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Overview

The Human Rights Council (the Council) heard comments on the report of the Special Adviser on the prevention of genocide, presented on the previous day. Of particular note was a joint statement delivered by Sweden on behalf of a cross-regional group of States. The Council then continued the review, rationalisation and improvement of special procedures mandates. The Council reviewed the following mandates:

- Working Group on enforced or involuntary disappearances;
- Independent Expert on international solidarity;
- Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination;
- Independent Expert on minority issues.

Both the Working Group on enforced or involuntary disappearances and the Independent Expert on minority issues received broad support. The renewal of the other two mandates was not supported by Slovenia, on behalf of the European Union (EU), stating that it had opposed these mandates from their inception. However, it seems that none of the mandates discussed run the risk of being discontinued as a majority of the members of the Council support their renewal. No major changes to the mandates were discussed.

The afternoon meeting was devoted to a panel discussion on ‘intercultural dialogue on human rights’. The Council has already in previous sessions held several other panel discussions, including on violence against children, the mainstreaming of gender and women’s rights in the Council’s work, and at this session on the development of ‘voluntary human rights goals’. These discussions have generally been welcomed as a new way of discussing a specific issue in more depth. Some of the panels were organised to create a more interactive debate. In particular, the panel discussion on gender mainstreaming held during the 6th session of the Council, was a success in this regard as the debate was split into three parts, with brief statements by the panellists at the end of each segment. However, this positive improvement in terms of ‘interactivity’ seems to have been forgotten during this session.

The panel discussion on intercultural dialogue on human rights focused more on some religions than on culture and human rights. While many speakers rejected the idea of a clash of civilisations, several States highlighted the stereotyped treatment of Muslims, religious intolerance, and the need for restrictions on freedom of expression. This discussion reflected the background of the panellists (either Muslim or Christian) but also the interest of States. It was particularly disappointing for several non-governmental organisations (NGOs) that there were no women on the panel. The panel discussion therefore added little to the objective of improving the understanding of cultural diversity and how it affects the universal promotion of human rights.

Panel discussions can only be useful if they bring added value in the way the Council approaches a subject, including through improving the interactive nature of the discussion. With the very high level of interest in these panel discussions, that may require putting aside more time for such discussions in the future. The Council should clearly set out the objectives of such panel discussions and carefully select topics and speakers.

Special Adviser on the prevention of genocide
(continued)

Interactive dialogue

Mr Francis Deng, the Special Adviser on the prevention of genocide, addressed the Council on the previous day, 17 March 2008, to present the Secretary-General’s report on the United Nations’ (UN) efforts toward the prevention of genocide and to discuss the approach he intended to follow as mandate holder.¹ States’ comments on his presentation had not been planned in the programme of work. All States that took the floor welcomed the report, asked for clarifications and provided some suggestions for the future.²

¹ See ISHR’s *Daily Update* of 17 March 2008, available at [Hwww.ishr.ch](http://www.ishr.ch)H.

² Sweden (cross-regional joint statement on behalf of Benin, Botswana, Denmark, Finland, Ghana, Iceland, Lesotho, Mali, Norway, Tanzania, Zambia), Switzerland, Armenia, Kenya, Bangladesh, Russian Federation, Belgium, Israel, Azerbaijan, Ethiopia, Slovenia (on behalf of the EU).

A number of States shared the Special Adviser's focus on prevention and early warning as an important step in the prevention of genocide.³ Sweden, in a statement on behalf of a cross-regional group of States, highlighted the important role education could play in that context. The leading role of the UN in the prevention of genocide was highlighted by Bangladesh, while Armenia recalled the importance of regional organisations as catalysts for the international level.

Sweden stressed that there is generally enough information available to foresee situations that could lead to genocide, and urged States to recall that they bear the primary obligation for the protection of their own citizens from genocide. Belgium said the UN human rights system, in particular the special procedures and the treaty bodies, could provide important information for early warning. Bangladesh cautioned that clear criteria on this needed to be developed, to ensure that genocide could not be used as a pretext for attacks.

A number of States enquired if the Special Adviser had developed a strategy for carrying out his mandate and in particular on how to address gaps in the prevention of genocide on the ground that had been highlighted in Mr Deng's report.⁴ In his response, Mr Deng explained that his mandate was still at the initial stage, but was elaborating a strategy in consultation with States, various UN agencies, and civil society. He would circulate his strategy for comments when ready.

Some States made suggestions for the further strategy. Switzerland suggested that the Special Adviser establish a focal point within the Office of the High Commissioner for Human Rights (OHCHR) to better coordinate the work and strengthen the Special Adviser's links with various mechanisms for the promotion and protection of human rights, including the treaty bodies and special procedures.⁵ Mr Deng welcomed this proposal, and said it was under consideration.

- The Russian Federation suggested that the Special Adviser focus more on arbitrary deprivation of citizenship as an element of genocide.
- The Russian Federation referred to a recent trend of 'glorifying those who cooperated with the Nazis' and suggested that the Special Adviser develop some recommendations to prevent the development of an 'ideology that spreads genocide.' Israel claimed that several Iranian authorities were calling for genocide through their hostile rhetoric against Israel. It asked Mr Deng how his office could more effectively prevent such incitement.
- Azerbaijan suggested expanding the scope of the mandate by including a reference to 'mass atrocities' in the title of the Special Adviser. He replied that the Secretary-General had explicitly excluded such a reference, and that he expected this to remain that way.

Kenya referred to the difficult situation it faced, and the efforts of the Special Adviser to assist. It said it was undertaking efforts to address the root causes of the recent violence, and called on the international community to provide further support in this critical period.

Rights of reply

Iran replied to Israel's comment on the report of the Special Adviser on the prevention of genocide. It called the actions of Israel in the occupied Palestinian territories (OPT) 'vivid examples of genocide and holocaust' committed against the people under occupation. Israel, in turn, referred to the repeated call by Iran for the extinction of Israel a 'political genocide'.

³ Sweden, Armenia, Kenya, Azerbaijan.

⁴ Azerbaijan, Slovenia (on behalf of the EU).

⁵ Belgium also called for more cooperation in that regard.

Review, rationalisation and improvement of mandates

The Council continued the review, rationalisation and improvement of special procedures mandates. Earlier in the 7th session, it had already reviewed seven mandates.⁶ It reviewed another five mandates on 18 March 2008, and will continue the review throughout the session. In parallel to the plenary, negotiations on the draft resolutions renewing special procedures mandates are organised by co-sponsors of these drafts.⁷ Decisions on the draft resolutions will be taken in the last two days of the session.

Working Group on enforced or involuntary disappearances

France, as the main sponsor of the mandate of the Working Group on enforced or involuntary disappearances, started the review process by paying tribute to the work of the Working Group.⁸ It reminded the Council that this is the oldest thematic mandate and that its continuation was essential to deal with the global phenomenon of enforced disappearances. France underscored the seriousness of the problem by commenting that there are 41,000 unresolved cases from 78 countries. It highlighted the role of the Working Group in attempting to combat the phenomenon in particular its role in assisting in the implementation of the *Declaration on the Protection of All Persons from Enforced Disappearance*. It stipulated that the Working Group has played a very valuable role as a contact point between families of the disappeared and the concerned governments, underlining the importance of State cooperation as crucial to the effective functioning of the mandate. France hoped for the entry into force of the *International Convention for the Protection of All Persons from Enforced Disappearance* (the Convention) and highlighted the role that the Working Group plays in the progressive realisation of the Convention.

One of the members of the Working Group, Mr Darko Gottlicher, spoke of the humanitarian core of the mandate, underlining, as France had, the role the Working Group plays as a channel of communication between family members and governments. He also spoke of the Working Group as being entrusted to monitor the progress of States in fulfilling their obligations under the *Declaration on the Protection of All Persons from Enforced Disappearance*. He appreciated the collaborations with other UN agencies and highlighted that effective cooperation was essential to avoid duplication of work. He spoke of how the diverse membership of the Working Group allows it to carry out balanced work.⁹ In relation to the working methods elaborated by the Working Group, he stressed that the Working Group has always acted in conformity with the *Code of Conduct for special procedures mandate holders* (the code of conduct).¹⁰ He stipulated that the Working Group has clarified 10,437 cases since its inception and is working towards identifying good practices of governments' efforts in clarifying outstanding cases.

⁶ Special Rapporteur on violence against women, its causes and consequences, Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Special Rapporteur on the sale of children, child prostitution and child pornography, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Independent Expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights, Special Representative of the Secretary-General on human rights defenders, Special Rapporteur on the situation of human rights in Myanmar.

⁷ See the 'Bulletin of informal meetings', published daily on [Hwww2.ohchr.org/english/bodies/hrcouncil/7session/bim.htm](http://www2.ohchr.org/english/bodies/hrcouncil/7session/bim.htm)H.

⁸ See [Hwww2.ohchr.org/english/issues/disappear/members.htm](http://www2.ohchr.org/english/issues/disappear/members.htm)H for more information on the Working Group. Oral statements made at the Council can be accessed on the OHCHR extranet at [Hhttp://portal.ohchr.org](http://portal.ohchr.org)H (fill out the form on [Hwww.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm)H to receive user name and password).

⁹ France also raised this point.

¹⁰ See A/HRC/RES/5/2, 18 June 2007.

Interactive dialogue

A number of States welcomed the Working Group's significant work, and made specific comments on its work.¹¹

- Slovenia (on behalf of the EU) focused on the amount of cases unresolved and explained this by a culture of impunity and of underreporting by States, raising concern about the number of States that do not provide any information on cases of enforced or involuntary disappearances. It highlighted the fact that States have a primary responsibility to clarify unresolved cases.
- The Russian Federation stressed the need to clarify the activities of the Working Group undertaken to increase cooperation with States.
- The Russian Federation spoke of changes introduced to the working methods in November 2007 and warned that carrying out investigations might change the exclusively humanitarian nature of the Working Group mechanism in a counterproductive way.¹²
- Brazil and Argentina commended the diligence of the Working Group and stressed the importance of its work in light of the historical context of the Latin American region and the right to memory and truth. A number of Latin American States highlighted domestic initiatives, and expressed clear support for the continuation of the mandate.¹³
- Morocco echoed the support given by other countries and hoped that there would be sufficient resources available to allow for the many unresolved cases to be clarified. Amnesty International claimed the practice of enforced disappearances was far from over, highlighting the 629 new cases brought to the attention of the Working Group last year.
- Chile stated that it has signed the *International Convention for the Protection of All Persons from Enforced Disappearance* and is awaiting the senate's approval prior to ratification. Argentina has ratified the Convention and expressed its hope that it enters into force soon. Amnesty International called upon all States to ratify the Convention as a matter of urgency, but cautioned that this would not reduce the role of the Working Group.

In his closing comments Mr Gottlicher repeated the point made by Amnesty International that the issue of enforced disappearances was not merely a problem of the past but rather a contemporary phenomenon with global dimensions. He stressed that every case of the 10,437 cases that the Working Group has clarified has led to the right to truth for the victim, its family, and the societies involved. France closed the review by highlighting the 'optimistic' tone of the dialogue and the broad support for the mandate. It reiterated that it is now imperative to work towards the entry into force of the *International Convention for the Protection of All Persons from Enforced Disappearance*.

As with all other mandates under review, France will continue to hold informal consultations on a draft resolution.¹⁴

Independent Expert on human rights and international solidarity

The mandate of the Independent Expert on human rights and international solidarity was introduced by Cuba as a co-sponsor of the resolution on its renewal.¹⁵ Cuba commended the 'exemplary fashion' in which the

¹¹ Slovenia (on behalf of the EU), Russian Federation, Brazil, Argentina, Morocco.

¹² It referred in particular to paragraph 20 of the working methods that deals with 'Clarifications'. See www2.ohchr.org/english/issues/disappear/docs/Methodsofwork07012008.doc for more information.

¹³ Brazil, Chile, Argentina. Chile spoke of governmental attempts to clarify unresolved cases, while Argentina stressed that it has accepted the proposal of the Working Group to meet in Buenos Aires this year.

¹⁴ See the 'Bulletin of informal meetings', published daily on www2.ohchr.org/english/bodies/hrcouncil/7session/bim.htm.

current mandate holder, Mr Rudi Muhammad Rizki, has carried out his work. It also stressed the importance of international cooperation and solidarity given the prevalent inequality in the world. Cuba explained that international solidarity must not be understood as an act of charity; it is a 'vital duty incumbent on the international community'. International cooperation and respectful dialogues are key components of this mandate. Cuba emphasised that the continuation and strengthening of this mandate will provide a vital contribution to the development of third generation of rights (also known as 'collective rights'). It expressed its hope that the draft resolution calling for the extension of this mandate for three years will be adopted with the support of the great majority of members of the Council.

As Mr Rizki was unable to attend the meeting, Ms Gay McDougall, the Chair of the Coordinating Committee of special procedures, read out a statement on his behalf. In his statement, Mr Rizki explained that the two key aims of this last report were to explore the definition of global solidarity,¹⁶ and to establish the scope and applicability of this concept through three focus areas.¹⁷ Mr Rizki asserted that extending his mandate would provide him with the opportunity to explore these focus areas in depth, and develop guidelines, standards, norms, and principles through consultations with all relevant stakeholders.

Interactive dialogue

Slovenia (on behalf of the EU) opposed the extension of the mandate, reiterating the 'essential conceptual doubts' that it had expressed when the mandate was created in 2005. It argued that there are certain legislative standards for human rights, namely clear legal entitlements and legal responsibilities, which the moral concept of international solidarity fails to meet. It warned that such 'misuse of the language of human rights' may be, and often is, detrimental to the promotion and protection of human rights. While acknowledging the 'unquestionable value' of international cooperation, Slovenia (on behalf of the EU) asserted that States have human rights obligations irrespective of the nature and extent of international cooperation. The two questions that it posed clearly reflected this delegation's critical approach.¹⁸

The other delegations that took the floor were supportive of the extension of the mandate.¹⁹ Bangladesh commended the work done by the Independent Expert. It repeated Mr Rizki's view that more in-depth work may be needed, and thus supported the extension of the mandate 'to carry forward the unfinished work'. Nicaragua, a co-sponsor of the resolution on the extension, expressed its hope that the mandate will be extended so that work on the preparation of a 'declaration on international solidarity' may continue. It also suggested that the Council continue to consider international solidarity as an issue that cuts across all human rights.

Many States linked the issue of international solidarity to the right to development. Bangladesh recognised that the primary responsibility for economic development lies on the State, but underscored the necessity of international support and a favourable international environment for achieving this goal. Bangladesh stressed the urgent need to increase overseas development assistance (ODA) and provide capacity building if the

¹⁵ See www2.ohchr.org/english/issues/solidarity/index.htm for more information on the mandate. Oral statements made at the Council can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive user name and password).

¹⁶ International solidarity is 'the union of interests or purposes among countries of the world, and social cohesion between them. Global solidarity does and should encompass the relationship of solidarity between States and other actors, such as international organisations, and civil society'.

¹⁷ International cooperation; global response to natural disasters, diseases, and agricultural pests; 'third generation rights'.

¹⁸ Slovenia (on behalf of the EU) asked the Independent Expert to explain what he has done in the past 12 months to improve the promotion and protection of human rights as defined in the *Universal Declaration of Human Rights* and the two Covenants; and whether he agrees that he should avoid a situation where the proclamation of human rights is 'simple rhetoric and deprived of any legal content'.

¹⁹ Bangladesh, Nicaragua, China, Malaysia.

Millennium Development Goals are to be met.²⁰ Malaysia urged States to meet their ODA targets. Nicaragua pointed out that neo-liberalism and its effects on poor countries necessitates a ‘strategic alliance between States and peoples, based on solidarity, cooperation, complementarity, and mutual aid’. China commented that the promotion of international solidarity is essential for dealing with problems related to development, and thus the realisation of all human rights.

As the mandate holder was not present, President Costea promised to deliver the comments made to him. Cuba, in its concluding comments, was confident that the mandate of the Independent Expert on human rights and international solidarity would be extended for three years. It was convinced that the mandate would continue to provide important contributions to the effectiveness and to the understanding of the work done by the Council. At the same time, Cuba urged the mandate holder to continue working with the same professionalism and dedication as he has done so far.

Working Group on the use of mercenaries

Cuba, as the main sponsor of the resolution establishing the mandate, introduced the mandate of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination.²¹ Cuba stressed that mercenaries under whatever form are a threat to the right to self-determination and other fundamental human rights. Cuba commended the work done by the Working Group, and in particular of the Special Rapporteur that preceded it. Cuba claimed that the focus of the mandate on prevention and punishment of the recruitment, use, financing and training of mercenaries was unique, and of particular importance in the context of the increased use of mercenaries. It highlighted that despite efforts by the UN to combat the use of mercenaries, the practice has increased in recent years. In addition, Cuba claimed that increasingly, there are ‘multi-service organisations’, that recruit people to commit international crimes, affecting persons, peoples and countries in their fundamental rights. Accordingly, it called for the extension of the mandate for another three years.

Mr José Gomez del Prado, the current chairperson of the Working Group, recalled that one of the main goals of the mandate was to promote universal ratification of the 1989 *International Convention against the Recruitment, Use, Financing and Training of Mercenaries* (the Convention).²² He said the transformation of the mandate of a Special Rapporteur on mercenaries into the Working Group had been a reflection of the attempt to increase the global geopolitical reach of the mandate by allowing one expert from each region to work on the issue. The members of the Working Group promote the Convention and generally raise awareness about the use of mercenaries in their respective regions through seminars and public conferences.

He said that because the Convention did not establish a monitoring body, the Working Group with experts from all regions was trying to fill that gap. He highlighted that the group was composed of three women and two men, therefore respecting the requirement of equal gender representation.

Mr Gomez del Prado reported that the Working Group had met regularly with various UN and State representatives. He also drew attention to his cooperation with the Representative of the Secretary-General on transnational corporations.

²⁰ For more information on the Millennium Development Goals, please see [Hwww.un.org/millenniumgoals/H](http://www.un.org/millenniumgoals/H).

²¹ The Working Group was established by the Commission on Human Rights in 2005 as the successor mechanism to the mandate of the Special Rapporteur on the use of mercenaries, which had been in existence since 1987. The mandate of the Special Rapporteur was held by Mr Enrique Bernales Ballesteros (Peru) from 1987 to 2004 and Ms Shaista Shameem (Fiji) from 2004 to 2005. See [Hwww2.ohchr.org/english/issues/mercenaries/index.htm](http://www2.ohchr.org/english/issues/mercenaries/index.htm) for more information. Oral statements made at the Council can be accessed on the OHCHR extranet at [Hhttp://portal.ohchr.org](http://portal.ohchr.org) (fill out the form on [Hwww.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive user name and password).

²² See [Hwww2.ohchr.org/english/law/mercenaries.htm](http://www2.ohchr.org/english/law/mercenaries.htm) for information on the Convention, and [Hwww.icrc.org/ihl.nsf/WebSign?ReadForm&id=530&ps=PH](http://www.icrc.org/ihl.nsf/WebSign?ReadForm&id=530&ps=PH) for the status of ratifications.

He further emphasised that the Working Group had drawn up a new procedure to allow individuals and groups of individuals to submit allegations if they feel their rights have been violated. He described the procedure as identical to that of the Working Group on enforced disappearances and the Working Group on arbitrary detention. In this respect, Mr Gomez del Prado criticised that the Working Group on mercenaries only can hold one annual meeting, while the other two Working Groups hold three.

Finally, he drew attention to the missions carried out by the Working Group, emphasising that they had visited three categories of countries. It has visited States that export military services, States in which such private military companies (PMCs) operate, and finally States that provide ‘cheap labour’ to such PMCs.

Interactive dialogue

Only three States and one NGO intervened in the interactive dialogue.²³ Pakistan, on behalf of the Organization of the Islamic Conference (OIC), said the mandate was of particular importance as it had been able to remove important obstacles to the right to self-determination.

Pakistan (on behalf of the OIC) made a number of suggestions regarding the future focus of the mandate. It proposed that the Working Group address the question of jurisdiction in relation to PMCs engaged in violations of international law, taking into account the reaction of the local population. It also called on the Working Group to develop guidelines on the establishment of domestic legal frameworks to regulate the activity of PMCs in conformity with international human rights standards.

The role of non-State actors engaged in human rights violations was discussed briefly. Slovenia (on behalf of the EU) reiterated its earlier position, saying the EU had not supported the mandate since its inception. It argued that the issue of mercenaries does not belong to the agenda of the Council. Rather, the Council should focus on assessing the compliance of States with their human rights obligations. The Russian Federation, in turn, expressed its wish to see the Working Group continue to address human rights violations by non-State actors. Going further, it hoped that this work would contribute to change the positions of States that ‘continue to deny the possibility of human rights violations by non-State actors’.

Human Rights Advocates called attention to the privatisation of military activities, and said the use of force by private actors raises important questions in relation to the United Nations system of collective security. Highlighting the need for international accountability mechanisms to address gaps in domestic frameworks, the NGO suggested that the *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights* could be used as a starting point in that regard.²⁴

Mr Gomez del Prado pledged that the Working Group would take all the suggestion into account in its future work. Cuba said it would continue to hold consultations on its draft resolution, and hoped for the widest possible support.

Independent Expert on minority issues

The mandate of the Independent Expert on minority issues was introduced by Austria, one of the co-sponsors of the resolution on its renewal.²⁵ It began by thanking the mandate holder, Ms Gay McDougall, for engaging in the interactive dialogue on the assessment of her mandate. Austria reiterated that promoting and protecting

²³ Pakistan (on behalf of the OIC), Russian Federation, Slovenia (on behalf of the EU), Human Rights Advocates.

²⁴ The Norms were adopted by the Sub-Commission for the Promotion and Protection of Human Rights in its *Resolution 2003/16*.

²⁵ See www2.ohchr.org/english/issues/minorities/expert/index.htm for more information on the mandate. Oral statements made at the Council can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive user name and password).

the rights of minorities contributes to stability and development. It referred to the mandate as an ‘important focal point’ for raising awareness about the rights of persons belonging to minorities and the issues that they face.²⁶ Austria affirmed that the mandate is ‘of particular value’, and especially commended Ms McDougall’s application of the gender perspective. It stressed that she has shaped the mandate decisively, and expressed its hope that she will continue to serve as the mandate holder in the coming years. Austria used this opportunity to ask Ms McDougall for her views and experiences in the implementation of her mandate. While acknowledging that the mandate is relatively new,²⁷ it asked her to identify the most important aspects of her mandate. It also inquired which should be the priorities for the mandate in the coming years.

Ms McDougall emphasised that despite international commitments, ‘minorities everywhere continue to face serious violations of their rights’.²⁸ She explained her mandate, her working methods, and her ‘four point legal and conceptual framework’.²⁹ She pointed out that no other special procedures mandate is tasked to look holistically at minority issues. Ms McDougall expressed her belief that the new Forum on Minority Issues³⁰ ‘will tremendously enhance the development of thematic studies’. She placed emphasis on national unity, integrated societies, and social inclusion and cohesion as objectives of her mandate. Ms McDougall also warned that ‘we must heed the early warning signals of multi-ethnic societies on the verge of crisis’ and she suggested developing new preventive strategies. In this regard, she pointed to her work on structural issues, namely identifying best practices and assisting the implementation of appropriate normative and institutional infrastructures.

Ms McDougall also mentioned her collaboration with other UN mechanisms, as well as the cooperation and support shown by member States. She concluded by stressing the vital role of her mandate in helping ‘societies to understand that respect for minority rights is crucial to achieving stable and prosperous societies, in which human rights, development and security may be achieved by all, and shared by all’.

Interactive dialogue

Again, there was broad support for the mandate. Pakistan (on behalf of the OIC) highlighted the ‘great importance’ of the mandate of the Independent Expert.³¹ It particularly noted her work in identifying best practices and possibilities for technical cooperation between OHCHR and governments.³² Brazil particularly praised Ms McDougall for the reference in her report to the draft *Inter-American Convention on Racism and All Forms of Intolerance*.³³ Slovenia (on behalf of the EU) commended Ms McDougall for the cooperative and constructive way in which she has implemented the mandate.³⁴ The Russian Federation voiced its belief that the Independent Expert’s work is largely successful due to the balanced nature of Ms McDougall’s work

²⁶ Echoed by Slovenia (on behalf of the EU), International Movement against All Forms of Discrimination and Racism (joint statement on behalf of Minority Rights Group International, Asian Legal Resource Centre, Islamic Human Rights Commission, Mouvement contre le Racisme et pour l’Amitié entre les Peuples).

²⁷ The mandate was established in 2005.

²⁸ These include armed conflicts, extreme poverty, economic exclusion, and marginalisation in the political process.

²⁹ The protection of a minority’s survival through combating violence against them; the protection and promotion of the cultural identity of minority groups and their right to enjoy their collective identity; the guarantee of the rights of non-discrimination; the guarantee of the right to effective participation of members of minorities in public life.

³⁰ A/HRC/6/L.34. This resolution, sponsored by Austria, was adopted by consensus during the 6th session of the Human Rights Council last September. It called for the creation of a forum for minority issues to replace the Working Group on Minorities under the former Sub-Commission. The forum would facilitate participation by States, non-governmental organisations (NGOs) and all other stakeholders.

³¹ Supported by the Russian Federation.

³² Supported by Slovenia (on behalf of the EU).

³³ For more information, see [Hwww.oas.org/consejo/CAJP/RACISM.asp](http://www.oas.org/consejo/CAJP/RACISM.asp)H.

³⁴ Echoed by International Movement against All Forms of Discrimination and Racism (joint statement on behalf of Minority Rights Group International, Asian Legal Resource Centre, Islamic Human Rights Commission, Mouvement contre le Racisme et pour l’Amitié entre les Peuples).

and working methods. It thus did not see any need to introduce substantive changes in the existing format of the mandate holder's work.

While supportive of the mandate, Pakistan (on behalf of the OIC) insisted that the scope and definition of the term 'minorities' is clear and prescriptive in the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*.³⁵ On the contrary, Turkey asserted that the lack of an internationally agreed definition of 'minorities' is 'one of the most complex issues'. It stressed that 'each case has its own specificities', and that it would thus be appropriate to take into account the history and national legal systems when considering situations.³⁶

Looking to the future, Pakistan (on behalf of the OIC) asserted that the rights of religious minorities are a 'big challenge' for the mandate holder in the coming years. It also expressed its view that cooperation with other UN mechanisms and regional organisations is an integral part of the mandate. Slovenia (on behalf of the EU) welcomed Ms McDougall's particular focus on the situation of women belonging to national minorities, and expressed its support for an ongoing strong focus on this issue. The International Movement against All Forms of Discrimination and Racism in a joint statement³⁷ welcomed the synergies envisaged by the Council between the Independent Expert, the Forum on Minority Issues, and the Durban review process.

Slovenia (on behalf of the EU) asked Ms McDougall about her experience so far in identifying best practices and possibilities for technical cooperation, and inquired whether she thinks this function should continue to be an important element of the mandate. In her replies, the Independent Expert stated that country visits are 'without a doubt' the most effective tool for identifying best practices.

Slovenia (on behalf of the EU) also asked which thematic areas the Independent Expert feels are particularly important. In her replies, Ms McDougall raised poverty and issues relating to the achievement of the Millennium Development Goals as being of top priority. She also elucidated the importance of studying minority issues and citizenship to ensure the full participation of minority populations. Finally, Ms McDougall drew attention to the importance of education, and expressed her hope that the Forum on Minority Issues will address this issue at its first meeting.

Austria, in its final remarks, thanked all delegations for their constructive contributions. It noted that when extending this mandate, the Council could build on the solid framework to address minority issues that is already in place. Austria reiterated its commitment to continue and conclude the process of the renewal of this mandate in an open and transparent manner, and expressed its confidence that the Council will arrive at a consensual outcome.

Panel on Intercultural Dialogue on Human Rights

The President recalled the modalities for the panel. He underlined that the panel would have to end today and that as a result time management would have to be strictly observed. He then invited Mr Malcolm Evans, Dean of the School of Sciences and Law College of Bristol University, to chair the panel.

³⁵ General Assembly *Resolution 47/135*, 18 December 1992, available at www.unhcr.ch/html/menu3/b/d_minori.htm. One of the core elements of the mandate of the Independent Expert on minority issues is the promotion of the implementation of this *Declaration* through consultations with governments and other relevant stakeholders.

³⁶ According to the Turkish Constitution, the term encompasses only groups of persons defined and recognised as such on the basis of multilateral or bilateral instruments to which Turkey is party.

³⁷ On behalf of Minority Rights Group International, Asian Legal Resource Centre, Islamic Human Rights Commission, Mouvement contre le Racisme et pour l'Amitié entre les Peuples).

Statements by the panellists

Professor Hamidou Dia, Professor of Philosophy and Comparative literature of the University of Dakar, took the floor as the first panellist. He stated that the question of human rights is as old as humanity and universal across cultures. He noted that human rights could bring together all humanity in a pluralistic manner. He stated that human rights are philosophical, political, and legal. He emphasised that no civilisation can claim to have the exclusive entitlement to human rights and that it is not only a western concept. Professor Dia highlighted however that in the present era the Western conception of human rights is the only one that seems to be given a privileged status, which poses a challenge to genuine dialogue. He questioned whether it would be possible to talk of true human rights in light of this inequality, in addition to the unequal use of the resources of this world and the many atrocities that occur daily. He referred to a range of documents to demonstrate the universal ideals of human rights. He argued that people need to rebuild human dignity based on diversity, and in order to do this a new paradigm based on peace needs to be constructed; a new social contract must be signed.

H.E. Metropolitan Kirill of Smolensk and Kaliningrad, the President of the Department of Foreign Ecclesiastical Relations of the Patriarchate of the Russian Orthodox Church then spoke. He argued that human rights are based on the idea that we should be concerned about the happiness of every person and that this idea came from Christianity. He claimed that human rights have become a monopoly of a limited number of persons, and that a well-organised minority of the population influenced the understanding of human rights by international organisations and States. He argued that for orthodox Christians human dignity could not be addressed without reference to spirituality. Mr Kirill however observed that religious views have become a private matter and are not seen as a source of modern law and human rights. According to him this had led to the formation of an agnostic, and even an atheist culture. He went on to claim that feminism and homosexuality are having a damaging impact on family life; that the assertion of women's right to abortion is a violation of the right of the embryo; and that favourable attitudes toward euthanasia is a slippery slope towards a conception of human rights that favour death rather than life. He argued that in the implementation of human rights the focus was on freedom and the right to choose but that the ensuing responsibilities were ignored. He stated that freedom is used to promote an immoral life style. Finally, he argued that the human rights defence systems must take into account cultural specificities. He stated, that States are each claiming that their version of human rights is truly universal, and that they attempt to teach others a certain culture. In conclusion Mr Kirill clarified that the conflict of civilisations is in fact a conflict between non-religious and religious approaches.

Mr Jan Henningson, Director of the Swedish Institute in Alexandria, underlined that the human race is one. He referred to an initiative developed by Egypt and Sweden in 2000 to establish a new meeting place for Europeans and Arabs. He explained that through this initiative it had gathered legal experts from European and Arab countries to discuss the legal traditions of the world and the value systems underlying them. He noted that some themes had been recurrent in these discussions, which he believed to be 'significant and symptomatic'. These included the idea of a clash of civilisations,³⁸ which was generally refuted; the need for a balance between rights and duties; and different but not conflicting understandings of 'community' and 'person'. He noted that there were generally two approaches to these issues. One was culture-centred and focused on preserving the identity of communities. The other was based on rights. He suggested that the concepts of individual and collective rights could be reconciled in the idea of citizenship. Finally, he claimed that depending on each culture there are certain borders that should not be transgressed if you want to stay within the discourse.

Mr Chandra Muzaffar, President of the International Movement for a Just World, stated that most religions and cultures concur with the rights embodied in the *Universal Declaration of Human Rights* (UDHR). At the

³⁸ This idea was put forward by Samuel Huntington in a book by the same name.

same time there are certain dimensions in the understanding and practice of human rights that concerns most religions and cultures. He noted that most religions and cultures seek to balance rights with responsibilities. He acknowledged that the responsibility aspect could be abused by States that do not take responsibility for the rights of their citizens. The second issues was the need to give equal emphasis to collective rights and the rights of communities. Thirdly, he stated that certain interpretations of human rights should not be imposed on the rest of humankind while ignoring the immense diversity of human cultures. He suggested as an example that new notions of the right to marriage could not be imposed as many perceive it as a relation between a man and a woman. He recognised that there was a danger that this could lead to the denial of dignity of those of different sexual orientations and that this 'would be wrong'. He highlighted that power is even more important than cultures as it determines the practice of human rights. He claimed that most human rights abuses are due to an asymmetry of power. Finally, he noted that there is still a great deal of ignorance and that this needs to be rectified.

Mr Omur Orhun, Personal Representative of the OSCE chairman in office on Combating Intolerance and Discrimination against Muslims, identified poverty and ignorance as the two main threats to human rights. He argued that democratic pluralism, rule of law and transparency are universal values and that there was a need to promote their collective ownership. He stated that the objective of the dialogue should not just be a deeper understanding but also conflict prevention, combating prejudices and facilitating coalition building across cultures and religions. He took note of increasing polarisation at the international level and stated that the need for respect for diversity should not be an excuse for human rights violations or for partial implementation of human rights. He highlighted the need to ensure respect and equal treatment through a transparent and inclusive approach.

Interactive dialogue

Many speakers expressed their thanks for the holding of the panel and their gratitude to the panellists for their presentations.³⁹ Slovenia (on behalf of the EU) hoped that the panel discussion would be an opportunity for self-reflection. Pakistan (on behalf of the OIC) stated that the panel discussion was a timely initiative. Morocco stated that this dialogue was not new but that it had become more topical with the emergence of new challenges. The Holy See argued that there was a need for common point of departure and suggested that while the panellists had offered various options, it queried whether there was a need for a 'deeper starting point'. It did however acknowledge that the panel could open the way for fruitful dialogue and overcome barriers.

A number of NGOs expressed concern at the limited cultural diversity represented on the panel and the complete absence of women.⁴⁰

The majority of speakers highlighted the importance of intercultural and interreligious dialogue. Some argued that such dialogue would promote diversity, understanding,⁴¹ tolerance and mutual respect,⁴² respect for

³⁹ Canada, Palestine, Egypt (on behalf of the African Group), Qatar, Bangladesh, Pakistan (on behalf of the OIC), Philippines, China, Italy, Holy See, Nigeria, Islamic Human Rights Commission.

⁴⁰ International Service for Human Rights on behalf of 16 NGOs, International Federation of University Women.

⁴¹ India, Egypt (on behalf of the African Group),

⁴² Philippines.

human rights,⁴³ diffuse mistrust,⁴⁴ stem conflict,⁴⁵ break stereotypes, and counter extremisms and violence.⁴⁶ Many delegations also underlined the importance of education for promoting tolerance and understanding.⁴⁷

Many speakers spoke of the universality of human rights and how cultural diversity and specificities influence the understanding of human rights.

- Several States emphasised the unity and common values of humanity.⁴⁸ Slovenia (on behalf of the EU) stated that there was a need to build on these common values to foster dialogue. Egypt (on behalf of the African Group) stated that all cultures constitute an integral part of the common heritage of humankind and that Africa had been at the centre of that heritage.
- The universal character of human rights was underlined by many speakers.⁴⁹ Egypt (on behalf of the African Group) stated that the universality of human rights does not negate cultural diversity. Canada underlined that the rights contained in the UDHR and in the two Covenants are fundamental and universal. It stated that while cultural specificities should be borne in mind, States must respect and protect the rights of all citizens.⁵⁰ Finland stated that the UDHR formed a solid basis for dialogue among cultures. However, Nigeria noted that the majority of members of the UN today were not able to influence the conception of human rights during the drafting of the UDHR.
- Egypt (on behalf of the African Group) noted that respect for cultural diversity should not be a pretext for undermining respect for human rights. However, while it affirmed the universality and interrelatedness of human rights, it stated that it ‘completely refuses the imposition of particular value system on others’. Nigeria warned that the UN should not become a ‘tool in the hands of a powerful few’ to impose their will on others. Iran noted that cultural diversity is regarded by some as a controversial clash between universality and cultural relativism. The Philippines stated that cultural diversity did not detract from the universal nature of human rights and instead offered an opportunity to strengthen the cause of human rights.
- Canada noted that migration had increased the diversity in many societies and that communities of people across borders based on particular identities, such as ethno-cultural, indigenous, linguistic and religious, had been established as a result of new communications technology.
- Nigeria stated that there should be a better balance between civil and political rights and economic, social and cultural rights. It further argued that there was a need for greater equity in the distribution of power and resources.
- Norway stated that the UN should continue to promote intercultural and interreligious dialogue.
- Cuba proposed that the Council should appoint an Independent Expert on the enjoyment of cultural rights. It believed that this would be a valuable contribution to the dialogue.

Some speakers commented on the role of particular groups in promoting intercultural dialogue and respect for human rights.

- Canada highlighted that an inclusive society must ensure respect for the human rights of women.
- The Philippines argued that the role of civil society in intercultural dialogues should be enhanced.
- The Comision Juridica Para El Autodesarrolla de Los Pueblos Originarios Andinos highlighted the role of the Andean people and their particular relationship with their lands. It stated that UDHR had re-established the broken bonds between humans from different cultures and sought to end discrimination.

⁴³ Canada, Philippines, Norway.

⁴⁴ Slovenia (on behalf of the EU).

⁴⁵ Norway, Philippines, China.

⁴⁶ Philippines.

⁴⁷ India, Cuba, Italy.

⁴⁸ Tunisia.

⁴⁹ Slovenia (on behalf of the EU).

⁵⁰ Brazil.

- The Canadian HIV/AIDS Legal Network stated that it regretted that one panellist had used the opportunity to undermine feminists and the contribution of lesbian, gay, bisexual and transgender persons. It acknowledged that these were sensitive issues and did not expect the Council to be able to reach consensus. However, it highlighted the need to find common ground and suggested that the universality of human rights would be a starting point for agreeing that no one should be subjected to torture or be killed because of their race, religion, sex, sexual orientation or any other status.

A few speakers commented on the claimed clash of civilisations.⁵¹ Algeria stated that this was now seen as a clash between Islam and the West. It noted that the idea of a clash of civilisations is ever more deeply rooted in the minds of people and that the idea had influenced public opinion. The Philippines stated that it rejected the idea of a clash of civilisations.

Many speakers focused their comments on the role of religions rather than cultures in relation to promotion of human rights. They also spoke of the balance between freedom of religion and freedom of expression.

- Palestine (on behalf of the Arab Group) claimed that hate had been used against religious symbols. Several speakers underlined that freedom of expression must not be used to undermine freedom of religion.⁵² Pakistan (on behalf of the OIC) stated that there is no incompatibility between respect for religions and freedom of expression. The United States of America (US) emphasised the value of freedom of expression, and stated that all voices must be heard and respected even when we disagree.
- Pakistan (on behalf of the OIC) stated that the reprinting of cartoons and the screening of a documentary in the Netherlands incited hatred and pitted nations against each other. It further stated that insensitivity towards Muslim minorities in Europe tended to undermine the excellent policies and programmes aimed at integration.
- Several speakers commented on attacks against Islam and some referred to the problem of Islamophobia.⁵³ Algeria stated that these attacks were like an ‘anti-Semitic policy’ against Arabs and Muslims.
- Pakistan (on behalf of the OIC) suggested that the Council should continue to explore the possibility of drafting a convention to combat defamation of religions.

Several States commented on measures they had taken to promote intercultural dialogue:

- Several States emphasised that respect for all religions and cultures was at the heart of their policies.⁵⁴
- Canada stated that respect for diversity was a critical element of its efforts to foster an inclusive society.
- New Zealand spoke of the 3rd regional interfaith dialogue that it had co-organised last year with Indonesia, the Philippines, and Australia.⁵⁵ It had also held a national symposium on inter-cultural dialogue.
- Norway stated that it had engaged in human rights dialogues with several countries. It had also initiated a Global Intermedia Dialogue together with Indonesia. Finally it was supporting several dialogues among religions both domestically and internationally.
- The Philippines mentioned that it had chaired the Conference on Interfaith Cooperation for Peace held at the UN in New York in 2005. It also mentioned that it had sponsored a resolution adopted by consensus at the general Assembly on promotion of interreligious and intercultural dialogue, understanding and cooperation for peace.

Several delegations also asked questions to the panellists.

⁵¹ Algeria, Iraq.

⁵² Palestine (on behalf of the Arab Group), Pakistan (on behalf of the OIC).

⁵³ Palestine (on behalf of the Arab Group), Algeria, Pakistan (on behalf of the OIC), Saudi Arabia.

⁵⁴ India, Slovenia (on behalf of the EU), Philippines.

⁵⁵ Also mentioned by the Philippines.

- Canada asked which activities should be undertaken in the context of the 60th anniversary of the UDHR to promote greater intercultural understanding. Slovenia (on behalf of the EU) and Brazil asked how the individual person could cope with multiple identities such as religious and cultural specificities. Slovenia (on behalf of the EU) also queried how intercultural dialogue could contribute to the education of young people. Finland asked how the Council could be made a better arena for intercultural dialogue and how the Council could promote the concept of the universality of human rights. New Zealand asked how intercultural dialogues at the national level could contribute to human rights protection. The International Federation of University Women asked if the panellists had analysed intercultural dialogues with a gender lens. The Consultative Council of Jewish Organisations asked what could be done in the context of the Durban review conference to combat racism and not repeat the mistakes of the past.

There was very limited time left after this, and Professor Malcolm Evans suggested that all panellists respond to a common question that he believed reflected the discussion. He noted that there had been broad agreement on the importance of staging such an event. However, he suggested that the panellists reflect on the most effective and practical ways to have a debate to facilitate process of dialogue and its implementation at the local and international levels. He noted that Mr Dia had had to leave the panel due to illness.

Metropolitan Kirill focused his comments on how cultural identity and autonomy could be brought together with universality of human rights. He underlined that the majority of speakers had underlined the need to consider cultural specificities while conserving compliance with human rights. He argued that the UN is the only forum for debate among global cultures.

Mr Henningsson shared an encouraging experience he had working with a group called the Young Swedish Muslim Peace Agents.

Mr Muzaffar commented on the approach to multiculturalism in Malaysia. He also affirmed that the search for human rights is a common goal.

Mr Orhur stated that to him the question was not how to increase understanding of the universality of human rights but how to strengthen implementation of human rights principles. He noted that the debate had shown that there is little difference at the rhetorical level but that the implementation of rights is not 'that bright'. He insightfully suggested that the dialogue should happen outside the meeting rooms of international organisations and should engage politicians, the political discourse, the media, and the public at large as well as women and youth.

Professor Evans, in closing, recalled that the panel was linked to the 60th anniversary of the UDHR, and reaffirmed that human rights are the product of the shared experience of people and not of only one culture. He stated that there is no tension between human rights and cultural diversity. He underlined that dialogue is an exercise in learning about how others have responded to the challenge of the realisation of universal human rights. He acknowledged that in the past perhaps attempts had been made to marginalise cultural diversity as it was perceived as a threat, but that now it is recognised as a necessary component of achieving human rights.

The President closed the session by stating that he believed that the discussion was a reminder of how strongly cultural backgrounds impact on political thinking.

Informal consultations

Resolution on the composition of the staff of the Office of the High Commissioner for Human Rights

Cuba, as main sponsor of a draft resolution on the composition of the staff of the OHCHR, organised an informal meeting to present the draft text and receive comments and proposals on the resolution from other member States. Introducing the resolution, Cuba welcomed the efforts made by the High Commissioner to address the present regional representational imbalance in her Office, but said that economic and cultural differences are not being sufficiently taken into consideration. The main points raised were:

- Several States welcomed the draft resolution as an acknowledgement of the great concern shared, particularly by most developing countries, about the geographical imbalance.⁵⁶ Algeria stressed the need for improvement, stating that the figures of the composition of the staff spoke for themselves.
- Some States argued that the Council was the wrong body in which to discuss the administrative and financial matters of the Secretariat.⁵⁷ Canada said that staffing of UN offices is the concern of the Secretariat as a whole and should therefore not be brought up in the Council. Similarly, the United Kingdom (UK), speaking on behalf of the EU, felt that the 5th Committee as a part of the General Assembly should deal with the issue. On the contrary, China, supported by Belarus and the Russian Federation, asserted that the Council was indeed the appropriate body to correct the imbalance, as the issue at hand was related to human rights.
- Several States expressed their reservations against the suggestion that OHCHR would be given ‘special treatment’ by the General Assembly. The UK (on behalf of the EU) said it found no legal basis for singling out one part of the UN Secretariat and said it could not support ‘meddling in staffing’ of OHCHR. Morocco was hesitant to establish a ‘separate regime’. Algeria called for the OHCHR to simply follow rules and procedures and saw no need for special measures. Supporting such ‘special treatment’, the Russian Federation referred to a statement made by the High Commissioner where she noted that the geographical distribution of her staff needed to be treated differently from other parts of the UN Secretariat, thereby creating, in the Russian Federation’s point of view, the legal basis for differential treatment of the OHCHR from the other parts of the UN Secretariat.
- Several States asked for amendments to the draft text. The Russian Federation wanted to see ‘clear language’ in the body of the text that particularly highlighted that the imbalance in representation is persistent, especially at the middle and senior levels of OHCHR. The UK (on behalf of the EU) found it ‘presumptuous’ to refer to Joint Inspection Unit reports that were not yet addressed or debated. Switzerland called for a removal of the reference to the final report of the Non-Aligned Movement, arguing that the reference to a specific regional group ran counter to the Council’s idea of universality.
- Calling for consensus, Morocco suggested using the draft to find wording that was acceptable to most States.

⁵⁶ Algeria, Belarus, China, Russia, Morocco.

⁵⁷ Canada, Switzerland, the United Kingdom (on behalf of the EU).

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