Group for Indigenous Affairs), speaking on behalf of the indigenous communities of Asia, welcomed the adoption of the Declaration on the Rights of Indigenous Peoples. He recommended that a specific reference to indigenous issues should be included in the universal periodic review. He supported the establishment of an expert body on indigenous peoples and the extension of the mandate of the Special Rapporteur.

40. Mr. SMITH (Cairo Institute for Human Rights Studies), speaking also on behalf of the Baha'i International Community, the Colombian Commission of Jurists, the International Movement Against All Forms of Discrimination and Racism, Conectas, Al-Haq, the "Miguel Agustín Pro Juárez" Human Rights Centre, the Association for Democratic Initiatives, and Pax Romana, said that the Council had made little effort to assist national and southern NGOs in their endeavours to contribute to the universal periodic review process. All NGOs, particularly those based in the southern hemisphere, required more than a formal commitment to allow for their input. They needed a system of procedures and practice that allowed and encouraged them to participate effectively in every step of the universal periodic review process. He recommended that the review sessions should be webcast, and that voluntary trust funds should be set up for the least developed countries and for NGOs from those countries. In addition, domestic laws should be used to structure the review process only when they did not contradict international human rights standards, or impair the ability of NGOs to contribute to that process. All technical and procedural requirements for NGOs to submit information to OHCHR for use in universal periodic reviews should take account of the limitations of southern NGOs. The Council should emphasize that the review process did not and should not be interpreted as superseding or rendering the country mandate system irrelevant, since that system was designed to respond to urgent human rights situations.

41. Ms. GROMELLON (International Federation for Human Rights) said that, in order for the universal periodic review to be effective, it should include safeguards against selectivity and politicization. Independent experts should be appointed to ensure that the review process was consistent and objective. Outcomes should focus on easily implemented measures that did not require financial or technical support. If necessary, technical assistance should be made available

in order to ensure that the results of the review were independently monitored and published. Moreover, the working group on the universal periodic review should recommend the appointment of a country rapporteur for countries that continually refused to comply with special procedures and where there were grave violations of human rights.

42. Mr. LITTLECHILD (International Indian Treaty Council), speaking also on behalf of the International Organization of Indigenous Resource Development, said that the universal periodic review should contain a specific reference to the situation of indigenous peoples. The adoption of the Declaration on the Rights of Indigenous Peoples provided minimum norms and standards for the survival and well-being of indigenous peoples and called for the recognition of and respect for indigenous peoples worldwide. When a member of the Council voted against the adoption of human rights instruments without substantial legal reasons, it should immediately offer to undergo the universal periodic review or resign its seat on the Council.

The meeting rose at 12.15 p.m.