



General Assembly

Distr.
GENERAL

A/HRC/4/SR.8
25 April 2007

Original: ENGLISH

HUMAN RIGHTS COUNCIL

Fourth session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 15 March 2007, at 1 p.m.

President: Mr. DE ALBA (Mexico)

CONTENTS

IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF
15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL" (continued)

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The meeting was called to order at 1 p.m.

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

Introduction of progress reports by the institution-building working groups (continued)

(A/HRC/4/117-122; A/HRC/4/CRP.2-6; A/HRC/4/NGO/6, 40, 80, 86, 89, 90, 93, 126, 131, 133, 134, 137 and 144)

1. Mr. STEINER (Germany), speaking on behalf of the European Union, said that the Council should be equipped with all the tools and mechanisms it needed to address its mandate in a credible and effective way. He encouraged the Facilitator on the expert advice body to take up the two constructive proposals that had been put forward so that Council members could reach a speedy understanding.
2. The Council needed to ensure that it was supported in its deliberations by highly qualified and independent experts. Non-governmental organizations (NGOs) and national human rights institutions should also be included in the Council’s proceedings, since they could provide valuable insight and act as helpful partners for implementation and follow-up.
3. The universal periodic review mechanism should apply the same standards to all countries, drawing on the abundant information available within the United Nations system. The European Union was in favour of a “tailor-made outcome” that was reached through effective cooperation with the country concerned and would lead to realistic and tangible improvements on the ground. A strong stand should be taken in cases of non-cooperation, and the country under review should not be allowed to veto the outcome of the review.
4. Ms. JANJUA (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said that the expert advice mechanism should be a standing body with the same number of members as the former Sub-Commission for the Promotion and Protection of Human Rights. Equitable geographical representation in accordance with the formula agreed for membership of the Council should be strictly adhered to in its composition, and the Council should elect the members. She sought clarification of the term “implementation-oriented think tank” in paragraph 1 of document A/HRC/4/119, since as a think tank the expert advice body could provide advice on standard-setting only if so requested by the Council. She also sought clarification of the statement appearing in the same document under the heading “Methods of work” that “informal links with NGOs are encouraged”.
5. OIC agreed with the proposal made by the Facilitator on the universal periodic review mechanism (A/HRC/4/117) that countries’ levels of development and other specificities should be taken into account. It might be useful to qualify the term “specificities” with the words “religious” and “cultural”. The basic document for consideration in the review process should be the report prepared by the State concerned. OIC agreed that the modalities for selection of rapporteurs to ensure follow-up needed further consideration.
6. The Council’s agenda should be detailed and structured with a clear annual programme of work. It should also include a specific item entitled “Question of human rights violations in Palestine and other occupied Arab territories”.

7. The Council's working methods should be impartial, equitable, fair and pragmatic and thus result in transparency, clarity, predictability and inclusiveness. The participation of non-members and civil society should be based on the rules of procedure of the Economic and Social Council and the General Assembly as well as the practices of the former Commission on Human Rights. The Council should meet each year for three sessions totalling 10 weeks. The Bureau should be elected on the basis of equitable geographical representation.

8. There should be no overlapping between the work of the confidential complaint procedure and that of the special procedures and treaty bodies. The composition of the two working groups should be based on equitable geographical representation. The membership of the Working Group on Communications should be drawn from that of the successor body to the Sub-Commission. Members of the Working Group on Situations should be nominated by the regional groups in the Council. Confidentiality should remain a fundamental principle of the complaint procedure.

9. All areas covered in the paper prepared by the Facilitator on the review of mandates (A/HRC/4/118) called for detailed discussion, especially points that the Facilitator deemed to have been agreed. OIC had consistently demanded that all special procedures should focus on the situation of human rights in Palestine and other occupied Arab territories. Commission on Human Rights resolution 1993/2 stipulated that the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 was to run until the end of the occupation, and OIC wished to reiterate that principle.

10. Ms. FERNANDO (Sri Lanka), speaking on behalf of the Group of Asian States, said that it was the Group's understanding that the Council's fifth session would focus on completion of the institution-building process

11. The Group wished to emphasize the importance of a well-structured and balanced agenda, in keeping with paragraph 4 of General Assembly resolution 60/251, and the need for transparent, fair and impartial methods of work conducive to genuine dialogue. The Council's rules of procedure could be based on those of the Main Committees of the General Assembly.

12. Reiterating their support for the national rights of the Palestinian people, particularly its rights to self-determination, to establish an independent Palestinian State and to live free from foreign occupation and at peace with neighbouring countries, the Asian States urged the Council to address the human rights violations and implications of Israel's occupation of Palestine and other Arab territories in the light of international humanitarian and human rights law.

13. The universal periodic review should be a cooperative mechanism involving interactive dialogue. It should seek incremental improvements in the human rights situation of States by enhancing their capacity to promote and protect human rights. Social and cultural specificities, the universality of human rights and States' level of development should all be taken into account.

14. There should be a clearly defined relationship and enhanced coordination between the special procedures and the Council. Individual mandates should be established by a decision of the Council, and overlapping with treaty body mandates should be avoided. The system of special procedures should be comprehensively reviewed to avoid politicization and enhance the Council's credibility and effectiveness. Mandates should be rationalized and streamlined, and there should be no gaps in coverage.

15. The confidential nature of the complaint procedure and existing admissibility criteria for complaints or allegations of human rights violations under the 1503 procedure should be retained and strictly observed. Developing countries whose cases were being considered under the complaint procedure should be provided with capacity-building and technical assistance on request.

16. The expert advisory body should be composed of impartial, independent, specialized and highly qualified experts. It should be a single, well-defined and well-structured subsidiary body of the Council, advising the Council, when requested, on the whole range of thematic human rights issues. Its composition should be based on the principle of equitable geographical representation in proportions identical to those reflected in the Council itself.

17. Ms. HERRERA LABRADOR (Cuba), speaking on behalf of the Movement of Non-Aligned Countries, said that the Movement had proposed an agenda with items that were concrete enough to allow predictability and transparency while being general enough to guarantee flexibility. A well-structured agenda should permit consideration of economic, social and cultural rights, civil and political rights, the promotion and protection of the rights of all peoples, groups and individuals, the right to development, the struggle against racism, racial discrimination, xenophobia and related intolerance, the right of self-determination of the Palestinian people, human rights violations in Palestine and other occupied Arab territories, capacity-building, technical cooperation and the universal periodic review mechanism.

18. The Movement of Non-Aligned Countries had submitted a written contribution on rules for special sessions of the Council based on the experience of the four special sessions held to date. It recommended that the rules of procedure should be the same as those for regular sessions and should be modelled on the rules of procedure of the General Assembly.

19. The universal periodic review mechanism was an important tool that could contribute to cooperation and genuine dialogue and end political manipulation and double standards. Any attempt to subject a country to selective and politically motivated treatment should be rejected from the outset. The Movement opposed the use of the mechanism to impose country-specific resolutions and mandates or any other punitive measures. The universal periodic review should be an intergovernmental process conducted at plenary meetings of the Council and should be based on an interactive dialogue involving all States Members of the United Nations, with the full participation of the Government concerned. The outcome should be a report containing a summary of the proceedings with possible recommendations on areas of agreement and on technical cooperation and assistance in capacity-building, when requested by the Government concerned.

20. Mr. MAHAWAR (India) said that extensive discussions of the universal periodic review mechanism in formal and informal meetings had led his delegation to believe that it might not be possible to develop such an ambitious mechanism in a single process; the mechanism might have to evolve and be adjusted over time in the light of changing requirements. Efforts at the current stage should focus on developing modalities for the first cycle that could be assessed in time for the five-year review of the Council.
21. Extensive discussions on improving the working methods of the special procedures had been held. However, no serious work had yet been done on the process of rationalization, which could no longer be postponed. He hoped that an interactive dialogue with mandate-holders later in the session would contribute to a positive outcome.
22. There was broad agreement that the complaint mechanism should be modelled on the 1503 procedure. However, his delegation wished to propose a number of improvements. First, the admissibility criteria should be applied in full before complaints were forwarded to the States concerned; that might require additional meetings of the Working Group on Communications. Secondly, national human rights institutions established in accordance with the Paris Principles should be involved in the process with a view to providing relief for victims. Lastly, the time for processing complaints should be reduced, although the initial response time available to States should be left unchanged.
23. The expert advice mechanism should be tailored to meet the general requirements of the Council, and the problem of inflexible working methods encountered by the Sub-Commission on the Promotion and Protection of Human Rights should be addressed.
24. He wished to reiterate the importance of finalizing a structured agenda, working methods and rules of procedure for the Council as soon as possible.
25. Mr. LA Yifan (China) said that while elections might not be the best way of selecting special procedure mandate-holders, they were far more transparent than a simple process of appointment. As the Council's handling of country-specific issues had a direct bearing on its healthy development, criteria and procedures for such cases should be developed, and they should be applied only as a last resort in order to avoid abuse of country-specific resolutions. In the event a vote was taken on such resolutions, support by an overwhelming majority of Council members was highly desirable. As accountability was a basic prerequisite for the special procedures, their work should not only be scrutinized by the Coordination Committee of the Special Procedures Mandate-Holders but also by the Council itself. Moreover, they should be required to abide by an operational code of conduct. With regard to States' cooperation with the special procedures, he suggested that the treaty bodies and the future universal periodic review might serve as back-up mechanisms for monitoring State conduct.
26. Experts serving on the expert advice body should be elected by the Council. The body should operate as a think tank for the Council, and its work should not overlap with that of the Council on country-specific issues.
27. China believed that the complaint procedure should be made more effective; however, different countries had different legal systems, and it was unrealistic to adopt a "one size fits all" approach. The confidentiality of the procedure should be maintained.

28. The universal periodic review mechanism should be based on the principle of constructive dialogue. Civil society participation should be governed by Economic and Social Council resolution 96/31 pending a review by the General Assembly.

29. The Council's agenda should be well-structured in order to ensure predictability.

30. Ms. HARKRISNOWO (Indonesia) said that if the Council overshot the deadline set for completion of its institution-building work, especially work on the universal periodic review mechanism and the review of mandates, its credibility would be seriously undermined. She therefore welcomed the progress achieved on the universal periodic review, which should be operational within the time limit that had been set.

31. Unfortunately, the Working Group on the review of mandates was falling behind. She therefore suggested that it should take bold action to review all 44 existing mandates at once and leave the process of rationalization until the final phase. Indonesia staunchly supported the establishment of a code of conduct to guide the work of special procedures mandate-holders and urged the Working Group to start discussing a draft at its next session. Those who thought that such a tool might restrict the work and the independence of the special procedures should adopt a more positive approach. She asked the Working Group Facilitator to comment on the proposal that mandate-holders should be elected by the Council.

32. It was extremely important for the Council to conclude its discussions on its draft agenda and methods of work, which should be based on the principles of predictability and flexibility.

33. Mr. AMRAN (Malaysia) said that a well-structured agenda should be adopted by the beginning of the Council's second year.

34. The universal periodic review mechanism was an intergovernmental process, although other stakeholders could participate as observers. His delegation therefore saw no role for experts and no need for linkage to any other mechanism. The review should take place in plenary meetings of the Council, it should take national particularities into account and its periodicity should be a five-year cycle. The review process should be manageable so as not to overburden States. The outcome should be a summary of the proceedings accompanied, if necessary, by recommendations drawn up in full consultation with the State concerned. It should be a cooperative mechanism for the sharing of best practices and for promoting better understanding of the challenges facing States in meeting their human rights obligations. The emphasis should be on cooperation and the provision of assistance for capacity-building at the request of the State under review. No political measures should be contemplated.

35. He sought clarification regarding the format of the document prepared by the Facilitator on the review of mandates (A/HRC/4/118). In particular, he wished to know whether paragraphs 1 to 6 were intended to represent elements of convergence. If so, he wondered why certain elements had been included. Paragraph 4, for example, did not reflect the views of the majority. Malaysia continued to maintain that mandate-holders should be elected by the Council on the basis of nominations submitted by member States and other relevant stakeholders, in keeping with the principle of equitable geographical representation and the need to reflect different legal and cultural systems. Nominations should not be pre-screened by an unelected body in which member States had no role.

36. He also sought clarification of the meaning of paragraph 40, which referred to “unhindered access to and within countries” to facilitate the exercise of special procedures mandates. Even the most senior officials in Malaysia did not enjoy unhindered access to all places or persons.

37. With regard to the complaint procedure (A/HRC/4/120), Malaysia maintained its position that national court systems provided the most effective domestic remedies. With regard to the composition of the first working group proposed for the new procedure, his delegation believed that experts should be selected from the Council’s expert advice body on the basis of geographical representation. The mandates of members of both working groups should be subject to renewal. Decisions of the second working group should be taken by a simple majority and not by consensus or a qualified majority, whether they related to admissibility or to discontinuation of a case.

38. Mr. VIGNY (Switzerland) said it was important to ensure that the references made to international humanitarian law in the context of the universal periodic review were appropriate. Switzerland would make a specific proposal on that point when the facilitators’ documents were considered in detail at informal meetings the following week.

39. Mr. FLORENCIO (Brazil) said that his country supported a hybrid universal periodic review mechanism that would involve all stakeholders, including NGOs. The process would consist of two stages: a preparatory phase carried out by independent experts followed by an interactive dialogue conducted primarily by States. The outcome would be a report with conclusions and recommendations drafted by the independent experts and submitted to the Council. The involvement of independent experts in compiling and consolidating data in the preparatory stage and in drafting the final report would reduce the political tension inherent in any inter-State dialogue. To ensure transparency, the report would be widely disseminated, including on the Council’s website. At the end of each four-year cycle, all reports would be consolidated in a global report on human rights. With regard to modalities, Brazil preferred option 2 set out in the annex to the document prepared by the Facilitator (A/HRC/4/117), whereby the interactive dialogue would be conducted in working groups. The Council would subsequently consider the reports submitted by the working groups in plenary meeting.

40. Brazil supported the review of special procedure mandates as a means of addressing both the overlap among and the gaps within existing mandates. The evolution of human rights would probably result in the creation of new mechanisms with implications for the special procedure system. A periodic review of the whole system should therefore be undertaken by the expert advice body.

41. Brazil supported a dual procedure for the appointment of mandate-holders in which the President of the Council would first select five or more experts from a roster prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR). The names of the experts selected would then be submitted to the Council for a decision.

42. With regard to country mandates, Brazil proposed that where a country was found to have a consistent and proven negative record by several mechanisms - the special procedures, the complaint mechanism, the treaty bodies and the universal periodic review mechanism - it should be singled out for special consideration.

43. A constructive code of conduct would consist of a clear set of rules that would enhance the mutual responsibility of special mechanisms and Governments.

44. The expert advice body should serve as a think tank, playing a role similar to that of the former Sub-Commission.

45. Brazil supported the complaint procedure as an essential pillar of the human rights system.

46. The Council's agenda should be divided into sections on human rights, vulnerable groups, cross-cutting issues and institutional aspects.

47. Brazil supported the principle of involving NGOs in the Council's proceedings, as had been done in the Commission on Human Rights.

48. Mr. MINAMI (Japan) expressed broad support for the principles set out in the first section of the document prepared by the Facilitator on the agenda and annual programme of work (A/HRC/4/121) but suggested that flexibility and inclusiveness/comprehensiveness should be given more weight than the other elements. Japan strongly supported the idea of having a basket of agenda items, any of which could be discussed.

49. With regard to the universal periodic review mechanism, he suggested that two principles should be borne in mind: equal treatment of countries and effectiveness in improving human rights situations. It was important to address protracted gross violations properly and to create a concrete follow-up mechanism.

50. Many important points regarding the special procedures had been left for further discussion owing to persistent differences of opinion among member States. He trusted that those differences could be surmounted in due course. Japan believed that country-specific mandates were indispensable tools for the Council and supported the Facilitator's proposal regarding such mandates, provided that the Council avoided selectivity, politicization and double standards. For the selection and appointment of mandate-holders, Japan preferred the previous system of appointment by the President; however, as a compromise it was willing to agree to a hybrid model.

51. He noted with interest a number of relatively new proposals regarding the complaint procedure, all of which called for careful study.

52. Japan believed that the expert advice function could be handled by a smaller number of experts than the number that had made up the former Sub-Commission for the Promotion and Protection of Human Rights.

53. Mr. ISBAYENE (Morocco) said that rationalization of the special procedures should both strengthen the existing system and remedy shortcomings that had sometimes adversely affected the implementation of mandates as well as interaction and cooperation with Member States. Mandate-holders should be selected on the basis of criteria that included competence, expertise, impartiality, objectivity and integrity. As they should represent different cultures, civilizations and legal systems, it was important to ensure equitable geographical distribution as well as gender balance. Morocco regarded election as the most appropriate means of choosing mandate-holders and was willing to discuss any selection procedure that included election.

54. It was vital to ensure a balance between civil and political rights and economic, social and cultural rights. In addition, the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 should be maintained until the end of Israeli occupation, as stipulated in the relevant Commission on Human Rights and Council resolutions.

55. The working methods of mandate-holders and their interaction with the Council should be harmonized. Their reports should be submitted only to their parent bodies. OHCHR should continue to provide the requisite support to all special procedures without distinction.

56. The code of conduct that the Council had decided to establish by its resolution 2/1 should enhance the role of the special procedures and highlight the principles of objectivity, impartiality and independence.

57. The purpose of the complaint procedure was to address situations involving a pattern of gross and reliably attested violations of human rights and fundamental freedoms. It should not duplicate other individual complaint procedures. Confidentiality was essential, as attested by the large number of replies received from Member States under the former 1503 procedure, and only the Council could decide whether to lift confidentiality. As in the case of the 1503 procedure, the complaint procedure should involve two stages: the first working group should be composed of experts from the expert advice body and the second of Council member States elected on an equitable geographical basis. The admissibility criteria should be strictly respected by the secretariat and the first working group.

58. The expert advice body should be a subsidiary body of the Council with a clearly defined structure, which would operate at the Council's request and could also assist in the development of international human rights norms. It should be the same size as or slightly smaller than the Sub-Commission, and its members, who must possess the requisite expertise and independence, should be nominated by member States and elected by the Council on an equitable geographical basis.

59. Morocco supported the draft agendas proposed by the Movement of Non-Aligned States, the Group of African States and OIC, which were sufficiently flexible to enable the Council to consider all human rights matters. The agenda should reflect the spirit of cooperation, consultation and non-confrontation that ought to imbue Council proceedings. The question of Palestine and the other Arab territories occupied by Israel should be included in the agenda.

60. Mr. CERDA (Argentina), noting that the document submitted by the Facilitator on the universal periodic review mechanism (A/HRC/4/117) stated in several places that technical assistance would be provided with the "consent" of the State concerned, suggested that the point could be made in a single sentence that applied to the whole document. Such a sentence might read: "Wherever reference is made to technical assistance, it may be inferred that such assistance will be provided with the consent of the State concerned." However, as it would not always be possible to count on a State's "consent" to the outcome of the review, it should be made clear that the Council would adopt the outcome "with or without the consent of the State concerned".

61. The Facilitator had indicated that the periodicity of the review would be either four years or five years. Argentina would prefer a periodicity of three or four years, which was already a major concession. With regard to duration he suggested that, three hours should be set aside for the discussion and one hour for adoption of the outcome. The review should consist of an intensive preparatory stage and appropriate follow-up rather than a mere three-hour exercise.

62. The reference in section IV.A of the document to “additional credible and reliable information” and the phrase “the Council could also take into consideration” were weak. The information did not need to be characterized as credible and reliable because it was for the Council to draw its own conclusions in the light of the review.

63. He suggested replacing the word “rapporteur(s)” in the text and footnote appearing in section IV.A and in the text in section IV.B with the words “independent expert(s)” and deleting the reference in section IV.A to “geographical representation”, as that concept was not applicable in other forums undertaking similar reviews. The expert’s task should not be confined to preparing a summary, as described in section IV.B; rather, the expert should identify key questions and take part in preparing the outcome.

64. Mr. TALIBOV (Azerbaijan) drew attention to the document prepared by the Facilitator on the universal periodic review mechanism (A/HRC/4/117) and said that his delegation supported section I, entitled “Basis of review”. It should be made clear, however, that international humanitarian law could, as lex specialis, be viewed as protecting human rights during armed conflicts. He agreed that all relevant stakeholders should be able to participate in the review process and that the level of development and specificities of countries should be taken into account.

65. As all members of the Council should be reviewed during their term of office, the modality of selecting the first States for review by drawing of lots should, if accepted, be applied to the 14 States whose term on the Council would end in June 2007. The same procedure should be followed for non-member States. He supported a four-year review cycle and a three-hour review with an additional hour allocated for consideration of the outcome in plenary.

66. The Council should adopt general guidelines for the preparation of reports by States. Other sources such as the OHCHR compilation mentioned in section IV.A of the Facilitator’s document should also be consulted, but they should be credible and reliable in order to ensure that the review was conducted in a non-confrontational and cooperative spirit.

67. He supported the main thrust of the compromise proposal regarding selection of a rapporteur. The outcome document should consist of a summary of discussions accompanied by conclusions and recommendations. He also supported the compromise proposal on decision-making, the proposal that States should report to the Council on the implementation of review outcomes and the compromise suggestion regarding cases of non-cooperation by States.

68. Mr. RAHMAN (Bangladesh) said that the Council’s agenda should be simple, functional and predictable over a one-year period. It should respect the balance between civil and political rights on the one hand and economic, social and cultural rights and the right to development on the other. Its methods of work should be transparent, fair and participatory, facilitating genuine dialogue and promoting cooperation.

69. Paragraph 5 (e) of General Assembly resolution 60/251 provided a basic outline of the universal periodic review mechanism. Any deviation would unnecessarily complicate the Council's work and make it difficult to ensure convergence of positions. The review mechanism should be based on interactive dialogue with the full involvement of the country being reviewed. If that broad objective was borne in mind, the mechanism would be credible, effective and manageable.

70. The special procedures system should be coherent and effective, and double standards and politicization should be avoided. Mandate-holders should be independent, impartial and properly qualified and abide by a code of conduct. To minimize politicization and strengthen legitimacy, they should be elected by the Council from a list of pre-screened candidates.

71. The purpose of the complaint procedure was to determine the existence of a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms. The admissibility criteria should be strictly applied before a communication was forwarded to a State. Confidentiality was the cornerstone of the procedure and should be maintained at all levels.

72. The former Sub-Commission had made a significant contribution to the understanding of varied and complex human rights issues and to standard-setting. It should therefore be retained in the form of an expert advisory body to the Council.

73. Ms. CHÁVEZ BIETTI (Guatemala) said that her delegation would express its views on the elements identified as requiring further consideration at informal meetings and at forthcoming sessions of the Working Groups.

74. Ms. HERRERA LABRADOR (Cuba) noted that there were many pending issues in the documents submitted by the facilitators and warned against going into excessive detail at such a late stage in the discussions. It was important to focus on the essentials so that the institution-building process could be completed on time.

75. The review of special procedures was, in her view, the cornerstone of that process. The thematic procedures, which were equally applicable to all States, should be retained, while country-specific mandates, which had been established by politically motivated resolutions, should be abolished.

76. Mr. GÓMEZ ROBLEDO (Mexico) said that individual Council members should be free to nominate experts to participate in the universal periodic review mechanism. However, the experts' profile should correspond to a set of criteria established by the Council. A review should, in principle, be conducted once every three years in four working groups. However, four-year periodicity was also acceptable. The preparatory stage involving the processing and distribution of information, with the assistance of independent experts and OHCHR and in keeping with the principles of universality and equal treatment, would be decisive. The measures to be adopted by the Council on concluding a review should not be determined in advance; rather, there should be a range of options available in each case. As a general rule, principles of cooperation and genuine dialogue should be applied, but alternative measures should be available in the event of non-cooperation by a State. The recommendations should focus on gradual implementation, support should be provided for capacity-building and provision should be made for follow-up measures.

77. With regard to the review of mandates, he believed that the thematic procedures should be maintained and strengthened to ensure cooperation by all States.

78. The object of the complaint procedure was to identify situations involving a consistent pattern of human rights violations. Inadmissibility criteria should include the fact that a particular situation was already being addressed by a regional human rights body. National human rights institutions could not be recognized as domestic remedies in view of their non-judicial status. The new working groups on communications and situations should be able to operate impartially and should not be subject to external pressure; they should therefore be composed of independent experts. There should be clear deadlines in order to reassure victims about the treatment of complaints and the outcome. In general, the admissibility criteria should be different from those applied in assessing a situation.

79. Mr. VINTHEN (Observer for Denmark) said that the Council should not only be able to address human rights problems but also to offer ways and means of alleviating such problems. One important means was ensuring that provision for technical assistance was made in the outcome of the universal periodic review mechanism. Another was the conducting of country visits by special procedures, either individually or in groups, in order to identify human rights problems and develop recommendations for technical assistance in cooperation with the countries concerned.

80. Mr. ÜZÜMCÜ (Observer for Turkey) said that enhanced dialogue was the key to converting the working culture of the universal human rights machinery from confrontation into cooperation. The universal periodic review mechanism should be an evolving dynamic process and should be monitored by all stakeholders so that it could be revised if necessary. A “lessons-learned” exercise should form part of the proceedings.

81. As a country that had extended a standing invitation to the special procedures, Turkey had observed that cooperation which was constructive and non-confrontational yielded concrete results on the ground. Overlapping and duplication could be avoided by encouraging mandate-holders to undertake joint activities where necessary, to enhance their coordination and to focus on the core issues that had led to the creation of their mandates. Areas of duplication should be addressed by the most relevant mandate-holder.

82. The expert advice body should be efficient, easily manageable and also cost-effective, which meant that budgetary implications must be taken into account. The new body should undertake studies at the Council’s request. To avoid duplication, the Council should prioritize areas on which expert advice was required.

83. Ms. PHUMAS (Observer for Thailand) said that the universal periodic review mechanism would play a meaningful role only if it was based on constructive dialogue. A requirement that States members of the Council should be the first to undergo examination would enhance the international community’s confidence in the non-politicization and non-selectivity of the mechanism and contribute to the Council’s credibility.

84. The review and rationalization of the special procedures system should be comprehensive. The drafting of a code of conduct for mandate-holders should not be too specific but should provide general guidelines, avoid duplication with the Manual of the United Nations Human Rights Special Procedures and respect mandate-holders' independence.
85. The expert advice body should preserve the Sub-Commission's unique role as a forum for interactive dialogue involving civil society, especially when issues such as contemporary forms of slavery, minorities and indigenous populations were discussed.
86. With regard to the complaint procedure, she said that the Council should recognize any constraints and limitations being faced by countries in which serious human rights violations had occurred in order to redress such situations in an effective and sustainable way. Assistance should be provided, as needed and as requested, to overcome such constraints and limitations.
87. The Council should hold a high-level segment only once a year, during its main session, and should also organize a general segment for States that did not send high-ranking dignitaries.
88. As a subsidiary body of the General Assembly, the Council should adopt the Assembly's rules of procedure. Its methods of work should be transparent, fair and impartial and it should promote a culture of dialogue. The involvement of NGOs and national human rights institutions in the Council's work should imply corresponding responsibilities and should be based on a commitment to constructive dialogue and engagement.
89. Ms. MARTÍN GALLEGOS (Observer for Nicaragua) said that the Council should respect the principles of predictability, transparency, universality, impartiality and non-selectivity, while retaining the flexibility required to address urgent human rights situations. The Council's agenda should deal with human rights issues in areas in which universal cooperation was imperative, such as sustainable development, employment, housing and poverty eradication, hunger and endemic diseases. The Council should also assist in ensuring the effective implementation of humanitarian law and should monitor States' compliance with their human rights obligations. The agenda should include an item on the human rights of the Palestinian people.
90. Priority should be given to the establishment of the universal periodic review mechanism in order to enhance the Council's credibility among States and civil society. The mechanism should be based on cooperation and constructive dialogue, and should help build the institutional capacity of the State reviewed. The outcome of the review should be adopted by the Council in plenary meeting and should take into account the historical and cultural specificities and the level of development of the State concerned.
91. Ms. McGEENEY (Observer for the United States of America) said that her delegation would comment in detail on the documents submitted by the various facilitators at the forthcoming informal meetings and at the Working Group sessions to be held in April 2007. It looked forward to continuing discussions aimed at narrowing differences of perspective on critical issues that would have an important bearing on the Council's ability to promote and protect human rights.

92. Mr. LEVANON (Observer for Israel) said that since the creation of the Council, both member and non-member States had been insisting on the importance of non-selectivity and on the need for a non-discriminatory approach to each country, situation and agenda item. He was therefore dismayed to find that item 6 of the draft agenda contained in document A/HRC/4/121 reproduced the infamous item 8 of the agenda of the former Commission on Human Rights, once again singling out one country as though 60 years of one-sidedness and politicization had not been enough to demonstrate the illegitimacy of such procedures. It looked as though the Council would display the same schizophrenia as its discredited predecessor. It was shameful that because of political considerations and behind-the-scenes horse-trading the Council was ready to compromise its own values. Persecuted innocents all over the planet were being intentionally ignored for the sake of such power games.

93. Ms. VIDIATI (Observer for the Islamic Republic of Iran) expressed concern that some parties were apparently seeking to prolong the review and institution-building process in a bid to return to the failed practices of the past. The Commission on Human Rights, despite its fine legacy, had ultimately been undermined by politicization and double standards. The Council and its mechanisms, both reformed and new, should therefore be cooperative and enhance capacity-building rather than resorting to punitive measures.

94. In the interests of predictability, accountability and transparency, a well-structured agenda should be in place by the time the Council began its second year. As all human rights should be placed on an equal footing, issues such as the right to development, foreign occupation and defamation of religions must be included in the agenda. The international community had a collective responsibility to ensure that the Council continued to address the question of the human rights of the Palestinians, who had suffered decades of human rights violations and foreign occupation.

95. The special procedures should focus on thematic human rights issues. Country-specific mandates, such as those that had been considered under agenda item 9 of the former Commission on Human Rights, should be abolished, since they were the main cause of politicization. There were other options for examining country situations, including the universal periodic review mechanism.

96. Mr. CRETTEAUD (International League for the Rights and Liberation of Peoples), speaking also on behalf of Mouvement contre le racisme et pour l'amitié entre les peuples, Centre Europe-Tiers Monde and Women's International League for Peace and Freedom, said that the expert advice body should enjoy the same freedom of initiative as its predecessor, the former Sub-Commission, which had made an important contribution to human rights standard-setting. Members should serve for a maximum of two terms, and NGOs should be able to participate in the new body's proceedings.

97. The review of mandates should lead to a change in the relative weight attached to the two categories of human rights. Violations of economic, social and cultural rights and the right to development were responsible for the greatest amount of suffering in the world and deserved more attention. Mandate-holders should serve for only two terms, and plurality of mandates should be prohibited. The code of conduct should in no way restrict the freedom of speech or action of special procedures.

98. Unfortunately, the universal periodic review mechanism seemed to be evolving into a charade entailing little more than exchanges of pleasantries. It would lose all credibility if Council members could veto their own review. Prerequisites for a credible mechanism were the participation of independent experts, the involvement of national and international NGOs at all stages, and a global approach in both geographical terms (in order to address violations by a State both within and beyond its borders), and inter-agency terms (in order to address the extent to which a State's commitments and actions within the United Nations system were consistent with the human rights obligations it had assumed).

99. It was important that civil society, especially NGOs, should be involved in all stages of the Council's work.

100. Mr. TIAHJONO (Pax Romana), speaking also on behalf of Lutheran World Federation, International Movement against All Forms of Discrimination and Racism (IMADR), and Minority Rights Group International, said that the Council should hear a variety of voices and that NGOs could help to ensure that those voices were heard. General Assembly resolution 60/251 had stipulated that NGOs should participate in the Council's proceedings on the basis of the arrangements and practices observed by the Commission on Human Rights.

101. The Sub-Commission's subsidiary bodies - the Working Groups on Minorities, Indigenous Populations and Contemporary Forms of Slavery, and the Social Forum - had provided a forum in which NGOs speaking on behalf of special groups and NGOs without consultative status with the Economic and Social Council, including national NGOs from developing countries, could be heard. He urged the Council to ensure that the modalities of its expert advice body were equally flexible and effective.

102. Mr. VILLÁN DURÁN (UNESCO Etxea), speaking also on behalf of Asociación Española para el Desarrollo y la Aplicación del Derecho Internacional de los Derechos Humanos, said that one of the Council's key functions was to make recommendations to the General Assembly for the progressive development of international human rights law. He therefore hoped that the expert advice body would retain the codification mandate of the former Sub-Commission for the Promotion and Protection of Human Rights.

103. The Asociación Española para el Desarrollo y la Aplicación del Derecho Internacional de los Derechos Humanos had launched a private codification project based on the human right to peace after a year of wide-ranging consultations with Spanish civil society. Consultations on the Luarca Declaration on the Human Right to Peace, adopted on 30 October 2006, would now be undertaken with international civil society. The Declaration was a standard-setting text containing a holistic vision of the right to peace and incorporating an implementation mechanism. He hoped that it would ultimately be adopted by the United Nations General Assembly. Projects of that nature might be branded idealistic, but they were a necessary response to the crisis in international relations caused by the proliferation of wars of aggression waged by the super-Powers, which had shattered the system of collective security established by the Charter of the United Nations. It was impossible to remain indifferent in the face of ongoing gross violations of international humanitarian and human rights law and the trivialization or delocalization of torture.

104. Ms. AHMADI (International Federation for Human Rights (FIDH)) advocated greater interaction between the Council and the special procedures. The procedure for nominating mandate-holders should be strengthened and protected against State interference. The code of conduct should not cover mandate-holders' methods of work. It should, however, highlight State responsibility and provide for sanctions against States that continuously failed to cooperate with the special procedures.

105. The universal periodic review mechanism should be action-oriented. Reviews should be conducted on the basis of comprehensive reports from independent sources, including special procedures and treaty bodies, and the outcome should emphasize the recommendations of those bodies. NGOs and independent experts should be involved in all stages of the review.

106. Mr. ALARCÓN EYZAGUIRRE (Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos (CAPAJ)) said that it had proved impossible for the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples to effectively fulfil his mandate, not because of any lack of commitment on his part but because he had had to submit his reports directly to the former Commission on Human Rights rather than to an intermediate body along the lines of a treaty-monitoring body competent to consider reports on countries in which indigenous peoples suffered from violations of their fundamental rights.

107. The Working Group on Indigenous Populations of the former Sub-Commission, whose work had prompted the adoption of innumerable national and international legal measures and whose debates had ensured that the rights of indigenous peoples could not be stifled or abolished, should now report directly to the Human Rights Council, and its mandate should be broadened to allow it to consider the Special Rapporteur's reports with a view to recommending to the Council solutions to the plight of indigenous peoples all over the world.

108. In order to fulfil that role, the Working Group should consist of 12 members - 6 indigenous experts and 6 independent experts - who would carry out studies on subjects that had a bearing on the life of indigenous peoples and their fundamental rights.

109. Mr. SWEENEY (International Service for Human Rights) said that the core issue raised by the documents submitted by the six facilitators was how to meld the various Council mechanisms and mandates into a cohesive whole. There was, however, resistance to that idea from some States which apparently wanted the Council to develop into a fragmented body whose distinct parts operated without interacting. Yet the Council's effectiveness depended on the establishment of integrated, comprehensive mechanisms. The findings of the special procedures should inform the work of the universal periodic review, and the special procedures should in turn shape their work in response to the conclusions and recommendations generated by the universal periodic review.

110. The complaint procedure, without breaching the confidentiality of individual complaints, must be able to provide overviews of complaint patterns when States were reviewed. Highly qualified independent experts should advise the universal periodic review mechanism and should participate in missions established by the Council.

111. The individual facilitators and Working Groups should therefore explore ways of promoting the requisite integration of the Council's mechanisms. When putting the final touches to the institution-building process, the Council must ensure that all the pieces fitted together to produce a single composite picture.

112. Mr. LEE (Forum-Asia) said that the position of many Asian Governments advocating State control of independent human rights mechanisms such as the special procedures was a matter of concern, as any reform process aimed at strengthening the existing human rights system must be conducted in a transparent manner with the active participation of NGOs, civil society and national human rights institutions. For that reason, the Council should promote periodic national and regional consultations among governments, NGOs, civil society groups and national human rights institutions. The universal periodic review mechanism, which should not operate in Geneva alone, must be participatory, responsive to victims' needs and results-oriented.

113. Any code of conduct governing the work of the special procedures must also regulate the conduct of States and include provisions on such matters as timely response to communications, proactive implementation of the special procedures' recommendations, standing invitations to visit countries and the protection of human rights defenders, especially witnesses. In that connection, he deplored the murder of Ms. Siche Bustamente-Gandinao of the Philippines, a witness who had been shot dead after testifying to the Special Rapporteur on extrajudicial, summary or arbitrary executions.

114. As the Council would meet at least three times a year, it should consider holding one of its sessions in an OHCHR regional centre in order to raise the profile of the Council's work and make it more closely attuned to emergency situations on the ground. Such a step would also facilitate the participation of regional NGOs in the work of the Council.

The meeting rose at 3.10 p.m.