



General Assembly

Distr.
GENERAL

A/HRC/10/30
18 February 2009

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Tenth session
Agenda item 3

**ANNUAL REPORT OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS AND REPORTS OF THE OFFICE OF THE
HIGH COMMISSIONER AND THE SECRETARY-GENERAL**

**Efforts of the United Nations system to prevent genocide and the activities of
the Special Adviser to the Secretary-General on the Prevention of Genocide***

Report of the Secretary-General

* Late submission.

Summary

In the present report, the Secretary-General gives a description of a series of ongoing efforts by the United Nations, including a new framework of analysis designed by the office of the Special Adviser on the Prevention of Genocide, Francis M. Deng, to determine whether there may be a risk of genocide in a certain situation. The framework asks a number of questions to prompt information collection and analysis of key areas, about (a) the existence and vulnerability of national, ethnic, racial or religious group(s); (b) human rights violations committed against such group(s); (c) domestic capacity to prevent genocide; (d) the existence of armed opposition actors; (e) the existence of any significant political or economic other motivation encouraging political leaders to stoke divisions between groups; (f) whether elements of the crime of genocide are already occurring; (g) whether there are moments of particular vulnerability approaching; and (h) whether there is a discernible intent to commit to destroy a national, ethnic, racial or religious population group.

The efforts of the office of the Special Adviser, in partnership with legal experts and non-governmental organizations, to identify ways in which provisions of international law, and human rights law in particular, can be more effectively used as a guide in the prevention of genocide, are then described, as is progress in operationalizing the “responsibility to protect”, including a decision that implementation of that responsibility should be conducted jointly with the office of the Special Adviser.

In the report, the Secretary-General also emphasizes the responsibility and essential contribution of the United Nations operational departments and specialized agencies in preventing genocide. Section two of the report includes descriptions by the Department of Political Affairs, the Department of Peacekeeping Operations, the Office of the United Nations High Commissioner for Human Rights, the Office for the Coordination of Humanitarian Affairs, the Office of Legal Affairs, the Department of Public Information, the United Nations Development Programme, the United Nations Children’s Fund and the United Nations High Commissioner for Refugees, together with examples of their own assessment of their contributions to prevention - from monitoring and early warning to addressing ongoing genocide, to building peace and restoring justice. The section ends with an update on the activities of the Advisory Committee on the prevention of genocide, including a description of its October 2008 meeting and its recommendations that the Committee be maintained in the future but that its membership be rotated.

In the third section, the Secretary-General describes the response of the Special Adviser to specific situations of concern, including his visit to the Democratic Republic of the Congo in November 2008 and his conclusions that there is cause for deep concern regarding the grave human rights and humanitarian situation in North Kivu, including the risk of genocidal violence, with implications for the entire subregion. He describes accusations and counter-accusations of genocide, which themselves heighten the risk that genocide may occur. The report briefly summarizes the Special Adviser’s recommendations, which fall into four interrelated areas: (a) the protection of populations at risk against massive violations of human rights or humanitarian law; (b) accountability for violations; (c) humanitarian relief and access to economic, social and cultural rights; and (d) the initiation and support of steps to address underlying causes of conflict through peace agreements and transition processes.

The Special Adviser continues to follow up on his February 2008 conclusions and recommendations regarding the situation in Kenya, in particular the recommendations regarding long-term prevention. Finally, the Secretary-General describes a series of efforts by the Special Adviser to respond to the situation in Darfur, including his strong insistence that any decision by the International Criminal Court regarding the request for indictment of President Omar al-Bashir should under no circumstances lead to reprisals that would expose civilians in Darfur or in any other part of the country to even greater levels of violence, including the risk of genocide.

The Secretary-General describes other activities of the Special Adviser, in particular, his efforts to prepare an inventory of the existing capacity of the Secretariat and specialized agencies assigned to monitoring, analysis and early warning, including several hundred staff that focus on almost all the criteria relevant to genocide prevention. On the basis of the inventory, the Special Adviser's office has designed an information management system to ensure that his staff are able to draw upon rapidly the vast information resources available within the United Nations for the office's own specialized monitoring.

The Secretary-General also describes the Special Adviser's participation in numerous international and regional conferences and workshops on issues such as the prevention of genocide in Africa, the comprehensiveness of existing law regarding the prevention of genocide, the links between the responsibility to protect and the prevention of genocide, and indicators for predicting genocide. It ends with a brief update on the staffing capacity of the Special Adviser's office.

The Secretary-General concludes by recalling that the imperative to prevent genocide is incumbent primarily upon Member States, and then upon the entire United Nations system. It is only through the collaborative effort of Member States and the United Nations operational departments as a whole that the international community can be successful, and he urges continued and strengthened collaboration to that end.

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I. INTRODUCTION

1. The present report is submitted pursuant to Human Rights Council resolution 7/25, in which the Council requested the Secretary-General to report on the efforts of the United Nations system to prevent genocide and on the activities of the Special Adviser. It follows an initial report submitted to the Commission on Human Rights (E/CN.4/2006/84) and a subsequent report to the Council (A/HRC/7/37).

II. STRENGTHENING THE PREVENTION OF GENOCIDE

A. Determining the risk of genocide: framework of analysis

2. Determining whether there may be a risk of genocide early enough to allow for prevention has proved to be one of the most challenging tasks confronting the United Nations. While some aspects of the problem involve the political responses of States Members of the United Nations,¹ others involve the information collection, analysis and early warning function for which the mandate of the Special Adviser on the Prevention of Genocide was specifically created. Building upon the work of his predecessor, the human rights field experience of United Nations staff and studies by the community of genocide scholars, the office of the Special Adviser has developed a framework of analysis to help identify situations that may lead to genocide. The framework can be understood as asking analysts to consider eight core questions organized in roughly chronological order (in accordance with the increasing imminence of genocide), as well as in an order of the likely availability and clarity of information (initial questions will be easier to answer).

3. Question one asks whether there is a national, ethnic, racial or religious group(s) as such - a prerequisite for genocide to be possible - and then asks whether the group or groups are vulnerable to genocide and, if so, why.

4. Question two asks whether there are past or ongoing discriminations and/or other human rights violations against the group. An accurate understanding of a population group's past and present human rights situation is useful in determining the risk faced by a group and its current situation. It also points to the kinds of structural human rights reforms that need to be undertaken to reduce the risk of genocide.

5. Question three considers circumstances that negatively affect domestic capacity to prevent genocide. Analysis requires consideration of what structural and institutional frameworks exist in the country - including domestic legislation, an independent judiciary and an effective police force - to protect people from genocide, and the extent to which domestic capacity is specifically protecting vulnerable groups. Analysis would also take into consideration factors such as illiteracy or geographic isolation that make it difficult for a vulnerable population group to benefit from a domestic protection capacity. Addressing these weaknesses through measures to address impunity and strengthen the judiciary and law enforcement are essential to the prevention of genocide.

¹ See S/1999/1257.

6. Question four asks whether there are armed actors who draw their fighters from a particularly vulnerable population group. Such armed actors may claim to be fighting to defend the population group, turn against other population groups or armed forces, or seek food, shelter and money from within the local community, sometimes by force. In numerous past instances, the existence of such armed actors has served as a motivation and excuse for human rights violations, including killings, arbitrary arrest and discrimination, committed against the civilian population that the armed actor claims to represent. An initial pattern of violations of this type has been a precursor of genocide and reversing it is important for the purpose of prevention.

7. Question five asks whether there is any discernible political or economic motivation for political leaders in the State or the region to encourage divisions among national, ethnic, racial or religious groups. In past situations with confirmed or suspected genocide, there have been political or economic motivations to target a population group, serving as a driving force for those who conceptualize and organize genocide. For example, this has been the case where a political party's access to political power and its retention of that power are facilitated and even dependent upon the party maintaining a voter constituency through the use of racist policies that divide groups of the population from each other. Identifying instances where such motivation may exist is essential to prevention.

8. Question six asks whether human rights violations that might be possible elements of the crime of genocide already occur, and serves as an indicator of whether genocide may in fact be imminent. Identifying these violations - for example killings, disappearances, torture, rape and sexual violence, abduction, ethnic cleansing, forced population transfer or displacement, segregation, isolation or concentration of a group, expropriation, destruction of property, destruction of subsistence food supply, denial of water or medical attention and hate speech - can also point to specific actions that need to be immediately taken if genocide is to be averted.

9. Question seven asks whether there are moments of vulnerability in the near to medium-term future - such as elections and associated activities like voter registration or political campaigning, the signing of peace accords - that might spark a deterioration in the situation. As opposed to the other structural issues mentioned above, this question relates to triggers or precipitating factors. Predicting any major change can allow preventive steps to be taken, such as seeking public and irrevocable commitments from political leaders to prevent genocide, or establishing a peacekeeping mission ahead of the moment of vulnerability.

10. Question eight, finally, asks whether there is a reason to believe that there is intent "to destroy in whole or in part" - the actual definition of genocide. It is likely to be very difficult, if not impossible, to determine whether there is intent to commit genocide before the actual implementation of that intent. Nevertheless, it is important that the question be considered and that analysts look for indicators of intent as well as other relevant contextual information. For example, intent may be explicit in the statements of paramilitary actors who are affiliated with the State; useful contextual information could include a sudden purchase of massive numbers of machetes in a place where these tools have been used in the past to kill people.

11. The framework's emphasis on political circumstances in a given situation (questions six, seven and eight, for example) has been introduced in recognition not only of the political background to genocide but also of the fact that ending genocide often requires political action, both domestically and by States Members of the United Nations. The framework is a tool for

analysis, not a precise predictive tool. It nevertheless serves as an indicator of the kind of information that is needed when predicting possible genocide, the evolution of a situation, the imminence of a risk of genocide and the kind of solutions that may be required. The framework is now being used by the office of the Special Adviser to analyse situations of concern, and will be used in the future as a training tool to help other United Nations departments with monitoring capacity to predict situations of possible genocide. Its effectiveness will be reviewed at the end of 2009.

B. Promotion of the law

12. In 2008, the Special Adviser and his staff consulted with experts in international law and the prevention of genocide with a view to identifying innovative ways of employing relevant international law for prevention. One result of the consultations was the launching of a project to match the criteria of the above-mentioned framework of analysis with relevant provisions of international law. In this way, the office of the Special Adviser hopes to create a stronger link between international law and the prevention of genocide, even where the law itself makes no reference to genocide and might not normally be associated with this crime. It is hoped that the project will result in the packaging of a diverse range of legal provisions from different international legal instruments which, together, will provide detailed guidance on the range of legal provisions that need to be respected in order to prevent genocide. In addition, such a package would also serve as a useful analytical tool through which to examine a series of violations in a State and to estimate the extent to which the composite effect of those violations may in fact be leading to the crime of genocide. While it remains a vital legal instrument, the Convention on the Prevention and Punishment of the Crime of Genocide does not itself provide this kind of detailed guidance.

C. The responsibility to protect

13. In the 2005 World Summit Outcome document, the General Assembly agreed on the concept of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.² On 21 February 2008, the Secretary-General announced the appointment of Edward Luck as his Special Adviser to develop ideas relating to the responsibility to protect and to assist the Assembly to continue consideration of the concept. Over the course of 2008, through a process of consultation with States, United Nations departments and civil society, the Special Adviser developed a series of proposals. In particular, he reviewed the considerable overlap between the scope and objectives of the responsibility to protect and those of the Five-Point Action Plan³ to prevent genocide and of the mandate of the Special Adviser.

² General Assembly resolution 60/1, paras. 138-139.

³ See E/CN.4/2006/84. The points are: (a) preventing armed conflict; (b) protection of civilians in armed conflict; (c) ending impunity through judicial action in both national and international courts; (d) early and clear warning of situations that could potentially degenerate into genocide and the development of a United Nations capacity to analyse and manage information; and (e) swift and decisive action along a continuum of steps.

14. The Secretary-General has submitted a report to the General Assembly (A/63/677), in which he details the various proposals aiming at advancing the agenda mandated by the Heads of State at the 2005 World Summit.

D. Contributions by the United Nations system

15. The responsibility to prevent genocide is incumbent primarily upon Member States, and then on the entire United Nations system, including all departments and specialized agencies, such as the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Department of Political Affairs, the Department of Peacekeeping Operations, the Office of Legal Affairs, the Office for the Coordination of Humanitarian Affairs, the Department of Public Information, the United Nations Children's Fund (UNICEF), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Development Programme (UNDP).

16. During the first half of 2008, the Special Adviser circulated his office's draft methodology to partners for their comments and hosted a meeting with United Nations partners to further discuss his mandate and methodology and to review possible collaboration. The Special Adviser's staff work closely with counterparts in relevant departments when conducting their analysis of country situations and when planning visits to countries. For the purposes of the present report, the Special Adviser invited departments to describe their activities relating to the prevention of genocide through their regular activities. The paragraphs below provide non-exhaustive examples.

17. The Department of Political Affairs, within the context of its core mandate on the prevention and peaceful resolution of armed conflict, has contributed through its lead responsibilities on political analysis, guidance, coordination of inter-agency mechanisms and mediation, activities essential to the prevention of genocide. In addition, its special political missions are mandated to provide good offices and political facilitation. The Department is also often given the task of supporting national dialogue and reconciliation processes, coordinating and supporting United Nations efforts in their area of operations (especially peacebuilding) and monitoring human rights violations. The Department recently established the Mediation Support Unit to strengthen national, regional and international capacity for conflict resolution. The Unit provides operational support upon request to relevant actors involved in a mediation process through expert advice on procedural and key thematic issues (such as security, constitutions, power-sharing, human rights/transitional justice and wealth-sharing issues). In this regard, in 2008, the Unit put in place a stand-by team of mediation experts available on short notice to assist in negotiations and mediation processes. In addition, it works closely with regional organizations, particularly in Africa, to strengthen their mediation capacity. A two-year work programme to strengthen the mediation capacity of the African Union is an example of this effort. It is important to note that the Unit's services are also available to all United Nations field missions, departments, agencies, funds and programmes.

18. Peace operations led by the Department of Peacekeeping Operations - through their human rights, rule of law, political affairs, civil affairs, child protection, gender, military and police components, and within the limits of their mandates and capacities - respond to past and ongoing violations and help to prevent their recurrence, including genocide, by working to ensure the protection of civilians under imminent threat of physical violence; monitoring the

implementation of peace agreements and fostering reconciliation between warring parties; monitoring and documenting developments and incidents, and thereby serving as an early warning mechanism; investigating, documenting and drawing attention to human rights violations; supporting the strengthening of criminal justice systems and thereby helping to prevent the recurrence of atrocities, given recognition that a weak justice system is often a contributing factor to the outbreak of armed conflict and human rights violations; and supporting the development of effective, inclusive and accountable security institutions so as to contribute to international peace and security, sustainable development and the enjoyment of human rights by all. With regard to past violations and crimes, peace operations also respond by facilitating the work of hybrid and international criminal tribunals, such as the support given by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) to the International Criminal Court, or that of the United Nations Mission in Sierra Leone to the Special Court for Sierra Leone; supporting the strengthening of criminal justice systems and legislative frameworks to enable national authorities to carry out investigations and trials in response to human rights violations; and facilitating support for victims of past violations, including particularly vulnerable victims, such as women and children.

19. The mandate of the High Commissioner for Human Rights, as entrusted to her by the General Assembly in its resolution 48/141, enables the High Commissioner to use a variety of means for the purpose of early warning, including good offices and capacity-building. OHCHR is present in 48 countries, through stand-alone country offices, regional offices, human rights components of peacekeeping missions and human rights advisers to country teams. OHCHR implements mandates that frequently combine a mixture of human rights monitoring with assistance to States and national non-governmental organizations in addressing the human rights concerns identified. In the context of efforts to strengthen human rights protection capacities, and in a manner contributing to conflict prevention, OHCHR is currently implementing over 50 technical cooperation projects, typically in collaboration with States and with the Department of Peacekeeping Operations, UNDP, UNICEF, the United Nations Volunteers programme and other United Nations agencies and regional partners to help Governments, national institutions and non-governmental organizations to enhance their capacity in the area of human rights. OHCHR also provides technical and substantive support to 38 special procedures mechanisms, 10 working groups and complaints procedure of the Human Rights Council, and acts as secretariat to 8 human rights treaty bodies. All of these activities are central to predicting and preventing genocide. As part of the commemoration of the sixtieth anniversary of the Universal Declaration of Human Rights, OHCHR developed a communication strategy and dedicated specific stories on its website to this event and provided video footage. On 21 January 2009, pursuant to Council resolution 7/25, OHCHR organized in Geneva a seminar on the prevention of genocide. With human rights experts drawn from Member States, the United Nations and civil society, the seminar considered the roles played by the special procedures and human rights treaty bodies in the prevention of genocide, asking if there was a prevention gap; and the role played by the legal and judicial systems in the prevention and punishment of genocide, asking what progress had been made to date.

20. The Office for the Coordination of Humanitarian Affairs works closely with United Nations partners, including the office of the Special Adviser, and other actors at Headquarters and in the field in activities that contribute to broader efforts to protect civilians in complex emergencies and which may directly or indirectly have a bearing on efforts to prevent genocide and other mass atrocities. At the field level, the offices of the Office for the

Coordination of Humanitarian Affairs routinely gather information from partners and issue situation reports on the humanitarian situation in a given country, including with regard to protection concerns and how these might relate to particular ethnic, religious and other minority groups. They also advise the Humanitarian and/or Resident Coordinator on issues relating to the protection of civilians and access to humanitarian assistance, and encourage concerted advocacy efforts. At Headquarters, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator has a specific mandate to advocate, both publicly and confidentially, for populations at risk and in need of protection and assistance, including with the Security Council. With regard to the latter, the Emergency Relief Coordinator has a mandate to brief the Council on a biannual basis on the protection of civilians in armed conflict. This provides an important opportunity to draw the Council's attention to particular situations of concern and to offer suggestions as to how the Council and other actors might respond. The Office for the Coordination of Humanitarian Affairs is also responsible for briefing the recently established Security Council expert group on the protection of civilians. The expert group is an informal forum for systematic exchange between the Council and the Office on protection issues, and a vehicle to promote international humanitarian law and human rights law, respect for which is critical to the prevention of genocide.

21. The role of the Office of Legal Affairs in the collective efforts to prevent genocide is primarily to assist in the establishment of accountability and justice mechanisms aimed at ensuring respect for international humanitarian law, human rights law and criminal law. These mechanisms include commissions of inquiry, truth and reconciliation commissions and international criminal tribunals. For example, the International Criminal Tribunal for Rwanda, the International Criminal Tribunal for the Former Yugoslavia and the Extraordinary Chambers in the Courts of Cambodia prosecute crimes of genocide and play an important role in ending impunity and deterring future violations. The Office's support for these institutions persists throughout their lifespan and takes a variety of forms. It provides legal advice on the interpretation of the institutions' constitutive agreements, statutes, regulations and rules, and other documents, and discharges the legal responsibilities of the Secretary-General under those instruments. It is involved in responding to requests for waiver of immunities of United Nations personnel and disclosure of United Nations documents in accordance with the policy of maximum cooperation with international courts and tribunals, and it assists in devising completion strategies and residual mechanisms to address various matters that remain outstanding after the courts' closure. The Office provides similar cooperation and legal assistance to the International Criminal Court, in accordance with the Relationship Agreement between the Court and the United Nations.

22. The Department of Public Information undertakes each year a number of activities directly relevant to genocide awareness and genocide prevention. For instance, in 2008, in accordance with General Assembly resolutions 60/225 and 62/96, the Department's outreach programme on the Rwanda Genocide and the United Nations undertook a range of activities to raise awareness about the challenges still faced by genocide survivors today and to teach the lessons of the Rwanda genocide in order to prevent future ones. For instance, the "Lessons from Rwanda" exhibit in English, French and Kinyarwanda was shown at locations in Burundi, Canada, Rwanda, South Africa and the United States of America, in partnership with non-governmental organizations, schools and universities and with the assistance of United Nations information centres. The "Visions of Rwanda" photography project, which involved genocide survivors and

perpetrators, documenting their day-to-day lives, hopes, dreams, and memories, was developed into an online feature in all official languages of the United Nations and Kinyarwanda⁴ and work began on a hardcopy exhibit, to be opened at Headquarters in April 2009. The Department worked closely with the Permanent Mission of the Republic of Rwanda to the United Nations to organize a solemn ceremony to mark the fourteenth anniversary of the genocide in Rwanda, which was attended by the President of the General Assembly, the Ambassadors of Rwanda and the United Republic of Tanzania, a genocide survivor, Rwandan children and the Secretary-General. The ceremony was covered by several major media outlets. Two radio pieces highlighting the challenges faced by Rwandan genocide survivors today were prepared by UN Radio and made available on the programme website. Work also began on the adaptation of the “Lessons from Rwanda” exhibit into a guide in Swedish for teachers of high school students, in collaboration with the Levande Historia agency of the Government of Sweden.

23. By focusing on capacity development and prevention, UNDP assists national and local actors in mitigating the type of polarization that can lead to crimes against humanity and genocide. It implements conflict prevention, rule of law and peacebuilding initiatives in 45 countries, aimed at promoting dialogue and reconciliation among, or creating internal mechanisms for mediating conflicts between, different groups in polarized and divided societies and at establishing basic security and access to justice at the community and national levels. Its recovery and development programming strengthens rule of law institutions, such as the police, legal representation and the judiciary.

24. UNICEF focuses its global programmes on reducing inequality and improving access to health care, education, nutrition, water and sanitation for marginalized populations, thereby addressing tensions within societies and reducing the potential for violence that can escalate into genocide. It promotes respect for international human rights standards, particularly the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women; builds the capacity of national institutions that protect children; promotes the rule of law through support for legislative reform; promotes tolerance; and uses a curriculum designed to build human rights values into education. UNICEF country offices monitor the situation of children, especially in conflict and post-conflict situations, and respond to occurrences of grave violations against children within the framework of Security Council resolution 1612 (2005). Close monitoring is critical for early detection of violations that have genocidal elements and therefore serves a preventive function. In addition, the protection of children frequently provides an entry point for dialogue with armed groups. The Fund has thus been able to pursue plans of action to prevent recruitment and use of children by armed forces and groups in the Sudan and the Democratic Republic of the Congo. In Kenya, UNICEF has supported a monitoring and reporting mechanism established by the National Council of Churches, which helped detect inter-communal violence early, and worked on local preventive measures. UNICEF has an early warning and early action system.

25. Through its extensive field presence in some 120 countries, UNHCR plays an important role for the United Nations system in the delivery of its protection and assistance mandate for refugees, its role with stateless persons and its lead on protection issues for persons internally

⁴ www.un.org/preventgenocide/rwanda/visions.

displaced from conflict. The day-to-day presence of UNHCR protection officers in field situations is important for the assessment and monitoring of the level and extent of human rights violations, which may have an impact on protecting or even producing refugees and other forced displacement. Furthermore, as recognized in the report of the Secretary-General on the responsibility to protect (A/63/677), the work of UNHCR has played an important role in protecting potential victims from the threat of genocide and other violations relating to the responsibility to protect. In this regard, the role of granting asylum and protecting refugees should be recognized and promoted as valuable in the protection of populations from genocide.

E. Advisory Committee on the prevention of genocide

26. The Advisory Committee on the prevention of genocide was established in 2006 to provide guidance and support to the work of the Special Adviser on the Prevention of Genocide and to contribute to the broader efforts of the United Nations to prevent genocide. The Committee is composed of distinguished individuals with a diversity of backgrounds related to conflict prevention, human rights, peacekeeping, diplomacy and mediation. The members are not staff members of the United Nations and receive no payment for their participation in the Committee.

27. In 2008, the Advisory Committee continued to support the Special Adviser and to advise the Secretary-General. In addition to ad hoc contacts with the Special Adviser and individual members, the Advisory Committee held its fourth formal meeting on 27 October 2008, in New York,⁵ at which developments in the methodology and staffing of the office of the Special Adviser, specific country situations, developments regarding the responsibility to protect and the future composition and role of the Advisory Committee itself were discussed. The Committee's advice to the Special Adviser and the Secretary-General remains largely confidential, but can be summarized as specific suggestions regarding the response to complex country situations where there is a possible risk of genocide, and advice on actions that can prevent genocide in the long term. Regarding its own future role, the Committee members recommended that the Committee should continue to operate, but that its membership and chairmanship should be rotated.

III. ACTIVITIES OF THE SPECIAL ADVISER

A. Responding to situations of concern

1. Democratic Republic of the Congo

28. Throughout 2008, the Special Adviser followed the situation in the eastern part of the Democratic Republic of the Congo, and North Kivu in particular, with considerable concern. Reports from MONUC, United Nations special rapporteurs and civil society described a situation of grave human rights violations, ethnic discrimination and an absence of the rule of law. From 23 November to 4 December 2008, the Special Adviser conducted a mission to the Great Lakes Region, travelling to the Democratic Republic of the Congo, Rwanda and Uganda. He met with Government ministers, representatives of United Nations entities, civil society, representations of the various ethnic communities, representatives of the Catholic Church and victims of violations.

⁵ Previous meetings were held in June and October 2006 and in September 2007.

The Special Adviser also met with Laurent Nkunda, then leader of the National Congress for the Defense of the People, an armed opposition group, and a spokesman of the Forces démocratiques de libération de Rwanda. A planned trip to Burundi by the Special Adviser was cancelled owing to the unavailability of Government authorities to meet with him; instead, the Special Adviser's staff travelled to Bujumbura on 25 and 26 November and met with United Nations representatives and members of civil society.

29. From his meetings and observations, the Special Adviser concluded that there was cause for deep concern regarding the grave human rights and humanitarian situation in North Kivu, including the risk of genocidal violence, with implications for the entire subregion. Extreme ethnic polarization and hatred have become associated with the conflict in the Democratic Republic of the Congo. Although the roots of the conflict are primarily political and economic rather than identity-related, the Special Adviser recognizes that the risk of individual people being targeted in North Kivu because of their ethnicity is pronounced, above and beyond other underlying causes of conflict. The Rwandan genocide of 1994 and allegations and counter-allegations by various groups that genocide is ongoing in the eastern part of the Democratic Republic of the Congo are repeatedly cited by local actors in what has become powerful rhetoric that drastically increases tensions, fear and division between ethnic communities. Accusations of genocide by one community against another are used to justify arguments in favour of "pre-emptive" killings. A perception of genocide - even where not based on legal criteria - can itself lead to genocide in an environment where there is no real rule of law. The likelihood of ethnically motivated killings by armed groups and the escalation of genocidal hysteria among the civilian populations are factors that must be taken seriously and addressed in earnest. The Special Adviser is concerned that previous efforts at regional peacemaking, including with a view to preventing a risk of genocide, in particular the International Conference on the Great Lakes Region, appear to have been inadequate in addressing the crisis comprehensively, both nationally and regionally.

30. Recent shifts in the political landscape, with the detention of Laurent Nkunda in Rwanda, the joint military operations by the Democratic Republic of the Congo and Rwanda and the mediation efforts of Special Envoy Obasanjo and former President Mkapa provide both opportunities and risks, especially for the fate of the civilians.

31. Following his mission to the Democratic Republic of the Congo, the Special Adviser shared his assessment with members of the Security Council, heads of relevant United Nations departments and the Secretary-General. He recommended, inter alia, that preventive action needed to be focused on four interrelated areas: (a) the protection of populations at risk of massive violations of human rights or humanitarian law; (b) accountability for violations; (c) humanitarian relief and access to economic, social and cultural rights; and (d) the initiation of and support for steps to address underlying causes of conflict through peace agreements and transition processes. The Special Adviser recommended that the United Nations system and its operational departments and agencies continue considering the above when devising their own strategies to address the risk of genocide and related atrocities.

32. The Special Adviser also made a number of specific recommendations under the headings of security and peace, including ending all violence and respecting the Goma agreement ceasefire, enhancing the role of MONUC, calling on Governments to cease assistance to armed groups, and accelerating the disarmament and demobilization of armed groups; human rights and

rule of law, including urging all parties to end violations, urging that those responsible for violations be brought to justice, support for the role of the International Criminal Court, strengthening support for the authorities of the Democratic Republic of the Congo in combating ethnic discrimination and intolerance, and urging the Government to strengthen the rule of law and transitional justice; and political and economic sectors, including urging the Government to regulate effectively the use of natural resources, prioritize political solutions including the work of the various special envoys and continue to support regional ethnic reconciliation as well as political and economic integration. The Special Adviser also urged a unified approach by the various international and regional special envoys and mediators.

2. Kenya

33. As briefly described in the report of the Secretary-General submitted to the Human Rights Council in 2008 (A/HRC/7/37), two members of the office of the Special Adviser visited Kenya from 1 to 15 February 2008 in response to the violence and other acts that occurred in the aftermath of the December 2007 general election. In late February 2008, the Special Adviser reported his conclusions to the Permanent Representative of Kenya to the United Nations, relevant United Nations departments and the Secretary-General. The Special Adviser's recommendations included a focus on (a) short-term prevention to interrupt a dynamic of violence and impunity, including through deployment of national and international human rights monitors, a commitment to bring perpetrators of violations to justice, and urgent work towards a demobilization programme for youths in armed gangs perpetrating much of the violence; and (b) long-term prevention, including constitutional reform, land and agrarian reform, strengthening of State institutions, improving the function of political parties, significantly reducing youth unemployment and rapid poverty alleviation and economic inequality.

34. The Special Adviser remains in contact with the relevant United Nations operational departments regarding United Nations support for Kenya in implementing actions to prevent the re-emergence of violence.

3. The Sudan

35. On 14 July 2008, the Prosecutor of the International Criminal Court petitioned the Court's First Trial Chamber to issue an arrest warrant for President Omar al-Bashir of the Sudan, on charges of genocide, crimes against humanity and war crimes. The mandate of the Special Adviser requires him to focus on prevention before genocide occurs, and specifically excludes him from making a determination of whether genocide has already occurred or not. Nevertheless, the Special Adviser also recognizes that genocide is not a single event that occurs at one specific moment but is, on the contrary, a crime that occurs over a period of time, such that there is a role for prevention even after a finding of genocide has been formally made. In the weeks prior to the Prosecutor's petition and the months since, the office of the Special Adviser was deeply concerned that the heightened political tension surrounding the petition and the eventual response of the Court could have an impact on the situation in Darfur. In late June 2008, the Special Adviser's office prepared an analysis of the risks, and updated that analysis in August. On 16 September, the Special Adviser himself reported to the Secretary-General on the situation and the risks from the perspective of his mandate. In early October, the Special Adviser chaired a meeting of senior United Nations officials to discuss the situation from the perspective of the prevention of genocide. In addition, in the last three months of 2008, the Special Adviser

engaged in informal bilateral advocacy with key actors in the Government of the Sudan, urging the Government to use the heavy international focus on the International Criminal Court process as an opportunity to demonstrate an improvement in its human rights record, and specifically to address more effectively the Darfur crisis.

36. In February 2009, the Special Adviser urged that any decision by the International Criminal Court regarding the request for indictment of President Omar al-Bashir should under no circumstances lead to reprisals that would expose civilians in Darfur or in any other part of the country to even greater levels of violence, including the risk of genocide.

4. Other situations

37. The Special Adviser and his staff continued to monitor other country situations and are in the process of discussing them with relevant United Nations departments and the responsible State authorities. The Special Adviser will consider appropriate action to take, including issuing public statements on these situations, at the appropriate time.

B. Development of an information collection system and collaboration within the United Nations

38. In July 2008, the office of the Special Adviser, with financial support from Canada, began preparing an inventory of the monitoring and information collection systems within the United Nations that are relevant to the prevention of genocide. Several hundred United Nations staff members are engaged in daily monitoring of country situations from the perspectives of, inter alia, political, human rights, children's rights, humanitarian, development, rule of law, peace and security, food security and displacement concerns. Data are collected, analysed and are frequently the subject of internal United Nations reports or briefing papers that are used for briefing senior staff and, when appropriate, for early warning of Member States pursuant to relevant General Assembly, Security Council and Human Rights Council mandates. Collectively, the information processed by these desk officers covers almost all of the information required by the office of the Special Adviser for monitoring within its framework of analysis. In addition, some 30 special procedures mandate holders of the Human Rights Council monitor issues such as racial discrimination, extrajudicial killings, access to education and health care and the situation of ethnic minorities - all key issues in the prevention of genocide - and raise individual cases and collective concerns with Governments. Several of these mandates focus on violations that relate directly to genocide; for instance, the Special Rapporteur on extrajudicial, summary or arbitrary executions specifically warned of the possibility of genocide in Rwanda several months before it occurred.

39. Some United Nations departments and specialized agencies maintain databases of information falling within their emergency response mandates, including, for example, UNICEF and WFP. The Office for the Coordination of Humanitarian Affairs has a capacity to convert certain types of data into maps that show regions where populations may be vulnerable. The Department of Peacekeeping Operations maintains a 24-hour situation centre. All operational United Nations departments and specialized agencies participate in coordinating mechanisms, such as the interdepartmental Framework Team on Early Warning and Prevention, designed to pool the information and expertise from within the United Nations, to develop a common understanding of emerging concerns, and to ensure a timely and coordinated response.

40. The office of the Special Adviser has used its inventory of the information sources available to the United Nations to identify the resources most relevant to the Special Adviser's own monitoring and analysis and to ensure the most efficient and effective forms of monitoring. An information management officer in the office is responsible for maintaining contacts with counterparts in operational departments and in ensuring that the Special Adviser is briefed on any emerging concerns promptly.

C. Participation in conferences, workshops and outreach activities

41. The Special Adviser and his staff have endeavoured to participate in international and regional conferences relevant to the prevention of genocide, using such opportunities to learn from the experiences of others and to increase awareness of the mandate. The Special Adviser, or his staff, participated in events in Addis Ababa, Buenos Aires, London, Oslo, Vienna, Sheffield and Washington D.C., in addition to a number of events held in New York. The conferences and workshops were dedicated to issues such as the prevention of genocide in Africa; the comprehensiveness of existing law regarding the prevention of genocide; links between the responsibility to protect and the prevention of genocide; and indicators for predicting genocide.

42. On 21 January 2009, pursuant to a request of the Human Rights Council in its resolution 7/25, OHCHR organized in Geneva a seminar on the prevention of genocide. With human rights experts drawn from Member States, the United Nations and civil society, the seminar considered (a) the roles of special procedures and human rights treaty bodies in the prevention of genocide, asking if there was a prevention gap; and (b) the role of the legal and judicial systems in the prevention and punishment of genocide, asking what progress had been made to date.

D. Office capacity

43. In its authorization for the 2008 budgetary year, the General Assembly established additional posts for the Special Adviser. The office is currently staffed by five Professional Officers (two covered by extra-budgetary resources), two General Services staff and one Junior Professional Officer.

IV. CONCLUSIONS

44. On 9 December 2008, on the occasion of the sixtieth anniversary of the adoption of the Convention for the Prevention and Punishment of the Crime of Genocide, the Secretary-General issued a statement noting that the work of the United Nations in preventing genocide encompassed a wide range of activities. In the broadest sense, the United Nations promotes human rights, the rule of law and the fundamental equality of all people. Through its global presence, the Organization provides practical assistance to States in building democratic institutions and resolving disputes through peaceful means. It has now established the office of the Special Adviser on the Prevention of Genocide. In 2005, Member States agreed unanimously on a new, groundbreaking global norm, the responsibility to protect (for the operationalization of which the Secretary-General has appointed another special adviser, as mentioned above). In addition, the United Nations also seeks to ensure that perpetrators of genocide are brought to justice promptly. Justice is not only one of our main goals; it is itself an important means of prevention.

45. In my above-mentioned statement, I also observed that, despite these efforts, the world has continued to witness appalling acts that violate human dignity. Too often, the international response has been inadequate. Far from being consigned to history, genocide remains a serious threat. Not just vigilance but a will to act are as important today as ever. I therefore called on those States that have not already done so to accede to the Convention on the Prevention and Punishment of the Crime of Genocide of 1948. I urged all States to implement the Convention and to support efforts to prevent genocide and other serious human rights violations that may degenerate into genocide. Preventing genocide is a collective and individual responsibility. We must do everything in our power to ensure that our children may live free from the fear of being killed because they belong to an ethnic, national, religious or racial group.

46. To this effect, the Special Adviser and his office continue to pursue a strategy of enhancing the Organization's understanding of genocide and its precursors, of strengthening the ways in which existing international law can be used to prevent genocide and, above all, of monitoring and analysing ongoing situations of concern and advising me and Member States as needed. I recognize that, further and beyond the analysis of early-warning information gathered from the entire United Nations system, the crucial element in the prevention of genocide remains responding to concerns, once these have been communicated. Taking swift and decisive action was a key element of the Five-Point Action Plan to prevent genocide of 2004.

47. I intend to strengthen the response of the United Nations system, in particular the relevant departments, agencies and funds, by seeking more systematic, substantive, time-bound and accountable responses, as well as their direct involvement in designing those responses. As evident in the sections above (paras. 15 to 25) on the contributions of the United Nations system, most departments, agencies and funds have a significant role to play in the prevention of genocide, even though this role is often not tailor-made or described as "prevention of genocide" activities. I believe that the Security Council should also take very closely into account the communal concern raised by the Special Adviser on the Prevention of Genocide, especially when action is required to change an ongoing dynamic in a country situation so as to avert loss of life.

48. The imperative to prevent genocide is incumbent, first, upon Member States, and then upon the entire United Nations system. It is only through the collaborative effort of Member States and the United Nations as a whole, including the Special Adviser on the Prevention of Genocide, that the international community can be successful. I look forward to continued and strengthened collaboration with Member States, and in particular the Security Council.
