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Overview

The third day of the 5th session of the Council was dedicated to follow-up on the special sessions of the Council and to consultations on the completion of the institution-building process. The item on follow-up addressed the implementation of the outcomes of the four special sessions of the Council:

- The Fact-Finding Mission to the Occupied Palestinian Territories (OPT)
- The Commission of Inquiry on Lebanon
- The Fact-Finding Mission to Beit Hanoun
- The group of rapporteurs on follow-up to recommendations and reports by the Human Rights Council, the Commission on Human Rights, and other United Nations human rights institutions on Darfur.

Little time was given to the first two items. The Special Rapporteur on the situation of human rights in the OPT, Mr John Dugard, was unable to travel for health reasons, so in his place the President of the Council

provided a timeline of events leading up to the present date concerning the work of Mr John Dugard as head of the Fact-Finding Mission to the OPT. Likewise, as the Commission of Inquiry had not finalised its report, there was no formal presentation of its findings. The President opened the floor for preliminary comments, but few States chose to address the subject prior to the publication of the Commission's outcomes.

On the other hand, the latter two items of follow-up received more detailed consideration. Archbishop Desmond Tutu addressed the Council as a member of the Fact-Finding Mission to Beit Hanoun, and implored upon the Council that "true peace and security...can only be realised for all when the human rights of all are recognised and respected". His statement was received with plaudits, with the President stating that his presence provided inspiration to the Council. There was also a discernable lack of statements delivered in the proceeding interactive dialogue that attempted in any way to justify the bombarding of Beit Hanoun, save from Israel and select NGOs.

The Special Rapporteur on the situation of human rights in the Sudan, Ms. Sima Samar, also presented the report of the group of rapporteurs mandated under Council *Resolution 4/8* to "ensure the effective follow-up and fostering the implementation of resolutions and recommendations on Darfur, as adopted by the Human Rights Council, the former Commission on Human Rights and other United Nations human rights institutions..." Ms Samar also received a long list of very general reiterations of regional and State positions on the issue of the Sudan, divided among the same lines of perception that have been well-established over the first five sessions of the Council. Nonetheless, the indication that both the European Union and the African Group found the report of the special procedures useful, and gave attention to the request of the group that their mandate be extended to monitor follow-up for the next session of the Council, was encouraging.

In its afternoon meeting, the Council briefly considered follow-up to other decisions, the study by the High Commissioner on the right to truth as well as the report by the Secretary-General on human rights and arbitrary deprivation of nationality.

Many participants, States and NGOs alike, had anxiously awaited the continuation of the Council's institution-building work. The President presented a revised version of his compromise text, which contains some significant changes compared to his previous version. It will form the basis of the further discussions with a view of achieving consensus on the essential issue of institution building. At the same time, the Ambassador of Algeria presented the second revision of the African Group's draft code of conduct, and introduced it in the form of a revised draft resolution. On the proposal of the President, the Council then suspended its formal meeting and transformed it into an informal meeting without Web cast or summary records. Some States made preliminary and general comments on the President's new text.

The Council will meet again on Thursday, 14 June 2007 at 11 am to discuss the President's text in detail. The afternoon of 14 June 2007 will be dedicated to consultations on the African Group draft code of conduct.

Follow-up of to Council Resolutions S-1/1 on
the Occupied Palestinian Territories and S-3/1
on Beit Hanoun

President's opening statement

The President of the Council, Ambassador Luis Alfonso de Alba, opened his presentation by running over the chronology of events surrounding the work of Mr John Dugard, Special Rapporteur on the situation of human rights in Palestine and head of the Fact-Finding Mission to the OPT as mandated by Council *Resolution S-1/1*. Mr de Alba described how Mr Dugard was unable to come to the meeting in person due to health problems, and proceeded to briefly describe attempts to fulfil the mandate of *Resolution S-1/1*. He noted how after the adoption of these resolutions, he met with Mr Dugard to talk about their implementation, especially the investigative missions associated with them. Mr Dugard instigated communications with Israel, sending messages on 21 and 24 June 2006 but received no reply. By 8 August 2006, Mr Dugard assumed that the lack

of reply meant that the State was not cooperating, and informed the President that he could not carry out his mission.

However, Mr Dugard was able to visit Israel and the OPT in his capacity as Special Rapporteur from 1 to 8 December 2006. This was not in his capacity as head of the Fact-Finding Mission mandated by *Resolution S-1/1*, and he felt it would be outside the spirit of General Assembly *Resolution 46/59* to undertake research for the Fact-Finding Mission without the express consent of the Government. His visit resulted in a report¹ on the situation in Gaza, and on attacks of 'Operation Summer Rains' and 'Operation Autumn Clouds', but did not refer to research mandated by the *Resolution S-1/1*. Mr Dugard sent a letter to the President on 17 April 2007 saying the mandate could not be carried out, and the President responded by saying that he should still make whatever information he had available to the Council. This resulted in his report,² which he could not present in person.

Regarding *Resolution S-3/1*, the President described a similar lack of positive response from Israel, despite Archbishop Desmond Tutu's attempted communications. After exchanges with the Israeli Permanent Representative to the UN, Itzhak Levanon, it was decided that a mission tentatively scheduled on 10-14 June 2007 would be cancelled. The Archbishop and Professor Christine Chinkin's report is the result of their research, undertaken without any visit to Israel or the OPT.

Statement by the High Commissioner

The High Commissioner for Human Rights, Ms Louise Arbour, thanked the Council for the additional opportunity she was given to address them. She then began her update on the activities of the OHCHR to implement *Resolution S-1/1* and *Resolution S-3/1* during the first and third special sessions.

In relation to *Resolution S-1/1* on the OPT, she explained that John Dugard, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 was unable to conduct his Fact-Finding Mission due to Israel's lack of response. In September 2006, the Special Rapporteur brought this to the Council's attention, emphasising that in keeping with General Assembly *Resolution 46/59*, no Fact-Finding Mission can be undertaken without consent of the concerned State. Ms Arbour introduced the discussion on Council *Resolution S-3/1* on human rights violations from Israeli military incursions in the OPT (specifically Beit Hanoun), noting the difficulties Archbishop Desmond Tutu and Professor Christine Chinkin were having in trying to carry out the mandate. She stated that despite these difficulties, the Archbishop would present his report on the activities he and Professor Chinkin were able to undertake.

Ms Arbour then described the follow up of Council *Resolution 3/3* regarding Lebanon.³ She highlighted the activities of reconstruction outlined in the report, specifically those related to health initiatives, sanitation, mine clearance and environmental concerns. She explained that the report also illustrates what has been done to protect children, summarises recent research on weapons used by the Israeli Defence Forces, and questions how violations of international human rights and humanitarian law have been redressed.

Finally, she addressed the activities that have been carried out by her Office in accordance with *Resolution 3/3*. In her explanation, she described the opening of an OHCHR office in Lebanon to work towards reconstruction. The Office has sought meetings with the Government, although this has been delayed due to political difficulties in the region.

¹ A/HRC/4/17, 22 March 2007.

² A/HRC/5/11, 8 June 2007.

³ Council *Resolution 3/3* requested the High Commissioner for Human Rights to continue to "consult with the Government of Lebanon on the report and its findings and on the relevant recommendations contained therein and to report to the Council at its fourth session" (para. 2).

Statement by Archbishop Desmond Tutu as member of the Fact-Finding Mission on Beit Hanoun

Archbishop Desmond Tutu, the Head of the High-Level Fact-Finding Mission to Beit Hanoun, presented his report, co-written with Professor Christine Chinkin. His presentation was intended to supplement the oral report of Ms Chinkin at the 4th session of the Council. Archbishop Tutu stressed that the goal of the High-Level Mission was to be even-handed, fair and canvass all opinions. He stated that to do this it would have been necessary to visit both Israel and the OPT, and regretted that this had not been possible.

Archbishop Tutu proceeded to explain that his report included two sections, the first as a historical narrative of the situation, and the second involving his and Professor Chinkin's conclusions and recommendations. He enumerated seven recommendations, including that the process towards peace be undertaken within the framework of the law and guided by the UN Charter, international humanitarian law, and international human rights law; that the people of Gaza should be afforded protection under the *Fourth Geneva Convention*; that Israel should indicate publicly the steps to ensure Beit Hanoun does not happen again; that those responsible for Beit Hanoun should be brought to justice and not granted impunity; that the victims of Beit Hanoun should be afforded ongoing medical treatment; that those responsible for human rights in Gaza should take special account of women victims and survivors; and that the joint mechanism should be established with representation from both Israel and Palestine to move towards peace. Archbishop Tutu concluded that peace can never come from the barrel of a gun, and that the African concept of 'ubuntu', or the essence of being human, entangles all people, "so that we can only be free – and human – together". The Archbishop received a standing ovation from the room.

Interactive dialogue

Israel, speaking as a concerned country, thanked Archbishop Tutu for his "words of wisdom", and said that the copy of the report has been received in the morning and it is difficult for him to react to its substance. He believed that the work of the Council had been held captive by the politicised agenda of a few States. He further argued that the resolutions issued by the Council during its 1st and 3rd special sessions were unbalanced and one-sided. The Ambassador explained that the resolutions utterly ignored the fact that Israel "lives under the daily threat of terrorism", and that there have been more than 3,000 rockets launched into Israel from Beit Hanoun since Israel withdrew from Gaza. Mr Levanon reiterated that the Israeli Government had already examined the events of 8 November 2006, and issued an apology for the tragedy. Before pointing out to main facts he asked Archbishop Tutu to use his moral authority to call upon the Council to ensure that its future work will be fair, balanced, and non-selective.

Palestine, also speaking as a concerned country, found it ironic that Israel treated the members of High-Level Fact-Finding Missions by not giving them access permit to Beit Hanoun "as if they were under the Israeli military occupation regime." He said that the permit policy was a "part and parcel" of Israeli military occupation, which denies even "pregnant Palestinian women to have an access to hospitals". The Ambassador was of the opinion that justice and peace should be established for all and not only for one party. He believed that the refusal of entry of the Mission constitutes non-implementation of the Resolution and thus the resolutions of two special sessions had not been implemented. He publicly stated that Palestine accepts all recommendations made by Archbishop Tutu without any reservation.

Many delegations⁴ extended their appreciation to John Dugard and thanked Archbishop Tutu and Professor Christine Chinkin for their efforts, dedication and integrity. Others also expressed regret that Archbishop Tutu and Professor Christine Chinkin had not been granted access to Beit Hanoun.⁵

⁴ Pakistan on behalf of the OIC, Malaysia, Germany (EU), the Sudan, the Islamic Republic of Iran, Cuba, the Syrian Arabic Republic, the Central African Republic, the Organisation of Islamic Conference, South Africa, Algeria, Bangladesh, Indonesia, Nigeria.

⁵ On behalf of the members of the Mission, Ms. Chinkin expressed her deep regret that they were unable to enter to Beit Hanoun and fulfil two strands of their mandates: assess the situation with victims and survivors, and issue recommendations. She concluded by reaffirming the relevance of continuing the mandate and holding accountable all people on all sides.

The principal areas of concern for many delegations remained the deteriorating situation and serious human rights violations occurring in Palestine, the continuous and systematic violations of basic human rights of Palestinians in Gaza and Beit Hanoum,⁶ the high level of impunity enjoyed by Israel,⁷ and the lack of credibility of the Council to implement its recent resolution of the 4th session.⁸

Amnesty International noticed that nothing has been done to alleviate the suffering of Palestinians as a follow-up for the implementation of Council *Resolution S-1/1*.⁹ Pakistan (on behalf of the OIC) called upon the Council to protect Palestinian civilians against further assaults and welcomed the specific recommendations issued by the Special Rapporteur.¹⁰ It firmly stated that the process of peace should be operated within the framework of international human rights law and international humanitarian law (IHL), and that people in Gaza must be provided the protection in accordance with the *Fourth Geneva Convention*¹¹, with those responsible for violations being held accountable. Particular reference was made to the situation of women victims and survivors.

The representative of Badil Resource Centre for Palestinian Residency and Refugee's Rights pointed out that there are approximately 6.8 million Palestinian refugees and 400,000 internally displaced persons, including children. It suggested the appointment of a Special Rapporteur to examine discrimination in Israel, and called upon the members of the General Assembly to bring Israel before the International Court of Justice for acting in violation of international human rights and humanitarian law.

The majority of delegations emphasised that the situation necessitated special attention by the Council and urged the implementation of all resolutions relevant to Israel and the OPT. The Sudan noticed that all countries must be committed to resolutions adopted by the Council without any selectivity and double standards. The Syrian Arab Republic also called upon the Council to find effective machinery to put the resolutions into effect without selectivity and subjectivity, stating that otherwise the credibility of the Council will remain questionable to the majority of the international community.

The Organisation of Islamic Conference (OIC) supported the recommendations by the Special Rapporteur and joined the message delivered by Archbishop Tutu that "peace can not come from the barrel of a gun." South Africa reiterated the statement made by Mr Tutu that peace and security could be reached only by working together towards sustainable solutions.

The Ambassador of Algeria noted that Mr Dugard spoke in the name of the oppressed and that Archbishop Tutu had always spoken for peace and justice, and that these elevated views were necessary as this was the 'raison d'être' of the Council. He stated that the Council needed to be able "rise above politics and look at the values of human rights, which should be the objective of the Human Rights Council, irrespective of political orientation". He added that the case of the OPT mandate showed how "certain powerful States" are

⁶ The delegations (Islamic Republic of Iran, Pakistan (OIC)) noted that the Council must be aware that Palestinians are subject to frequent military incursion; to extra-judicial and targeted assassinations; to restriction of their right to free movement; demolition of their houses and infrastructures; to arbitrary detention of Palestinian ministers and parliamentarians; to the erection of the separation wall; to arbitrary detention, executions, abductions, and disappearances; and the widespread practice of torture.

⁷ Cuba and Iran raised this concern. Cuba further stated that there should be an end to the impunity enjoyed by Israel to the end of ensuring the full realisation of the right to self-determination in full compliance with mandates.

⁸ Council *Resolution 4/2*, 'Human rights situation in the Occupied Palestinian Territory: follow-up to Human Rights Council resolutions S-1/1 and S-3/1', available at <http://www.ohchr.org/english/bodies/hrcouncil/4session/resolutions.htm>. International Leagues for the rights and liberation of people was concerned about the credibility of the Council and regretted that the follow-up resolution of the 4th session was not implemented. It further noticed that strong political will be needed to put an end to the suffering of people and to all violations of international human rights law and international humanitarian law. Iran concluded their intervention by stating that Israel continues to challenge the integrity and credibility of the Council as the result of impunity given by few members of the Security Council and the exercise of veto by the United States. It stated that it is a collective responsibility to ensure that the Council and the Special Rapporteur continue to be seized of the question of situation in the OPT until the end of the occupation. Malaysia also asked that the mandate of the Special Rapporteur on the OPT be extended until the end of the occupation.

⁹ They further pointed out that approximately 100 Palestinians were killed and 200 people were injured by Israeli forces. They concluded that for Palestinians in Gaza, escaping violence is nearly impossible.

¹⁰ *Supra* n. 2

¹¹ Malaysia and the Sudan associated their position with Pakistan (OIC).

inconsistent in their supposed trumpeting of human rights. He concluded that the example of progress being made in Darfur should serve to show how progress can be made in this area.

Nord-Sud XXI, on behalf of Arab Women's Federation and the Federation of Arab Jurists, stressed that Palestinians have a legal and moral right to fight against their oppression and emphasised that Israel must be held responsible for its continuing violations of the human rights of Palestinians. B'nai B'rith International and the Coordinating Board of Jewish Organisations instead called into question what it perceived as selectivity and discrimination by the Council in its treatment of Israel. It proposed that no further action should be taken on past resolutions which have long been overtaken by events. Any future resolution should view human rights violations on both sides of the Israel-Gaza border as a result of the breakdown of authority the Gaza Strip. UN Watch asked the Council how a mandate that violates fundamental justice and also is in violation of the presumption of innocence could be accepted. A one-sided approach, according to the speaker is becoming a norm.

Ms. Chinkin concluded the discussion by taking the floor on behalf of the Fact-Finding Mission to Beit Hanoun and expressing her deep regret that they were unable to enter Beit Hanoun and fulfil two strands of their mandates - assessing the situation with victims and survivors, and issuing recommendations. She confirmed that the situation in the region has clearly deteriorated and growing violence has occurred in Gaza. She concluded by reaffirming the relevance of continuing the mandate and holding accountable all people on all sides.

Follow-up on Council Resolution S-2/1 on Lebanon

The President introduced the topic of the follow-up to the Commission of Inquiry on Lebanon, as dealt with in the High Commissioner's report on the matter.¹² He noted that while letters have been sent out to various organisations whose mandates relate to the recommendations adopted by the Commission of Inquiry, responses were still being processed and thus more discussion on the follow up of the Commission would be scheduled for future sessions. Even so, he opened the floor for general comments and discussion at the current juncture.

Interactive dialogue

The Ambassador of Lebanon spoke as a concerned country. He gave several observations that ranged from his gratefulness for the help of UN agencies to his concern with the lack of redress for violations of international humanitarian law. The Ambassador welcomed the view, as expressed by High Commissioner, that "stronger action needs to be taken to reduce the effects of the [cluster] munitions on the lives and livelihoods of civilians". He concluded that although the report did not "prescribe therapies" or propose "specific initiatives *per se*", it represented an advanced and transparent version of the ongoing work and progress made so far.

Israel took the floor next, saying the report could replace the word 'Lebanon' with 'the North of Israel' and constitute an accurate description of what Israel faced in the wake of last summer's conflict. The Ambassador claimed that the report lacked an essential element - any mention of Hezbollah's aggression. He continued to repeat the claims that Hezbollah constituted a strong rebel group hoarding a sophisticated and large weapons stock. He was also critical of the fact that UN Security Council *Resolution 1701* was not implemented and Hezbollah not disarmed.

All the delegations who intervened, including Pakistan on behalf of the OIC, Malaysia, the USA, Germany (on behalf of the EU) and Cuba described their willingness to help with the reconstruction efforts in Lebanon. Pakistan (on behalf of the OIC) noted that the damage incurred in one month laid the destruction of the fruits of 15 years of development. Cuba added that it would like to help reconstruct what the "Israeli aggressors"

¹² A/HRC/5/9, 4 June 2007. Available at <http://www.ohchr.org/english/bodies/hrcouncil/5session/reports.htm>.

had done, adding that it was important to judge the people guilty of the atrocities. The USA commended the UN Security Council for *Resolution 1559*, which called for the disbanding and disarming of militias that stood in the way of peace. The International Commission of Jurists also intervened to welcome the recommendations of the Commission of Inquiry and shared the concerns over the reconstruction process, urging that victims be provided with remedies and legal assistance.

Follow up on Council Resolutions S-4/101 and 4/8 on Darfur

This report of the group of rapporteurs was mandated by Human Rights Council *Decision 4/8* of March 2007, as a follow-up to developments stemming from *Decision S-4/101* of 13 December 2006. The Council decided that the report would be presided over by a group of seven rapporteurs, and aimed to ensure the effective follow-up and implementation of resolutions and recommendations made by the Human Rights Council, Commission on Human Rights and other UN human rights mechanisms.

Ms. Sima Samar, as Special Rapporteur on the situation of human rights in the Sudan and Chair of the group, began by discussing this innovative approach taken by the Council as a means of addressing situations of grave human rights abuses. She commented that by focusing on implementation of existing recommendations, an opportunity is provided to the Sudan to demonstrate its commitment to the protection of human rights. The methodology of the group, as outlined by Ms. Samar, included reviewing all pre-existing UN human rights recommendations; selecting a number of recommendations for priority areas; outlining practical steps that should be taken by the Government; and identifying indicators to measure the status of implementation. A time frame was also outlined, including both short (three months) and medium (12 months) terms.

The Chairperson explained that the group held consultations with the Permanent Mission of the Sudan to the UN on 24 May 2007, which were open and frank, with opinions converging on a number of issues. However, there were clear differences in others, which will need further dialogue. The group also held consultations with the African Union, the mechanisms of the African Commission of Human and People's Rights and other groups. She stated that the commitment and cooperation of national, regional and international mechanisms are essential to solving the problems of Darfur.

Stating that the group fully shared the deep concerns of the Council, Ms. Samar, recommended that the Government of the Sudan take urgent action to prevent further violations; that the Council remain seized of the matter; and that it continues to monitor the human rights situation and evaluates the State's progress. She pressed that it is the group's belief that the primary responsibility lies with the Government of the Sudan to respect, protect and promote international human rights law and humanitarian law. In addition, she stated that the expert group calls all parties involved in the conflict to comply with their obligations.

Ms. Samar expressed the group's recognition of the important role played by Sudanese civil society and human rights defenders both through monitoring the situation and identifying gaps in the protection of human rights. She emphasised the importance of the work of UNMIS human rights officers and stated that they must have unimpeded access to all relevant areas.

Ms. Samar called for urgent action to protect the population of Darfur and welcomed the promises of the Sudanese Government, urging it to implement the group's recommendations without delay. She concluded on the important note that "while the expressed commitments of the Government and its planned initiatives are important, it is improvement in the human rights situation on the ground which will provide the measurement of any real progress."

Interactive Dialogue

Speaking as the concerned country, the Sudan thanked the team of experts, highlighted the "unprecedented cooperation"¹³ of the country and reiterated its commitment to continue on this course, based on the principles of dialogue, and non-selectivity. The Sudan commented on the "candour and transparency" which characterised discussions with the group, and stated its commitment to implementing a number of recommendations. The State drew attention to paragraphs c, d, and e of the recommendations, which urged the international community to provide assistance and technical support. The Sudan requested that the Council recommend a focal point be appointed to follow up the needs of the State.

Germany (on behalf of the EU) addressed the issue of why the Council requested this report, stating that they recognised the need not for new recommendations but for implementation of existing recommendations. Germany pointed the success of the group of rapporteurs as an example of the 'added value' that independent experts provide to the Council. Germany then expressed its concern about the human rights abuses in the Sudan, particularly those involving the sexual abuse of women and children and the bombing of civilian targets.¹⁴ It complimented the expert group for its suggested measures to immediately improve the situation on the ground and called upon the Sudanese Government to intensify its cooperation with the group.¹⁵ Germany then stated that the European Union supports the recommendations of the group¹⁶ including that its mandate be extended so that it may further assess the implementation of recommendations against the indicators it has provided. To this end, Germany declared that it would table a short procedural decision at the end of the 5th session seeking to extend the mandate of the group, and that it expected this to be adopted by consensus. The innovative approach created by the Council is about to 'bear its first fruits', but Germany cautioned that this work is not about innovations, but rather about real improvements on the ground in Darfur¹⁷.

Algeria (on behalf of the African Group) commended the expert group on its transparent and objective methodology,¹⁸ particularly regarding the consultations that went on between experts and the regional groups¹⁹ and the creation of a time frame for recommendations to be implemented. Stressing the importance of cooperation and dialogue, Algeria gave praise to the Council for making consensus²⁰ decisions regarding Darfur, even in the face of scepticism about the use of consensus. The State commented that it supported the position of the EU, which called for an extension of the mandate and a further report to be written at the end of the year.²¹ Mr Walter Kälin, member of the expert group, and Ms. Samar expressed their hope that they will be able to report back some positive changes soon. Mr Kälin commented that this would be the ultimate test of cooperation.

Accepting the recommendations of the report, Algeria placed particular emphasis on international assistance and technical support for Sudan.²² It also welcomed the news that an agreement had been reached by the UN Security Council and the African Union to operate a joint peacekeeping forces in the area.²³

The USA, stated that the Council has yet to properly address the situation in Darfur and explained that it had imposed new economic sanctions for the purpose of increasing pressure on the Government of Sudan to end the violence. The USA welcomed steps by other countries to urge the Government of Sudan to meet its obligation to its people.

¹³ Some States commended the Sudan for its cooperation, including China, the African Union, and Nigeria.

¹⁴ Supported by Australia, Iceland and the USA.

¹⁵ Supported by Iceland and Algeria.

¹⁶ Supported by Algeria, Norway, Nigeria, the Russian Federation, Iceland, and Switzerland.

¹⁷ Algeria, Australia, and Canada.

¹⁸ Supported by Norway, Yemen, and Tunisia.

¹⁹ Additionally, Cuba commended the African Group for its cooperation and commitment to work at a regional level.

²⁰ Supported by Morocco, Cuba, Zimbabwe (emphasising that confrontation always leads to limited success), the African Union, Pakistan (on behalf of the OIC), Palestine, Canada, Switzerland, and the Syrian Arab Republic.

²¹ Supported by France and Pakistan (on behalf of the OIC).

²² Supported by Yemen, China, the Russian Federation, Palestine, Iraq, the African Union, and Switzerland.

²³ Supported by France, the African Union, Nigeria, and Norway.

A desire for urgency was mirrored by many States²⁴, and focused on Darfur accepting and implementing the recommendations as detailed by the group of rapporteurs as soon as possible. Mr Kalin added his support for this urgency, stating that much needs to be done and that there needs to be an end to the situation in Darfur.

Discussing systemic causes of conflict, both Cuba and China discussed the situation of poverty in Darfur. Both States called on the international community to step up its efforts in assisting Sudan. Mr Kalin also noted this issue, stating that the Council must examine the root causes of conflict. China commented that it has sent its own special representative to Sudan, who is in Darfur and reporting back to the Chinese Government.

A number of NGOs took the floor to react to the report by the group of experts. Most welcomed the report, and urged the Council to work towards effective implementation of the recommendations contained therein. Of particular concern was impunity for human rights violations.²⁵

Amnesty International condemned both the human rights violations by militias supported by the Sudanese Government and those by armed opposition groups. The Federation of Human Rights Leagues (FIDH) and the Sudan Organisation against Torture (SOAT) expressed concern at the lack of real commitments by the Government of the Sudan, including the continued attack on villages by Government forces, the failure to disarm the Janjaweed militias, the fact that despite the establishment of a criminal court by the Government, most perpetrators of human rights violations still enjoy immunity, and the continuing lack of access to areas of Darfur for the African Union and UN.

Human Rights Watch and the International Commission of Jurists demonstrated in a joint statement that the Government's response to the recommendations of the expert group was inadequate. The lack of cooperation with the International Criminal Court (ICC) in particular was raised, with a reference to the amnesty granted by the Government of the Sudan to two military figures for whom the ICC has issued arrest warrants. A number of NGOs urged the Council to act on the report, and in particular to extend the mandate of the expert group.²⁶

Femmes Africa Solidarité said that while it appreciated the role played by the expert group, there had been enough recommendations on Darfur, and it was now time for action. They asked in particular that victims of sexual violence needed to be given medical assistance and compensation. Amnesty International noted that it was time to work out the practicalities of the deployment of the African Union and United Nations hybrid force. The Hawa Society of Women urged the international community to work towards sustainable development in the Sudan, and to stop sending more and more weapons to the region.

The World Federation of Trade Unions was the only NGO to criticise the report of the expert group, saying the group had failed to "maximise consultations" and had overstepped its mandate in some of its recommendations.

In their closing remarks to the Council Mr Kalin and Ms. Samar reiterated their concern for the situation in Darfur. They emphasised the need to protect, assist and rehabilitate the victims and bring to justice those responsible for human rights violations. The rapporteurs offered hope that cooperation could lead to positive steps forward.

Follow-up to other decisions

The right to truth

²⁴The Central African Republic, the Republic of Korea, Canada, and Switzerland

²⁵ Human Rights Watch, International Commission of Jurists, FIDH, SOAT, Cairo Intstitute for Human Rights Studies, Femmes Africa Solidarité.

²⁶ Human Rights Watch, International Commission of Jurists, FIDH, SOAT, Cairo Intstitute for Human Rights Studies.

The Council considered the High Commissioner's study on the right to truth, which was recently released.²⁷ At its second session, the Council had requested the Office of the High Commissioner for Human Rights (OHCHR) to prepare a follow-up report on the study on the right to the truth, to be examined at its fifth session in June 2007.

All States that took the floor this afternoon thanked the OHCHR for the report, as well as Argentina for its involvement and declared their attachment to the right to truth.²⁸ Most of them agreed on the importance of the right to truth in different areas and that without truth, reconciliation and justice were impossible to achieve.²⁹

Some States welcomed the reference to this right in the process of transitional justice³⁰ and Switzerland hoped that the High Commissioner would further study the right to truth in this context. Argentina mentioned that one of the key questions was the contribution of criminal justice to this right, in particular the role of the victims in criminal trials. Others also welcomed the reference to the importance of archives in the process of the right to truth.³¹ A number of States insisted on the need of the involvement of all stakeholders in the assertion of the right to truth.³² Argentina suggested that this right should be a separate point in the annual programme of work of the Council. France and Uruguay mentioned the *Convention for the Protection of all Persons from Enforced Disappearance* as a useful instrument and specified that the right to truth was included in the Preamble of this text. Brazil, Uruguay and Bolivia gave examples of domestic measures taken to realise the right to truth.

Human rights and arbitrary deprivation of nationality

The Council had also requested the UN Secretary-General to collect information on the issue of human rights and arbitrary deprivation of nationality and to make them available at its 5th session.³³ Only the Russian Federation commented on this report. It declared that this document can and should be used both as a reference document and as guidance. It asked that the subject of arbitrary deprivation of nationality be further elaborated by the Council and remain on its agenda. It suggested that this be done on the basis of the experience of other international organisations, including the United Nations High Commissioner for Refugees (UNHCR) and the International Organisation for Migration (IOM).

Rights of reply

Lebanon exercised its right of reply to respond to what it called an "inflammatory statement" by Israel, saying Israel should finally abide by Security Council resolutions. Iran also responded to Israel, and stated that security and peace would only return to the Middle East through the end of the occupation of Palestinian territories.

Completion of the institution-building process

The President opened today's meeting on the Council's institution-building by discussing the revised version of his text, stating that he had put forward proposed compromises where there were gaps or differences of

²⁷ A/HRC/5/7, 7 June 2007. Available only in French at time of writing at <http://www.ohchr.org/english/bodies/hrcouncil/5session/reports.htm>.

²⁸ Argentina, Chile, Brazil, Switzerland, Uruguay, France, Spain, Bolivia, and Cuba.

²⁹ France and the NGO Action Canada for Population Development.

³⁰ Switzerland, France, and Spain

³¹ Argentina, Chile, and France.

³² Argentina and Chile

³³ A/HRC/5/8, 6 June 2007. Available at <http://www.ohchr.org/english/bodies/hrcouncil/5session/reports.htm>.

view.³⁴ The text was intended to bridge gaps and find compromise solutions that would lead to a consensus outcome by 18 June 2007. He also stressed the important work still pending regarding the code of conduct, and notified the plenary that the African Group had circulated a revised version of its draft code of conduct. The President emphasised the importance of working within the framework of consensus. He suggested that it would be useful if, following his brief introduction, the delegations take time to review the document and begin the consultation process the following morning. He recommended an informal setting, suggesting that the meeting could begin with a general review of the document chapter by chapter, followed by an effort to add to the sections regarding special procedures and the agenda. These were in his view the areas where most work is needed. The President's suggestion to hold an informal, open-ended meeting the following day to consider his text in detail were accepted by all delegations who took the floor, and therefore accepted by consensus.³⁵

The Ambassador of Algeria, on behalf of the African Group, presented the second revised version of the code of conduct for special procedures mandate holders. He did so in the form of a revised draft resolution, containing the code of conduct.³⁶ Algeria reiterated that its objective was to enhance the moral standing and moral authority of mandate holders and their credibility, and that it was convinced to achieve this with a code of conduct. Algeria emphasised that the African Group submitted the text in the search of consensus, and that it hoped it would be received in that way. The Ambassador initially suggested continuing the work on the document by consultations with regional groups on the following day, and a public meeting on the day after. However, after hearing the President insist on the need for early open-ended consultations on the code of conduct, he agreed to such a meeting in the afternoon of the following day (Thursday, 14 June 2007).

The meeting was then suspended and transformed into an informal meeting without Web cast coverage or summary records. Several States thanked the President and the African Group for their efforts, and all expressed the desire for more time to review the documents in greater depth.³⁷ Some States made specific comments with regard to the President's text. China remarked that it still considered the complaint procedure to be a deficiency in the draft. It referred in particular to the provision that members of the first Working Group (Working Group on Communications) would have to abstain if a communication concerning their own State was considered. China was concerned that this would leave only four members for some decisions, which in turn would tilt the balance amongst regional groups. The President replied that trying to arrive at a perfect document was an impossible task, and that all should focus on the most important issues.

Bangladesh stated that although the text represented important progress in certain areas, there were deficiencies in others. It expressed concern about the text with regard to the universal periodic review (UPR), noting that the text called for "information provided by the State" as opposed to "the national report" as the basis of information for review. Bangladesh also expressed dissatisfaction with the role of the rapporteurs in the UPR, because they would contribute to the preparations of questions to be put to the State under review. Regarding the complaint procedure, Bangladesh said the second Working Group (Working Group on situations) should have the authority to discontinue a case. Japan stressed that while it would always be possible to improve the text and argue about every single word, the document had to represent a compromise and therefore the focus of the discussion should be on the crucial issues. The USA stated that it was concerned with the chapter on agenda and the section on special procedures, without going into further detail on these points.

³⁴ The President had submitted the first version of a compromise text on 4 June 2007. Since then, he had held informal consultations and one open-ended informal meeting to hear comments on his text. All versions are available on the OHCHR extranet (fill out the form on the page to receive the user name and password) at www.ohchr.org/english/bodies/hrcouncil/form.htm in the section on the fifth session.

³⁵ Pakistan suggested that the meetings start at 11:00 on Thursday, 14 June 2007, so groups could meet from 9-11 and better contribute to work in the informal setting.

³⁶ At the last session of the Working Group on the review of mechanisms and mandates, which had been mandated to draft a code of conduct for special procedures mandate holders, the Algerian Ambassador had announced a draft resolution containing the code, because many delegations did not want to use the text of a particular group as the basis of discussion. The fact that the code of conduct is the subject of a draft resolution, essentially takes the issue out of the package on institution building prepared by the President.

³⁷ Germany, India, China, Brazil, Switzerland, Pakistan, Bangladesh, Argentina, Algeria, Japan, Morocco, Ecuador, the Russian Federation, Palestine, the USA, Uruguay, New Zealand, Cuba, Canada, and the Philippines.

With regard to the code of conduct, Germany stated that the revised code of conduct was an important step forward by the African Group, and commended the effort to come to a consensus. Switzerland thanked the African Group coordinator (the Ambassador of Algeria) for the effort to take into account all issues that were discussed during previous meetings, and expressed a desire to have additional dialogue in an open-ended format on the code of conduct.³⁸ The USA stressed the importance of exchanging viewpoints in an open and transparent setting. Ecuador stated that it believed the code of conduct was practically complete. The Russian Federation spoke in favour of the code of conduct, and stated that the text was acceptable as it stood. Cuba commended the African Group on the flexibility and diligence exhibited in drafting their document.

Palestine noted that it had already spoken 15 times on the question of the Special Rapporteur on the OPT. The Ambassador stated that his delegation had submitted a draft resolution to the 4th session, and that the resolution had been deferred until the 5th session with the understanding that the rapporteur's mandate would remain until the end of the Israeli occupation. Palestine insisted that it would call for a vote on the resolution at the session unless the Special Rapporteur's mandate was considered as thematic in the final package and would remain until the end of the occupation. The President said that while there was no deadline for the submission of resolution at this session of the Council, he expected all delegations to refrain from submitting such concrete proposals so as not to undermine the work on a consensus text. Cuba agreed that the mandate on Palestine should continue until the end of Israeli occupation, and invited the President to close the deadline for the submission of proposals before starting the process of decision-making, so that all members could have a clear idea of all proposals on the table.

The Council will meet again on Thursday, 14 June 2007 at 11 am to discuss the President's text in detail. The afternoon of 14 June 2007 will be dedicated to consultations on the African Group draft code of conduct.

³⁸ Argentina, the USA, Germany, New Zealand, Canada, and the Philippines also expressed the desire for additional dialogue.

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