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### HUMAN RIGHTS COUNCIL

Fourth session

#### SUMMARY RECORD OF THE 27th MEETING

Held at the Palais des Nations, Geneva,  
on Wednesday, 28 March 2007, at 10 a.m.

<u>President:</u>	Mr. DE ALBA	(Mexico)
later:	Mr. LOULICHKI (Vice-President)	(Morocco)
later:	Mr. DE ALBA (President)	(Mexico)

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The meeting was called to order at 10.05 a.m.

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

Interactive dialogue on:

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions  
(continued) (A/HRC/4/20 and Add.1-3; A/HRC/4/G/1; A/HRC/4/NGO/4)

Report of the Working Group of Experts on People of African Descent (continued)  
(A/HRC/4/39)

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination,  
xenophobia and related intolerance (continued) (A/HRC/4/19 and Add.2 and Add.4;  
A/HRC/4/NGO/82, 83 and 150)

1. Mr. GALA LÓPEZ (Cuba) said that his delegation shared the concern expressed by the Special Rapporteur on extrajudicial, summary or arbitrary executions in his report concerning the position taken by the United States of America with regard to the law applicable to violations of the right to life in armed conflicts and the mandate of the Special Rapporteur in that regard. The United States position would imply that a Government could target and kill anyone it characterized as an enemy combatant without being accountable for such acts to the international community, not to mention the Human Rights Council. As the Special Rapporteur had noted, such a position would place all actions taken in the so-called “global war on terror” in “a public accountability void, in which no international monitoring body would exercise public oversight” (A/HRC/4/20, para. 28). It was particularly disturbing in view of the unilateralist and warmongering policies of the current United States Administration, which had described countries that failed to support its war as defenders of terrorism and reserved the right to mount attacks on other countries for preventive purposes.
2. Cuba shared the concern expressed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his report (A/HRC/4/19) regarding the surge in racist violence, even in sports such as football, and the growing tendency to legitimize racism and xenophobia and to accept racist and xenophobic discourse as normal, partly because of a lack of political will on the part of Governments in industrialized countries to combat racism and discrimination.
3. Such trends went hand in hand with the widening of the gap between rich and poor caused by globalization based on neoliberal policies and with the rise to power of right-wing xenophobic and anti-immigrant parties in many developed countries. Discriminatory immigration policies and laws and anti-terrorist legislation were conducive to arbitrary conduct and the discriminatory, racist and xenophobic exercise of public authority. Moreover, the Internet continued to be used to spread ideas based on racial superiority and hatred. Neo-fascist organizations were flourishing in the United States of America, and there was a serious problem of impunity for racist acts, committed in some cases by the police. The same country was building a shameful racist wall on its southern border. He encouraged the Special Rapporteur

to monitor developments on those fronts and called for immediate action to ensure the effective implementation of the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

4. Ms. KONRAD (Germany), speaking on behalf of the European Union, welcomed the recommendation by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance that States should combat incitement to racial and religious hatred by striking a careful balance between the defence of secularism and respect for freedom of religion and belief, and by respecting the complementarity of the freedoms set out in the International Covenant on Civil and Political Rights. The European Union and its member States had developed a number of mechanisms and good practices in that regard.

5. Noting that the link between the State and religion was becoming closer in a number of countries, she asked the Special Rapporteur whether conferring pre-eminent status on a particular religion was likely to undermine fundamental freedoms and increase intolerance.

6. She welcomed the Special Rapporteur's useful cooperation with the Committee on the Elimination of Racial Discrimination and suggested that cooperation with the Human Rights Committee might be equally fruitful, particularly in view of the link between the Special Rapporteur's mandate and articles 18 and 19 of the International Covenant on Civil and Political Rights. She noted that the Special Rapporteur's most recent country visits had taken him to European countries and asked whether he had plans to visit other regions.

7. The European Union commended the Governments that had issued invitations to the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit their countries. She asked the Special Rapporteur whether he had any indication that the parties to the conflict in Sri Lanka were acting on his recommendations.

8. While welcoming the abolition of the death penalty in the Philippines, the European Union was concerned about extrajudicial and politically motivated killings in that country. The Government had a responsibility to act with determination to stop the killings and put an end to impunity. The Special Rapporteur's findings and those of the Melo Commission suggested that elements in the military and non-State actors bore responsibility. In that connection she asked the Special Rapporteur to comment on the role of the New People's Army in the Philippines.

9. The European Union noted with regret the continued use of the death penalty in China, Saudi Arabia and other countries. Where countries insisted on maintaining capital punishment, it was essential that internationally agreed minimum standards relating to that penalty should be met. Referring to a case that had occurred in the Islamic Republic of Iran, she said that executing a person who, according to the definition set out in the Convention on the Rights of the Child, was a child when the crime was committed was totally unacceptable. She asked the Special Rapporteur how the international community should respond to breaches of internationally agreed minimum standards.

10. Ms. DUONG (Switzerland) agreed with the view of the Special Rapporteur on extrajudicial, summary or arbitrary executions that human rights and humanitarian law were complementary. That approach was reflected in many resolutions of the General Assembly and the Commission on Human Rights, for instance in paragraphs 6 and 7 of Commission

resolution 2005/33 entitled “Protection of the human rights of civilians in armed conflicts”. She asked the Special Rapporteur to illustrate the complementarity of the two bodies of law by reference to a concrete situation, perhaps based on his experience or on recent visits to countries involved in armed conflicts.

11. Mr. O'BRIEN (Observer for Australia) welcomed the commitments made by some Council members to address serious human rights violations that fell within the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions. For instance, the establishment of a commission of inquiry in Sri Lanka was a key step towards addressing the environment of impunity in that country. His delegation was concerned at reports of ongoing unlawful killings by both parties to the conflict there and encouraged the commission of inquiry to continue its close cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR). The establishment of a strong witness protection framework was essential to combating impunity.

12. He expressed support for the efforts being made in the Philippines to tackle extrajudicial killings. His delegation looked forward to a comprehensive response from the Philippine Government to the issues raised during the Special Rapporteur's recent visit and to the prompt implementation of the initial measures announced by the Government.

13. Much remained to be done to address endemic cultures of impunity. In its own region, Australia was concerned by reports from Fiji, following the unconstitutional removal of the Qarase Government by the military, of deaths in custody, arbitrary detention and military interference with the independence of the judiciary.

14. Mr. THORNE (United Kingdom) expressed appreciation of the analysis by the Special Rapporteur on extrajudicial, summary or arbitrary executions of the “most serious crimes” requirement for imposition of the death penalty, especially his conclusion that it could never be imposed for homosexual acts or sexual relations between consenting adults. He asked what practical steps the Special Rapporteur would recommend to ensure international compliance with that standard.

15. Mr. RIPERT (France) drew attention to passages concerning France in the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/4/19, para. 45) and said that the outrageous statements by Mr. Sevrin had been publicly condemned by the French authorities. A criminal complaint filed by the Niger and the Ligue Internationale Contre le Racisme et l'Antisémitisme (LICRA) on 28 December 2006 was currently being investigated. The President of France and French politicians had also strongly condemned the statements made by a political leader regarding the French football team. The person concerned had been expelled from his political party and the Minister of Justice had ordered a criminal investigation.

16. The National Advisory Committee on Human Rights had noted in its most recent report that the French authorities were taking a firm stand against racist, anti-Semitic and xenophobic acts. Under French legislation the courts could prosecute all manifestations of such phenomena. Teachers had procedures for dealing with racist or anti-Semitic incidents in the country's schools. Financial assistance was given to associations that sought to prevent racism, combat discrimination and promote equality, solidarity and justice.

17. The High Authority to Fight Discrimination and Promote Equality (HALDE), an independent authority to which individuals had direct access, identified and publicized good practices for combating discrimination and submitted expert opinions and recommendations to the Government, the Parliament and the public authorities aimed at improving legislation and promoting equality and the rule of law.
18. He wished to assure the Special Rapporteur of the continued full cooperation of the French authorities in the pursuit of his mandate.
19. Ms. LEVIN (Observer for the United States of America) said that the Special Rapporteur on extrajudicial, summary or arbitrary executions tended to misrepresent her Government's position on the relationship between human rights law and international humanitarian law in his report. For example, it did not believe that human rights law ceased to apply in times of armed conflict or that every counter-terrorist action was governed by international humanitarian law. It strongly condemned mercy killings in armed conflicts, and the soldiers involved in the incidents described in the report had been punished through court-martial proceedings.
20. The Special Rapporteur had cited several troubling facts relating to the human rights situation in the Islamic Republic of Iran. She wondered whether he could provide further information about the arbitrary subjection of members of religious minorities in that country to the death penalty.
21. The "defamatory" and racist rhetoric mentioned by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his report had in fact been met in some countries by vigorous and open public debate about racial and religious intolerance. In contrast, in many countries that justified restricting freedom of expression in order to protect against racism or religious defamation, only members of certain religious or ethnic groups enjoyed the benefits of such State protection, while others were often prevented from speaking on their own behalf. She asked the Special Rapporteur how States could maintain the necessary balance between the protection of free expression and respect for freedom of religion and invited him to identify a national system that represented a good model of such a balance.
22. Mr. BERG (Observer for Sweden) noted that the Special Rapporteur on extrajudicial, summary or arbitrary executions had indicated that the most vulnerable and marginalized groups in society often suffered disproportionately during armed conflicts and in conflict-ridden societies, and were most likely to be the victims of summary or arbitrary executions. He wondered what could be done to make members of those groups more visible, to protect them and to stop the violations.
23. Commending the Government of Guatemala for its cooperation with the Special Rapporteur during his visit to the country, he asked the Special Rapporteur what alternatives he could suggest to the policy of mano dura and, more generally, how the international community could help States curb negative and violent trends.
24. It was regrettable that so many States, including Council members, had failed to respond to requests from the Special Rapporteur to visit them. He asked what could be done to encourage all countries to cooperate.

25. Ms. KHVAN (Russian Federation) said that contemporary forms of racism and xenophobia were so multifaceted that it was impossible to cover them all in a single report. The Russian Federation had sponsored a resolution on that subject in both the former Commission on Human Rights and in the Third Committee of the General Assembly. She asked the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance how he took account of the provisions of that resolution in his work. She wished to draw his attention to a contemporary form of xenophobia that existed in some countries and consisted of the rewriting of history and changing of international symbols, ostensibly in pursuit of lofty aims.

26. She urged the Special Rapporteur to give special attention in his future work to manifestations of racism and xenophobia in the exercise of freedom of opinion, expression and association. In that context, she welcomed his proposal that the Committee on the Elimination of Racial Discrimination should undertake a detailed study of the link between the principles of freedom of expression and freedom of religion.

27. She urged the Special Rapporteur on extrajudicial, summary or arbitrary executions to pay greater attention to the increasingly objectionable role being played by non-State actors, as indicated in the report of the Working Group on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/HRC/4/42).

28. While the Russian Federation was willing to pursue its dialogue with the Special Rapporteur on his request to visit the Russian Federation, it must be recalled that States' cooperation with the Council's special procedures did not consist solely of country visits. As General Assembly resolution 61/173 on extrajudicial, summary or arbitrary executions made clear, country visits were just "one of the tools" for fulfilment of the Special Rapporteur's mandate.

29. Mr. FUJISAKI (Japan) agreed with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance that it was important to foster a multicultural and tolerant society and that intercultural dialogue was an essential means to that end. The Special Rapporteur had described the recent developments in Japan as positive. He wished to assure him that Japan was fully committed to continuing those efforts.

30. Mr. FLORÊNCIO (Brazil) thanked the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance for his recognition of the Regional Conference of the Americas on the Process and Challenges of the Plan of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Brazil in July 2006. He also wished to thank other countries in the region, especially Chile, for their strong support for that initiative. The Special Rapporteur had noted that Latin America was the most highly mobilized region in terms of implementation of the Durban Declaration and Programme of Action; nevertheless, it would welcome initiatives from other regions aimed at closer collaboration in pursuing the same objective.

31. The Meeting of High-level Authorities on Human Rights of MERCOSUR had adopted the question of combating racial discrimination, xenophobia and related intolerance as a permanent

topic of discussion and cooperation. An example of Brazil's policy in that area was its affirmative action programmes focusing on people of African descent, such as the university scholarship programme which had benefited more than 300,000 students of African descent.

32. The report of the Working Group of Experts on People of African Descent (A/HRC/4/39) provided crucial information on the practice of racial profiling, which was of key importance for anyone wishing to understand racial discrimination and to combat racism. If the international community was to work towards promoting racial equality, it must firmly oppose that practice.

33. Ms. JANJUA (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), noted that, according to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, intellectual and political resistance to multiculturalism was one of the root causes of the resurgence of racist and xenophobic violence. The rejection of diversity was reflected in growing intolerance of expressions of the identity of ethnic, cultural and religious communities. The Special Rapporteur had given numerous examples of the prohibition of religious signs or symbols, which was a major manifestation of the defamation of religion and of Islamophobia in particular. According to the Special Rapporteur, those developments attested to an insidious climate of undeclared war between civilizations and religions.

34. OIC supported the Special Rapporteur's recommendation that States should adopt, as a matter of urgency, national legislation against racism and racial discrimination, pursuant to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. It likewise supported his appeal for renewed commitment to the implementation of the Durban Declaration and Programme of Action. She urged the Special Rapporteur to continue monitoring instances of Islamophobia around the world and to make recommendations to the Council on how to deal with that phenomenon in a holistic and comprehensive manner.

35. Mr. LOULICHKI (Morocco) said that he shared the concern of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance at the resurgence of manifestations of incitement to racial or religious hatred, attacks on religious symbols and defamation of religions. The most troubling of those phenomena was the rise in Islamophobia. He firmly rejected any attempt to associate Islam, a religion of peace, moderation, dialogue and tolerance, with any form of extremism or violence. The Council and the entire international community must take a resolute stand against all such manifestations, which undermined the mutual respect that should exist between different cultures and civilizations.

36. Morocco had launched a number of important international initiatives aimed at promoting dialogue among religions and civilizations. For example, the First World Congress of Imams and Rabbis for Peace had been held in January 2005 in Brussels under the patronage of the King of Morocco and the King of Belgium. At that meeting representatives of two monotheistic religions had engaged in a dialogue for the promotion of peace and the rejection of intolerance and mutual exclusion. At the second session of the World Congress, held in Seville, Spain, in March 2006, recommendations on cultural, religious and educational matters had been adopted. On 15 March 2007, a high-ranking Moroccan delegation had opened the Mohammed VI Centre for dialogue among civilizations in the Chilean town of Coquimbo. The Centre would serve as an important channel of communication between two regions that were geographically far apart but shared a commitment to humane values and human rights.

37. He supported the Special Rapporteur's recommendation that the Council should draw the attention of States to the importance of developing an intellectual front against racism by combating, through education and information, ideas and concepts likely to promote or legitimize racism, racial discrimination or xenophobia.

38. Mr. DOUALEH (Djibouti) commended the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance for his thought-provoking report (A/HRC/4/19) and the concrete recommendations it contained, which formed a useful complement to the Durban Declaration and Programme of Action. The Special Rapporteur had focused his analysis on the trivialization and legitimization of racism and xenophobic speech and rhetoric. In that connection, it was useful to remember Hannah Arendt's analysis that it was not evil itself that was banal, but rather the mindset of the evildoer. The chief feature of evil was thoughtlessness, and it was thus important to identify ways of combating such thoughtlessness.

39. The growing trend among the ruling classes of many countries to invest racism, xenophobia and the associated violence with democratic legitimacy was deeply disturbing. Defamatory speech and incitement to religious intolerance and hatred were also becoming increasingly common. He asked the Special Rapporteur to comment on the underlying reasons for the apparent resistance to diversity and multiculturalism.

40. Rights must not be seen as falling within any kind of hierarchy: the right to freedom of expression and the principle of non-discrimination were interrelated and indivisible. A holistic approach to the resurgence of racism and intolerance would facilitate an appropriate response. Racism had a long tradition, but it had been overcome through a collective effort on the part of the victims. Its resurgence clearly illustrated the vital importance of historic memory and the urgent need for action.

41. Ms. HILL (Observer for New Zealand), speaking also on behalf of Norway, highlighted the importance of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions. The Special Rapporteur had discussed the many problems associated with application of the death penalty, which violated international human rights law. Imposition of the death penalty on children was particularly distressing. Given that the Special Rapporteur had received 15 reports concerning the imposition of the juvenile death penalty in the Islamic Republic of Iran over the past two years, it was deeply regrettable that he had not been able to visit the country to verify those reports.

42. Mr. PRABOWO (Indonesia) said that the Council should learn from the important findings of the Special Rapporteur on extrajudicial, summary or arbitrary executions. The Special Rapporteur had reiterated that the application of the death penalty must be governed by strict standards and imposed only for "the most serious crimes". However, within those limits, the decision as to whether a particular crime reflected an "intention to kill" must remain the prerogative of the State whose legislation provided for capital punishment and must not be swayed by political arguments. He invited the Special Rapporteur to comment on that situation.

43. His delegation was concerned at the resurgence of racist attitudes and practices highlighted in the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/4/19). The trivialization and intellectual legitimization of those phenomena made them even more dangerous, and they were further



compounded by the defamation of all major religions, which continued unabated through racial, religious and cultural profiling. In the light of that grim situation, new standards must be established and more effective strategies developed to implement the Durban Declaration and Programme of Action. He commended the Council for its decision to mandate the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action to prepare complementary international standards. The consultation of experts and stakeholders in order to close gaps in anti-racism legislation was also a welcome initiative. He enquired how the work of the Special Rapporteur interlinked with that of the Committee on the Elimination of Racial Discrimination and expressed support for the recommendation to establish a centre for monitoring racist phenomena within OHCHR.

44. Mr. MACEDO (Mexico) said that the issues raised by the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance were highly relevant. Enhancing intercultural dialogue and understanding was vital to the enjoyment of human rights and fundamental freedoms. Reaffirming the universal nature of all human rights would help overcome differences in values and neutralize any attempt to legitimize a hierarchical interpretation of those rights.

45. Freedom of expression or religion must not be used to justify incitation to racial or religious hatred, or to encourage rhetoric about a clash of civilizations. The Special Rapporteur had drawn attention to gaps in international legislation with regard to incitement to discrimination, hostility or violence. Instead of limiting the rights to freedoms of expression and religion, however, it might be preferable to promote their enjoyment in a context of mutual respect. States should be held responsible for ensuring that those rights were exercised in a respectful manner, in keeping with article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination.

46. The Special Rapporteur had also addressed growing religious intolerance, including anti-Semitism and Islamophobia, and had stressed that diversity was the cornerstone of a culture of tolerance. It was in fact unacceptable to use outdated ideologies to legitimize discrimination. Lastly, with regard to the use of racism in political platforms, especially in relation to migration, asylum and terrorism, he said he shared the Special Rapporteur's concern and encouraged him to continue developing appropriate measures to combat that phenomenon.

47. As Mexico supported the abolition of the death penalty, his delegation welcomed the efforts of the Special Rapporteur on extrajudicial, summary or arbitrary executions to limit the number of crimes carrying that punishment. Sustained efforts should be made to protect the right to life of persons protected under international law. His delegation also wished to commend the Working Group of Experts on People of African Descent for its analysis of racial profiling.

48. Mr. Loulichki (Vice-President) took the Chair.

49. Mr. SHEN Yongxiang (China) said that immigrants from developing countries had long been subjected to racial profiling, and the situation was getting worse. Racial profiling by law enforcement agencies, judicial organs and the military violated basic human rights and the principle of non-discrimination. Human rights education and training for law enforcement officials and the promotion of a culture of tolerance were crucial to inter-community harmony

and the protection of those rights. States should amend their domestic legislation, including migration laws and criminal codes, with a view to making racial profiling a punishable offence. Efforts should also be made to increase the diversity of law enforcement forces.

50. Ms. DAKA (Zambia) said that her delegation was deeply concerned about growing racism and xenophobia as reflected in the security-based approach to immigration, asylum, foreigners and national minorities, the general increase in religious hatred and the hierarchical interpretation of fundamental freedoms. Those deplorable practices must not be trivialized or used for political ends. Member States should adopt legislative, judicial and other measures to combat racism, xenophobia and intolerance and promote intercultural dialogue.

51. Mr. HO (Observer for Singapore) said that opposing views on the death penalty divided Council members along unusually visible fault lines. There was no international consensus on the acceptability of the death penalty when applied in accordance with due process guarantees. Nor was there any consensus on what constituted “the most serious crimes”. International law did not prohibit capital punishment per se: all States had the sovereign right to choose their criminal justice system, and several States had decided to retain the death penalty. Governments had the right and the responsibility to ensure the safety and security of their citizens; the death penalty, when imposed for the most serious crimes, served as a deterrent. Singapore respected States’ sovereign right to choose their justice system and expected the same from others. Respect for human rights must include respect for diversity in values and systems.

52. Mr. CHOE Myong Nam (Observer for the Democratic People’s Republic of Korea) welcomed the assessment by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance of the situation of Korean nationals in Japan. Members of the General Association of Korean Residents in Japan (Chongryon) were subject to systematic repression and discrimination, and that situation had been criticized by both the Human Rights Committee and the Committee on the Elimination of Racial Discrimination. Between November 2006 and February 2007, the Japanese police had conducted 39 raids, arresting and detaining 11 innocent persons and injuring several more. Such repression must stop immediately, and the Special Rapporteur could make an important contribution in that regard.

53. Mr. MARTABIT (Observer for Chile) said that the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance was a reminder that contemporary forms of racism and xenophobia were based on age-old ideologies that had deep roots in society. The Special Rapporteur had highlighted the need for States to show political will, develop appropriate judicial, legal and administrative instruments, and adopt comprehensive strategies to address the root causes. His delegation agreed with the Special Rapporteur on the need for effective implementation of the Durban Declaration and Programme of Action and for intercultural and inter-religious dialogue. In Latin America, important progress had been made in that regard, as illustrated by the Regional Conference of the Americas on Progress and Challenges in the Programme of Action against Racism, Racial Discrimination, Xenophobia, and Intolerance held in Brasilia in 2006, which had highlighted the progress made in coordinating public policies in the region.

54. Ms. MFOULA (Cameroon) said that Cameroon was home to more than 230 ethnic groups and several different religious communities that lived together in harmony. Rather than a source

of conflict, the country's ethnic diversity was a source of mutual enrichment. The Government sought to eliminate all forms of discrimination through national integration and the promotion of peaceful coexistence, inter-ethnic exchange and harmonious regional development.

55. Concrete measures were needed to address racism, tribalism and xenophobia. Her delegation therefore welcomed the Special Rapporteur's recommendation to promote intercultural and inter-religious dialogue. Action taken to deal with such questions as migration, asylum, foreigners and national minorities must be firmly rooted in international law.

56. The proliferation of racist and xenophobic political platforms that brought openly racist and xenophobic political leaders to power seriously undermined the consolidation of democracy and multicultural social cohesion. A mere six years after the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the criminalization of migration, asylum and the status of foreigners had led to a strong resurgence of racism. She invited the Special Rapporteur to share some examples of best practice in addressing those phenomena.

57. Ms. DAVIES (Uruguay) said that mere condemnation of racial discrimination, xenophobia and religious intolerance was not enough: multifaceted action must be taken to promote integration, tolerance, respect, solidarity, non-discrimination and dialogue between persons, societies and States. Her delegation was pleased to learn of States' readiness to cooperate with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; without cooperation between Member States and United Nations bodies, the Council could not succeed. It likewise agreed with the Special Rapporteur that the follow-up mechanisms of the special procedures required strengthening.

58. Uruguay was actively involved in regional efforts to eliminate racial discrimination and xenophobia. A national commission on discrimination had been established and a personal adviser to the President on discrimination had been appointed. Her delegation supported the recommendation of the Special Rapporteur to establish a centre for monitoring racist phenomena within OHCHR.

59. Mr. GOLRIZ (Observer for the Islamic Republic of Iran) said that his delegation rejected the observations of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance regarding the Islamic Republic of Iran. His Government was committed to combating all forms of discrimination. Jews, Christians, Muslims and other religious communities were an integral part of Iranian society and lived together in peace and harmony. Rather than questioning the truth of the extermination of the European Jews by Nazi Germany, the conference mentioned in the Special Rapporteur's report (A/HRC/4/19, para. 40) had sought to contribute to the free flow of information. When the question of "revisionism" was addressed, double standards regarding the freedom of expression should also be addressed. Certain States openly promoted "regime change" in Iran and threatened to destroy the country's infrastructure. It was curious that those statements had not elicited a response from the Special Rapporteur.

60. Capital punishment was not illegal in the Islamic Republic of Iran but was imposed only for the most serious crimes. The Special Rapporteur on extrajudicial, summary or arbitrary executions himself had conceded that the terrorists sentenced to death in Khuzestan Province had been accused of serious crimes. With regard to the juvenile death penalty, he confirmed his

Government's commitment to its obligations under the Convention on the Rights of the Child. In any event, when discussing Governments' cooperation with special rapporteurs, the Council should remember that the activities of the United States of America in the region had resulted in the arbitrary killing of hundreds of thousands of people in only a few years.

61. Ms. NELSON (Canada) welcomed the reference made by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the appointment of Michaëlle Jean, a woman of Haitian origin who had come to Canada as a refugee, as Governor General. When presenting its most recent periodic reports to the Committee on the Elimination of Racial Discrimination in February 2007, Canada had reported on its 2005 action plan and other measures taken to combat racial discrimination. Her Government looked forward to engaging with the Special Rapporteur during his forthcoming visit in order to identify additional ways of eliminating discrimination.

62. The Special Rapporteur had repeatedly recommended a holistic approach to combating discrimination, including discrimination on the basis of sexual orientation. She urged him to explore that issue further in future reports and to inform the Council how it could incorporate such an approach into its own work. She asked him also to tell what could be done to remind States that advocated violence against their citizens because of those individuals' sexual orientation of their human rights obligations.

63. Lastly, she thanked the Chairperson of the Working Group of Experts on People of African Descent for his report (A/HRC/4/39) and for its highlighting of one of the mechanisms in place in Canada to protect human rights.

64. Ms. RONDEUX (Observer for Belgium) recalled that the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had welcomed the European countries' "holistic approach" to combating all forms of discrimination, including discrimination based on sexual orientation. Her delegation was therefore pleased that the Special Rapporteur had associated himself with the joint declaration of several rapporteurs expressing concern about a bill that would criminalize homosexuality in Nigeria. She requested further clarification on that issue and asked whether the Nigerian Government had responded to the joint declaration. She also wished to know whether the Special Rapporteur intended to use his mandate to identify good practices to combat racism in areas such as housing, education and employment, as he had done in the case of sport.

65. Mr. LY (Senegal) said that, given the worrying trends described by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the international community must take firm action that produced measurable results, with a view to building a world characterized by peace and security based on mutual understanding and respect.

66. The establishment within OHCHR of a centre for monitoring racist phenomena could create a focal point for information and objective evaluation of data pertaining to racism and xenophobia. The availability and dissemination of reliable statistics on racial profiling was vital. His delegation urged the Working Group of Experts on People of African Descent to continue its work on that issue at future sessions. The Durban Review Conference in 2009 would also provide an opportunity for further reflection on key issues and give new momentum to the fight against racism, racial discrimination, xenophobia and related intolerance.

67. Mr. SAIDOV (Observer for Uzbekistan) said that in the annex to his report (A/HRC/4/20) the Special Rapporteur on extrajudicial, summary or arbitrary executions had misrepresented the cooperation shown by Uzbekistan, thereby casting doubt on his conclusions. Uzbekistan had provided the Special Rapporteur with the information requested concerning a national of Uzbekistan and would continue to provide information. Furthermore, he hoped that the Special Rapporteur was aware that capital punishment, on which a moratorium had been in place since March 2005, would be abolished in Uzbekistan as of 1 January 2008.

68. His delegation welcomed the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/4/19), which aroused concern about the “democratic legitimization” of racism and xenophobia. He wished to ask the Special Rapporteur what measures should be taken in European countries, particularly France and Germany, to tackle the question of the link between efforts to combat racism and the construction of democratic, interactive and egalitarian multiculturalism.

69. Ms. MTSHALI (South Africa) said that the global threat of racism, highlighted by the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, must be met with effective measures. Subtle forms of racism in certain regions of the world had been actively legitimized under the pretext of promoting democracy. Her delegation would work with all countries to implement the Special Rapporteur’s recommendations, including that concerning the establishment of a centre for monitoring racist phenomena within OHCHR, preferably within the Anti-Discrimination Unit, the mandate of which was to combat all contemporary forms of racial discrimination and to promote tolerance. Attempts to dilute the Unit’s primary purpose by seeking to assign to it elements not related to the Durban Declaration and Programme of Action were unacceptable.

70. The work of the Working Group of Experts on People of African Descent was also important, and her delegation urged OHCHR to allocate more resources to the Anti-Discrimination Unit to enable the Working Group to undertake visits to communities of African descent in the diaspora with a view to assessing their needs. In most cases, their problems related to racial profiling, which the Working Group had done well to highlight.

71. Her delegation was grateful to the Special Rapporteur for initiating a constructive partnership involving the Secretary-General, the Government of Germany, the German World Cup Organizing Committee and the Fédération Internationale de Football Association (FIFA), as a result of which several events had been staged during the FIFA World Cup in 2006, both on and off the field, to promote the total elimination of racism in sport, particularly football. She hoped that the Special Rapporteur would initiate similar partnerships with the relevant authorities in South Africa, which would be hosting the 2010 World Cup.

72. The Special Rapporteur’s role would be critical in the preparation for the Durban Review Conference to be convened in 2009. She wondered what further initiatives in the struggle against racism should be contained in the outcome document of the Conference.

73. Mr. FERNANDO (Sri Lanka) said that his Government had always engaged openly and constructively with the special procedures. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Representative of the Secretary-General on human rights of internally displaced persons would be visiting the country in 2007, and it was

to be hoped that implementable recommendations would follow those visits. Against that background, he wished to place on record that, since March 2006, not a single communication had been received from the Special Rapporteur on extrajudicial, summary or arbitrary executions, nor had the Special Rapporteur responded to a request from the Permanent Mission of Sri Lanka for factual evidence to back up a remark that he had made during the interactive dialogue in 2006. It was disappointing that special rapporteurs continued to make general statements long after their country visits, perhaps in order to promote their own point of view. No mention had been made of recent positive steps taken by Sri Lanka, such as effective police action resulting in the resolution of a number of cases and the appointment of a police spokesman to provide information concerning recent arrests of gang leaders and members of the Liberation Tigers of Tamil Eelam. The Special Rapporteur's suggested imposition of an international monitoring mission was therefore out of place.

74. Ms. AJAMAY (Observer for Norway) said that, although globalization could, by encouraging the rejection of diversity, lead to increased racism, it also had positive effects, such as the enrichment of national culture. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had invited the Council to maintain a careful balance between the defence of secularism and respect for the freedom of religion. That challenge was highly relevant, and her delegation would welcome his thoughts on how it should be met. His assessment of the need for additional standards to combat racism, and any possible approaches that he might have identified, would also be welcome. In view of the connection between racial discrimination and related intolerance with other forms of discrimination, she asked the Special Rapporteur to elaborate on the recent joint declaration he had issued with three other mandate-holders expressing concern about draft legislation that would criminalize all forms of same-sex advocacy, expression and conduct. She wondered whether he had received any response.

75. The need to combat racism and racial discrimination was still urgent. A national conference on ethnic discrimination would be held in Oslo later in the year, and her Government would greatly welcome the Special Rapporteur's participation. Lastly, she requested him to comment on his cooperation with other mandate-holders and on how related mandates could best function in a coherent system of special procedures.

76. Ms. SIMONYAN (Observer for Armenia) said that her delegation was greatly concerned by the resurgence of racist violence and therefore saw great merit in the dual approach developed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, which would ultimately help Governments assess their past practices and elaborate future policies. Although the attention paid in the report to the various forms of religious intolerance, including Islamophobia, anti-Semitism and Christianophobia, was welcome, future reports should consider such phenomena in a more balanced way, since each constituted a threat to the enjoyment of human rights.

77. Ms. HILAO-ENRIQUEZ (World Council of Churches), speaking also on behalf of the Foundation for Aboriginal and Islander Research Action, the International Indian Treaty Council, the Canadian Council of Churches, the Netherlands Centre for Indigenous Peoples and the Alliance for the Advancement of People's Rights in the Philippines, said that the number of extrajudicial executions in the Philippines had continued to rise even after the visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions. The killings continued because of

the climate of impunity. On 10 March 2007, a member of a political party listed by the Government as an enemy of the State had been shot and killed near a paramilitary camp supervised by the Philippine Army. She had been a witness in a case concerning a man who had been gunned down in February. Despite its claims to the contrary, the Philippine Government had done nothing substantial; indeed, it continued to assert that the killings were the work of rebels rather than the security forces. The Special Rapporteur himself was a target of a vilification campaign waged by the Government. Meanwhile, the human rights situation was deteriorating rapidly, with military troop deployments in urban centres and the recent arrest of an opposition politician in advance of the May elections. The Council should prevail on the Government to put a stop to extrajudicial executions and should appoint a special rapporteur for the Philippines.

78. Ms. PARKER (International Educational Development), speaking also on behalf of the Indian Council of South America, expressed grave concern that indigenous organizations in the Philippines were classified as “enemies of the State” and thus considered legitimate targets for military operations. She asked whether the Special Rapporteur on extrajudicial, summary or arbitrary executions intended to follow up his mission to Sri Lanka, in the light of an increase in large-scale military operations against Tamil civilians, the assassination of a Tamil member of Parliament and other unresolved incidents. In that connection, she noted that the case of an individual from Jammu and Kashmir who had participated in a session of the Commission on Human Rights over 10 years ago and had been assassinated before he could attend the next session remained unsolved. Individuals who met with special rapporteurs often faced adverse consequences, and she wished to know how they could be protected. She also asked what plans the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had with regard to the racist platforms of an increasing number of political parties or Governments, particularly in Myanmar, Indonesia, the Philippines, India, the United States of America, France, Switzerland and Sri Lanka.

79. Mr. NETTER (B’nai B’rith International), speaking also on behalf of the Coordinating Board of Jewish Organizations, welcomed the emphasis given by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the new forms of anti-Semitism in both Europe and the Middle East in the form of Holocaust denial and calls for the elimination of the only Jewish State in the world. The Special Rapporteur rightly drew attention to the link between the negationists from around the world and the racists of the Ku Klux Klan who had assembled at the recent Holocaust denial conference in Tehran at the invitation of the Government of the Islamic Republic of Iran. It was therefore gratifying that the Special Rapporteur had endorsed a proposal made by B’nai B’rith International several years earlier to establish a worldwide monitoring unit of racist phenomena within OHCHR. The European Union Agency for Fundamental Rights had drafted a useful working definition of anti-Semitism and its relationship to anti-Zionism that could serve as a model. The Council should extend the Special Rapporteur’s mandate to allow him to present periodic reports on anti-Semitism, Christianophobia and the persecution of the Baha’i community along the same lines as the periodic reports on Islamophobia.

80. Ms. MARASOVIC (Centre on Housing Rights and Evictions), speaking also on behalf of the Badil Resource Center for Palestinian Residency and Refugee Rights, drew attention to the plight of some 5,500 people in Galilee who had been forcibly displaced and then arbitrarily and illegally deprived of their land by the Israeli authorities. In one case, the people of a Palestinian

Christian village near the Israeli-Lebanese border had been forced out of their homes in 1948, with the promise that they could return within a few weeks. Their land and property had subsequently been confiscated. In another case, members of a Bedouin tribe had seen their 18 square kilometres of land gradually confiscated so that they were reduced to living on a small strip of land, even though they were citizens of Israel. Such racially discriminatory forced displacement violated numerous provisions of international customary and treaty law, yet all efforts to obtain compensation for wrongful property seizure under Israeli law had failed. No Israeli or international authority had intervened effectively to halt such actions. The Council should ensure that the Israeli Government undertook the immediate annulment of all laws that arbitrarily confiscated Palestinian land or were racially discriminatory against any persons or group, particularly against Palestinians.

81. Mr. ANTHONY (Asian Legal Resource Centre), speaking also on behalf of the Asian Forum for Human Rights and Development and International NGO Forum on Indonesian Development, said that, according to calculations by NGOs, there had been 800 extrajudicial killings and 200 disappearances in the Philippines since 2001 for which an official body had recently concluded that the military was responsible. During the current session of the Council, the representative of the Philippines had stated that the Government was doing its best to address those problems, but it had been saying that for some time, with no effect. In that connection, he wished to know how the Special Rapporteur on extrajudicial, summary or arbitrary executions had reacted to the killing on 10 March 2007 of a human rights defender whom he had interviewed and what the Philippines, and the Council, should do to ensure that individuals who cooperated with his and other mandates were safe. He urged the Special Rapporteur to monitor the case closely.

82. He expressed concern that Sri Lanka had responded to only one of four communications addressed to it by the Special Rapporteur and wondered how the Sri Lankan Government could be assisted in dealing with the continuing extrajudicial executions. Attention should also be paid to the large number of killings being perpetrated with impunity by the Rapid Action Battalion and other law-enforcement agencies in Bangladesh, on the pretext that they were crossfire killings. Lastly, it was to be hoped that the Special Rapporteur would intervene in the decision by members of the Consultative Committee of the Indonesian House of Representatives not to refer to the full House the cases of extrajudicial killings that had occurred in Trisakti and Semanggi, Jakarta, during 1998 and 1999, thus granting de facto impunity to the perpetrators.

83. Mr. GOLDBERG (Consultative Council of Jewish Organizations) welcomed the practical approach adopted by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his report, although a sharper distinction between individual and State racism could usefully have been drawn. His organization supported the creation of a centre for monitoring racist phenomena that would obtain and disseminate accurate information on racism and xenophobia and on the use of intercultural and interfaith dialogue at all levels of society. With such information, the Human Rights Council could take effective steps to prevent racism and xenophobia. Given that racist groups exploited the right of freedom of expression, he asked the Special Rapporteur how States could strike a balance between that right and the need to combat racial hatred.

84. Ms. CAYLESS (Jubilee Campaign) urged the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to examine the original



object and purpose of article 20, paragraph 2, of the International Covenant on Civil and Political Rights, in order to distinguish between statements that merely offended religious sensitivities and those that advocated religious intolerance. In that connection, the term “defamation of religions” contained in the draft resolution that had been submitted by OIC countries (A/HRC/4/L.9) was too comprehensive. The wording of the draft resolution left adherents of both minority and majority beliefs open to accusations of religious intolerance. Freedom of religion entailed the right to express views critical of or even hostile to the beliefs of others. However, intolerance of religious communities other than Islam, such as Jews, Baha’is or Jehovah’s Witnesses, was also a source of concern. Textbooks in Saudi Arabia and Palestine, in particular, continued to promote religious intolerance against Jews and Christians. The Council’s opposition to religious intolerance should extend to all religious communities in all countries.

85. Ms. KING (Public Services International) said that her organization, which represented more than 20 million members of public-sector trade unions from over 150 countries, condemned the spate of extrajudicial killings in the Philippines, which had left over 800 people dead, including some 80 trade union activists. The Philippine Government should make every effort to put an immediate stop to such killings, which bred an atmosphere of fear and intimidation. The various stakeholders should engage in dialogue, and an independent monitoring mechanism for human rights abuses should be established. Under international law, the Government was obliged to promote and respect the right to freedom of association. Yet in 2006 alone, there had been 220 documented cases of human rights violations against trade union activists, including physical attacks, arbitrary arrest and detention, torture and killings. The Special Rapporteur on extrajudicial, summary or arbitrary executions should consider the link between violations of trade union rights and the killings that were taking place.

86. Mr. De Alba (Mexico) resumed the Chair.

87. Mr. WAREHAM (International Association Against Torture), speaking also on behalf of the December 12th Movement International Secretariat, said that in the United States of America, whose historical foundation and current position in the world were grounded in racism, white supremacy was escalating rapidly. Young black males, and the black and Latino community in general, were increasingly the target of summary execution by police departments across the country. In a recent case, an unarmed black man who had committed no crime had been shot on his wedding day. The common denominator of such killings was that the police were rarely, if ever, charged with criminal conduct. When they were, they were inevitably acquitted. The full extent of the problem was unknown, since the Federal Government did not keep accurate or complete statistics in that regard.

88. Killings and beatings by the police were not the only manifestation of racism. In every sphere - health, education, incarceration, employment or wealth - black people were at a disadvantage. The work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Working Group of Experts on People of African Descent was crucial, and their mandates must be extended. The Council must also build on the achievements of the Durban Declaration and Programme of Action, which included recognition of reparations due to the descendants of the transatlantic slave trade, without which there could be no real solution of the damage historically inflicted by racism. He asked whether the Special Rapporteur had requested a follow-up visit to the United States and, if so, what response he had received.

89. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that at the hearings which the Permanent Peoples' Tribunal had held in The Hague in March 2007, survivors, witnesses and experts had attested to numerous cases of extrajudicial killings, disappearances and torture in the Philippines. Statistics showed that the number of extrajudicial killings had virtually tripled between 2001 and 2006. The victims were often poor peasants, clergymen critical of government policy, human rights workers and other advocates of better conditions for ordinary people who had nothing to do with political violence. One witness had been shot dead shortly after she had given evidence to the Special Rapporteur. Prior to such attacks, the future victims were usually subjected to a campaign of vilification mounted by the military, or by anti-communist vigilante groups. The perpetrators of the killings and abductions were often uniformed men who wore bonnets or ski masks and used vehicles without number plates. Despite Government denials, there was reliable evidence of the army's participation in such activities.

90. Ms. MUKADAM (Amnesty International) said that the Human Rights Council must address the lack of cooperation from Governments and States' failure to respond fully and promptly to communications and mission requests from the special procedures. For example, the Government of the Islamic Republic of Iran should accede without further delay to the request of the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit the country. She wished to know to what extent the Special Rapporteur's previous report (E/CN.4/2006/53), which had examined the principle of transparency in relation to the death penalty, had led to a constructive dialogue on measures to ensure transparency in the implementation of that penalty.

91. The emphasis which the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had placed on ensuring the follow-up to special procedures' recommendations was welcome. She asked the Special Rapporteur to elaborate on the idea of institutional follow-up mechanisms, mentioned in paragraph 13 of his report (A/HRC/4/19), and to tell what he considered to be the main value of country missions.

92. Mr. ALSTON (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that he had learnt a great deal from the interactive dialogue. It had been interesting to note which Governments had reacted to which issues. The supportive responses of Guatemala and the Philippines regarding country reports meant that he might need to review his approach. The role of special rapporteurs was essentially catalytic: it worked effectively only if there was fertile domestic soil that made it possible for a special rapporteur to stimulate a process of deeper reflection at the national level.

93. He strongly condemned the killing of Ms. Bustamente-Gandinao, whom he had met in the Philippines. In responding, the military had committed the ultimate cynical act: it had suggested that she was in fact one of its spies and that she had been killed by her own supporters.

94. The relationship between international humanitarian law and human rights was central to his mandate. In that context, the comments of the United States Government were actually encouraging, and he would welcome both a further in-depth debate and a positive response to his request to visit the United States of America.

95. He fully concurred with the Government of the Russian Federation that it was necessary to focus attention on non-State actors.

96. The New People's Army (NPA) in the Philippines was undoubtedly responsible for many killings that violated international law. That did not, however, mean that those who supported the political goals of a group such as the NPA were themselves appropriate targets for killing.

97. The Government of Singapore had suggested that since there were no standards relating to the death penalty because there was no customary international law on the subject, each society was free to act for itself. Most of the issues before the Council would be removed from its agenda immediately if customary law was made the standard for discussion. Clearly, it was up to individual societies to set their own criminal justice standards, but it was up to the Council to evaluate the compatibility of those standards with human rights. The absence of a norm of customary international law did not give Governments a *carte blanche*.

98. He had received no response to the concerns he had raised with the Government of the Islamic Republic of Iran. As cooperation was supposed to be the Council's new leitmotiv, he suggested that the Council should mandate a dialogue between its Chairperson and the Iranian Government on law and practice which unquestionably violated international law.

99. He had noted encouraging legal developments in China in relation to the death penalty. Contrary to many expectations, a vibrant domestic debate was taking place on the subject.

100. He had sent no communications to Sri Lanka recently, partly because he had received so few responses to earlier ones, partly because he did not believe in sending communications for the sake of it and partly because he would be presenting a follow-up report on Sri Lanka to the Council the following year.

101. Lastly, he wished to thank NGOs for their constant support for his mandate.

102. Mr. KASANDA (Chairperson-Rapporteur of the Working Group of Experts on People of African Descent) commended the Government of Brazil on the affirmative action it had taken to provide university scholarships for 300,000 young people of African descent. He thanked the Chinese Government for recognizing the grave problems ensuing from racial profiling and for urging other countries to take measures to end such practices. The encouragement given to the Working Group by Canada, Mexico, Senegal and South Africa had been gratefully received. A positive response to their call for funding might contribute to the successful implementation of the Working Group's mandate. He called on member States to give effect to the feasible, realistic recommendations contained in the Working Group's report (A/HRC/4/39).

103. The Working Group had made its first country visit to Belgium, and was discussing the modalities of future visits to other countries, to learn about the real problems encountered by people of African descent and Africans and to monitor the implementation of the Working Group's recommendations. A visit to the United States of America was planned, since that country was home to millions of people of African descent and had conducted many studies of racial profiling.

104. Mr. DIENE (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) said that the interactive dialogue had confirmed the value of

in-depth discussions between special rapporteurs and the countries visited. He welcomed the balanced response of some of the countries he had recently visited, namely Switzerland, Italy, Japan, Brazil and Canada.

105. One of the central issues to emerge from the debate had been the thorny relationship between freedom of expression and racism. History had shown that freedom of expression could be misused as a tool to promote racism and demonize whole groups of the community. One perverse effect of freedom of expression was the resurgence of racism. While international instruments affirmed the central importance of freedom of expression, they placed certain restrictions on it and emphasized the complementary nature of that freedom and other fundamental freedoms. It was therefore necessary to restore the balance found in international instruments.

106. Manifestations of racism had been prompted both recently and in the past by a refusal to accept ethnic, cultural and religious diversity and by a nervous reaction to the arrival of migrants from different cultures, religions and ethnic groups. That identity crisis was a factor which would have to be taken into account. Recalling the words of Elie Wiesel that the executioner always killed twice, the second time with his silence, he said that memory was another vital tool for combating all forms of racism.

107. In the near future he intended to visit Mauritania and the Baltic countries. He had requested invitations to visit India, Pakistan, Nepal, the United States of America and the Dominican Republic, but had not yet received any reply. It was therefore important that the Council should set a deadline for countries' replies, for when countries failed to respond they paralysed the special rapporteurs' work.

#### Statements in exercise of the right of reply

108. Mr. FERNÁNDEZ PALACIOS (Cuba) said that on the previous day the observer for the United States had referred to the case of the five young Cubans imprisoned in that country in a desperate but fruitless attempt to discredit the arguments presented by his delegation. As usual, the United States view was at odds with that of the rest of the world, including that of the special procedures and the Working Group on Arbitrary Detention which, on 27 May 2005, had stated that the detention of the five Cubans was arbitrary and unlawful.

109. The observer for the United States of America had claimed that the trial of those individuals had been conducted with all guarantees of due process, in accordance with the Constitution of the United States. That was a clumsy lie, for the farce in Miami had been riddled with irregularities. The politically motivated sentence had been handed down by a court that was totally hostile to the accused, who had been denied access to 80 per cent of the prosecution's evidence and regular contact with their counsel. The observer for the United States of America had also claimed that Miami was a city known for its multiracial diversity and that it therefore offered full guarantees of impartiality. In fact, it was a den of thieves, a place of hatred and intolerance and a haven for the terrorists who strolled its streets. The situation of the five was similar to the case of Ramírez v. Ashcroft in 2002, when the United States Government had alleged in its defence that in Miami it was impossible to judge anything to do with Cuba with impartiality. How could that inconsistency be explained?

110. The observer for the United States of America had stated that on 9 August 2006 the Court of Appeals in Atlanta had upheld the decision of the Miami court. In fact, that strange decision confirmed that the trial of the five had not been in keeping with the law; the five were political prisoners who were being arbitrarily detained in cruel conditions of isolation. However, their cause had generated much sympathy and solidarity worldwide, and the Cuban people would not rest until they returned to their home country.

111. Mr. APITONIAN (Observer for Armenia) said that on the previous day, the representative of Azerbaijan had been clearly attempting to divert the attention of the international community away from the destruction of Armenian monuments and to avoid responsibility for that State-sponsored act of vandalism. The Azerbaijani Government had refused to grant a delegation from the European Parliament access to the site in question. It continued to downplay or delay the visits of other international fact-finding missions, including one from the Council of Europe.

112. The destruction of the Armenian cemetery at Julfa and of monuments that had been thousands of years old had been committed 11 years after the end of hostilities and 100 kilometres from the former battleground. Nothing could ever justify that horrendous crime. The Azerbaijanis had stopped fighting Armenians and were now shadow-boxing with Armenian ghosts.

113. Mr. EYEBE MBANA MAKINA (Observer for Equatorial Guinea) said that the comments made by the NGO North-South XXI at the 21st meeting were devoid of credibility because they were merely reports disseminated by political actors who did not even live in Equatorial Guinea and who could not therefore have the slightest idea of what was happening in the country, save through defamatory reports attacking the Head of State and everything that was being done by the current Government. His delegation therefore wished to state that the Government's national development programme clearly outlined the main activities to be undertaken over the next three years with a view to solving social problems and promoting the well-being of the population. Those activities included building roads, supplying towns with drinking water and building spacious and comfortable housing for low-income groups living in precarious or difficult situations.

114. Anyone who doubted the efforts being made by his Government should pay a visit to the country and see for themselves. They could then report on what they had actually seen and dispel the suspicions of those outside the country. The commitment of his Government to protecting the human rights of its citizens was evidenced by its vigorous efforts to protect the most vulnerable sectors of society, such as women, children and minorities.

115. Mr. MINAMI (Japan) said that the statement made by the observer for the Democratic People's Republic of Korea regarding so-called racial discrimination in Japan was totally groundless. The Japanese Government had been taking all possible measures to combat racial discrimination. The Japanese Constitution prohibited any form of racial discrimination, and all persons were treated equally under the law. Japan had acceded to the International Convention on the Elimination of All Forms of Racial Discrimination and had cooperated fully with special rapporteurs, including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Moreover, it would continue to cooperate with all international human rights mechanisms.

116. Mr. MANALO (Philippines), addressing references to the Philippines that had been made by some representatives of NGOs, said that his Government appreciated the participation of civil society in the work of the Council and welcomed the constructive debate on extrajudicial killings, as it would bolster democratic institutions and the rule of law. His Government strongly condemned extrajudicial killings and was taking urgent and sustained action against them. For investigations to succeed, however, precise numbers of victims, bereaved families and offenders to be prosecuted were required in order to make a correct diagnosis and provide the right treatment. Apart from compiling an inventory of the cases filed and ascertaining the total number of convictions obtained, the Philippine Government had carried out investigations from which it had determined that five persons initially reported to have been killed were in fact alive.

117. The case of Ms. Bustamente-Gandinao, a rebel returnee, was already being actively investigated, and charges were being prepared not only against the perpetrators, but also against six civilian armed auxiliaries who had failed to take action when the crime had occurred.

118. He drew attention to the fact that on the previous day he had circulated a list of significant measures which the Philippine Government had taken prior to and after the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions. Delegations should examine them closely and constructively, as they not only reflected a comprehensive, sustained and unambiguous commitment to address the issue, but had also already resulted in a number of initiatives and had strengthened the focus of both the Government and the private sector on that issue.

119. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) said that his delegation rejected the allegations made by the representative of Japan, whose sole aim was to justify his country's wrongdoings. Discrimination against and repression of Korean nationals were a daily practice in Japan that had been strongly criticized by many United Nations treaty bodies.

120. During the 40 years in which they had colonized Korea, the Japanese had abducted and forcibly drafted 8.4 million Koreans, killed 1 million and imposed sexual slavery on 200,000. Those crimes against humanity had not been resolved to date. The Korean nationals who were currently being subjected to Japanese repression and discrimination were descended from those who had been forcibly drafted to Japan for military conscription and labour in the past. It was a lesson of history that unresolved past crimes became a source of new crimes against humanity.

121. His delegation once again strongly urged the Japanese Government to stop its cruel and inhumane repression of and discrimination against Korean nationals in Japan immediately and to cease misleading the Human Rights Council.

122. Mr. HAIDARA (Nigeria), replying to the comments made by the observer for Belgium on the criminalization of same-sex marriage in Nigeria, said that the issue had been blown up out of all proportion. While it was true that a bill on same-sex marriage was being considered by the National Assembly, the highest legislative body in Nigeria, that did not mean that it had been adopted or implemented. Although Nigeria was a democratic country with a highly diverse population displaying ethno-linguistic and religious differences and possessing a plurality of legal systems, same-sex marriage was frowned upon across all political, social, cultural and

religious divides. His Government shared the view that the international community should cooperate in the cause of protecting and promoting human rights, but that could be achieved without further attempts by some States to impose certain alien practices and values on others.

123. Mr. MINAMI (Japan), replying to the statement just made by the observer for the Democratic People's Republic of Korea, said that Japan had faced up to its past history with sincerity and had expressed remorse and apologies. The Japanese Government had dedicated itself to promoting international peace and prosperity and enhancing democracy. Yet while the Japanese Constitution prohibited any form of racial discrimination, no constitution or legal system was perfect. That was why international conventions, special procedures and cooperation with the international human rights mechanisms were needed. It was to be hoped that the Government of the Democratic People's Republic of Korea would soon accede to the Convention on the Elimination of All Forms of Racial Discrimination and cooperate with all special rapporteurs.

124. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) reiterated that his delegation rejected Japanese allegations aimed at justifying the country's wrongdoing. The Japanese history of invasion, plundering, genocide and human rights violations in the past would remain unchanged despite Japanese attempts to rewrite that history. It was well known that Japan was a country where acts of racism, racial discrimination and xenophobia were rampant because of its failure to resolve its past crimes against humanity. Accordingly, his delegation once again urged the Japanese Government to immediately settle all its past crimes against humanity and to stop all forms of discrimination against Korean nationals currently living in Japan.

125. Mr. CAFAROV (Azerbaijan) said that the statement made by the observer for Armenia on the previous day had been flawed and misleading. It was strange that Armenia, the occupying Power which had seized and ethnically cleansed almost 20 per cent of Azerbaijani territory, should speak about the alleged destruction of cultural monuments. No such incident had occurred. Perhaps the observer for Armenia had sought to distract the international community's attention from the atrocities committed by Armenian aggressors in Nagorny-Karabakh and several other adjacent regions of Azerbaijan. In blatant violation of the provisions of international humanitarian law and human rights law, Armenian armed forces had left no single Azerbaijani historical or cultural monument undamaged, and they had desecrated holy places, including cemeteries and places of worship. His delegation was confident that the time would come when the Government of Armenia would be held accountable before the law for those serious crimes. The criminal policies that had been pursued in occupied Azerbaijan territory for more than 15 years were part of the Armenian Government's wider agenda to use ethnic cleansing to remove any traces of the Azerbaijani population and its culture in Armenia and in occupied Azerbaijani territories. It was in fact the Government of Azerbaijan that had appealed to the Council of Europe and the United Nations Educational, Scientific and Cultural Organization to dispatch a monitoring group to investigate the state of historical and cultural monuments in the occupied territories of Azerbaijan and in Armenia itself. Unfortunately, the Armenian side had intentionally delayed those groups' visits in order to continue spreading its false propaganda.

The meeting rose at 1 p.m.