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## Third Committee

### Summary record of the 21st meeting

Held at Headquarters, New York, on Wednesday, 16 October 2019, at 10 a.m.

*Chair:* Mr. Braun ..... (Luxembourg)

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The meeting was called to order at 10 a.m.

**Agenda item 70: Promotion and protection of human rights** (continued)

- (a) **Implementation of human rights instruments** (continued) (A/74/40, A/74/44, A/74/48, A/74/55, A/74/56, A/74/146, A/74/148, A/74/228, A/74/233, A/74/254 and A/74/256)
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- (c) **Human rights situations and reports of special rapporteurs and representatives** (continued) (A/74/166, A/74/188, A/74/196, A/74/268, A/74/273, A/74/275, A/74/276, A/74/278, A/74/303, A/74/311 and A/74/342)
- (d) **Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action** (continued) (A/74/36)

1. Ms. Ní Aoláin (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that, as indicated in her March 2019 thematic report to the Human Rights Council on the impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders (A/HRC/40/52), civil society space and human rights defenders continued to be at the front lines of the misuse of counter-terrorism laws and practice. Introducing her report to the General Assembly (A/74/335), she said that two thirds of all communications received under her mandate between 2005 and 2018 had involved the use of measures to counter terrorism or prevent extremism against civil society organizations or human rights defenders, a practice that was not only inefficient and ineffective, but also not compliant with human rights obligations. Welcoming the establishment of the Group of Friends of Victims of Terrorism, she encouraged States to integrate

a human rights-based approach to addressing the needs of those victims in their national law.

2. As part of efforts to maintain ongoing dialogue with States, she had attended the World Congress against the Death Penalty, held in Belgium, in February and March 2019, at which the participants had addressed human rights violations and challenges related to the use of the death penalty in the context of terrorism crimes, including its use against foreign fighters. She remained deeply engaged with the work of the United Nations Global Counter-Terrorism Coordination Compact and with the Under-Secretary General of the Office of Counter-Terrorism and the Counter-Terrorism Committee Executive Directorate. Ongoing challenges with regard to the limited resources available to special procedure mandate holders, compounded by budget cuts to travel and the lack of budget support, meant that university research funds were being used to carry out essential work under the mandate within the Compact. The lack of meaningful support by States for mainstreaming human rights and oversight into the global counter-terrorism architecture was one of the profound structural challenges facing the protection and promotion of human rights globally.

3. In her report, she addressed the role of soft law and new institutions in counter-terrorism regulation and governance, paying particular attention to the proliferation of soft law instruments and related standard-setting initiatives and processes and to their effects on human rights at the national, regional and global levels. While soft law could have a positive and human rights-affirming capacity, and had played an important and increasingly visible role across multiple fields of international law in recent decades, the scale of its production in the complex and ever-growing field of counter-terrorism had been expanding quickly, especially since the events of 11 September 2001. Although that growth had been invaluable in filling gaps in the regulation of terrorist acts and actors, it had also made it difficult for States to keep up with the breadth and depth of their legal obligations. Moreover, soft norms were being implemented in ways that effectively made them “hard” or binding on States, a practice that was of deep concern, given the lack of compliance with international law and the profound marginalization of human rights within the global counter-terrorism architecture.

4. With regard to new institutions, specifically the Global Counterterrorism Forum and the Financial Action Task Force, significant portions of soft law were being produced outside traditional global and multilateral institutions, by State-based groups that were neither equal nor open in membership or function and

whose legal status was uncertain. The resulting output reflected a lack of human rights and international law expertise and content and the creation of circuitous legal norms and practices, leading, in turn, to implications for State sovereignty and equality in the law-making process.

5. The production of soft norms in counter-terrorism instruments by United Nations system entities needed to be benchmarked against human rights treaty obligations and standards, which should be consistently applied in soft law-making in the counter-terrorism context, while non-United Nations standards in the counter-terrorism arena should be endorsed by system entities only when they were consistent with international law. It was also important to support the effective exercise of the right to take part in the conduct of public affairs, as guaranteed under the International Covenant on Civil and Political Rights, including with regard to international institutions, whose laws affected everyone. All relevant stakeholders must consistently be included in the norm-setting process, including independent civil society representatives and experts and human rights experts, whether within the United Nations counter-terrorism architecture or within new non-system entities. In addition, States must map the production of soft law norms in order to identify and understand the legal and human rights-related conflicts and inconsistencies resulting from the proliferation of soft law creation. Lastly, non-United Nations entities engaged in standard-setting and capacity-building in the area of counter-terrorism must involve specialized staff with proven expertise in international human rights law, international humanitarian law and refugee law and consistently and meaningfully integrate human rights into all aspects of their activities.

6. It remained a cause of great concern that States, international organizations and practitioners did not have a coherent or systematic understanding of how the new norms and new institutions related to, or impinged upon, both human rights and the international law obligations of States. It was necessary for all States to reflect critically on the successes, failures and limitations of the global counter-terrorism architecture and remedy its glaring deficits so as to effectively challenge terrorism and sustain the rule of law and human dignity for all.

7. **Mr. Bentley** (United States of America) said that measures to combat terrorism that did not ensure the protection and promotion of human rights, fundamental freedoms and the rule of law, as required by the fourth pillar of the United Nations Global Counter-Terrorism Strategy, ultimately bred resentment and violent extremism and undermined their counter-terrorism

goals. The United States strongly supported multilateral efforts to assist States in implementing their counter-terrorism-related obligations in a way that protected human rights and gave civil society a meaningful role.

8. The Global Counterterrorism Forum provided an informal, apolitical, multilateral platform to identify critical civilian counter-terrorism needs, mobilize the necessary expertise and resources to support capacity-building and enhance global cooperation. The Forum consistently welcomed civil society input, as evidenced by the recent participation of the Special Rapporteur on a Coordinating Committee panel. There was no evidence that States had used the Forum's good practice documents, which were non-binding and meant to highlight methods for addressing emerging terrorism risks, as legislative drafts, or that courts had used them in judicial deliberations. The United States also strongly supported the Financial Action Task Force as the sole body setting global standards for preventing and combating money-laundering and the financing of terrorism and proliferation. The ongoing collaboration between Task Force member States and private sector and non-profit civil society groups to exchange information on challenges and threats was imperative for shaping effective global standards to combat terrorist financing.

9. The United States strongly opposed the practice of falsely citing counter-terrorism to justify the repression of minority groups, which was reprehensible and ran counter to the objectives of the Counter-Terrorism Strategy. He asked how States could ensure that the United Nations was engaging with a broad representation of civil society actors in New York and that human rights, the rule of law and engagement with civil society were incorporated into all elements of the United Nations counter-terrorism architecture, as called for in the Strategy.

10. **Mr. Lavalle Merchán** (Spain) said that the development of cultural, social and economic rights helped to mitigate circumstances that fuelled terrorism, while conflict prevention mechanisms were necessary to counter the extremist discourse used by terrorist networks to recruit members, especially young people. In that regard, Security Council resolution [2242 \(2015\)](#) on women and peace and security included an innovative reference to the role of women in preventing and combating violent extremism.

11. The right to a fair trial was the best means of preventing retaliatory violence in the wake of terrorist acts. The rapid spread of hate speech and fake news, in particular online, served to perpetuate the cycle of terror and violence, as seen in Pennsylvania, United States,

and Christchurch, New Zealand. Moreover, while Spain had experienced decades of terrorism, it did not consider the death penalty to be an appropriate response; the best methods were effective law enforcement and an overall rejection of terrorist violence. In that regard, Governments in areas also affected by terrorism, such as West Africa, were moving in the right direction.

12. **Ms. Jankovic** (Switzerland) said that, given the need to integrate human rights more systematically into soft law instruments, her country would continue its efforts to strengthen the rule of law, respect for international law and the protection of human rights, in particular through its role as co-Chair of the Criminal Justice and Rule of Law Working Group of the Global Counterterrorism Forum. With regard to the growing importance of soft law in combating terrorism since September 2001, it was crucial that civil society and human rights actors be included in the drafting of the relevant norms, so as to ensure their transparency and legitimacy. She asked whether the Special Rapporteur was not concerned that formalizing the procedures for developing soft law could impede the creation of soft law, which was a tool that offered States a practical, speedy and human rights-compliant method for supporting the implementation of hard law and, if so, how that risk could be avoided.

13. **Ms. Byrne Nason** (Ireland) said that, while terrorism remained a significant threat to communities worldwide, the challenges involved in countering terrorism and protecting vulnerable communities must not lead to the weakening of human rights standards; soft laws and norms that did not meaningfully and consistently integrate and account for the human rights perspective could not be considered effective counter-terrorism measures. Her delegation shared the concerns of the Special Rapporteur about the marginalization of human rights in such approaches, as well as about the limited human rights expertise and capacity and lack of structured human rights input from, and scrutiny by, civil society activists and international law experts in institutional settings where such work was being carried out. Welcoming the Special Rapporteur's extensive engagement with non-governmental organizations, human rights defenders and civil society, she wondered what could be done at the multilateral level to ensure their meaningful participation in the United Nations counter-terrorism architecture, especially given the potential impact of counter-terrorism legislation in terms of the shrinking of civil society space.

14. **Mr. Roijen** (Observer for the European Union) said that results could only be achieved by taking a multilateral approach to combating terrorism, as expressed in the Global Strategy on Foreign and

Security Policy of the European Union and its implementation plan, while honouring international commitments with respect to protecting individuals' fundamental freedoms and human rights. With regard to the human rights deficit in the approach taken by several institutions in the counter-terrorism architecture and the recommendation that their mandates be amended to ensure that their norms and standards were developed and implemented in compliance with international law, he asked whether the Special Rapporteur had received positive signals regarding the willingness of those institutions to engage staff with human rights expertise. He enquired as to what other steps could be taken to move towards further compliance with international human rights standards, especially in the implementation of counter-terrorism measures, and how such action could help Member States to better implement related norms and standards.

15. **Ms. Moore** (United Kingdom) said that terrorism remained a serious and complex global threat. It required a comprehensive approach, which, to be truly effective, must be conducted with full respect for human rights and fundamental freedoms and the rule of law. With regard to making the standard-setting process more open to participation, her delegation welcomed the increased focus on the protection of humanitarian activity in recent Security Council resolutions; the increased transparency of the Council's work on counter-terrorism; and the mandate of the Counter-Terrorism Committee Executive Directorate to engage with civil society in the context of its assessments. She wished to know how States could further facilitate the contribution of civil society stakeholders and human rights experts, including United Nations experts.

16. **Mr. Driuchin** (Russian Federation) said that the promotion and protection of human rights and fundamental freedoms while countering terrorism was among the most complex issues for United Nations bodies. There was, as yet, no common approach to the human rights dimension of counter-terrorism efforts, nor to understanding the damaging effects of terrorism on human rights, both of which required the goodwill of all States and their readiness to renounce economic interests and geopolitical considerations. It was categorically unacceptable that respect for human rights in the context of counter-terrorism continued to be used as a political tool and as justification for the application of double standards. The premise that terrorism could not be justified under any circumstances must be the starting point for international cooperation on the issue, which should, in turn, be based on strict respect for international law, including the protection of human rights.

17. **Ms. Van Eerten** (Netherlands) said that counter-terrorism could only be effective when human rights were protected, especially when the aim was to prevent violent extremism in the long term. A balanced and context-specific approach must be taken, in particular when tensions arose between counter-terrorism measures on the one hand and the activities of civil society and humanitarian organizations on the other. Dialogue was necessary to establish balance and to provide guidance on how such tensions could be overcome, but such dialogue could only be successful when the various stakeholders were involved. Her delegation regarded the recent participation of the Special Rapporteur on a panel of the Global Counterterrorism Forum Coordination Committee as part of that dialogue and would welcome information on additional steps that could be taken by the various stakeholders involved in implementation on the ground.

18. **Mr. Elizondo Belden** (Mexico) said that his delegation agreed that the United Nations counter-terrorism architecture needed to include a human rights focus, incorporate a gender perspective and ensure greater participation of civil society organizations and human rights defenders. Given the lack of a treaty on counter-terrorism, both Security Council and General Assembly resolutions on the subject must reflect the need for all counter-terrorism measures adopted by States to strictly comply with international human rights, refugee and humanitarian law. He asked how States and international organizations could apply the Special Rapporteur's recommendation to pay close attention to the importation of soft law produced in closed and non-transparent settings into hard law norm production at the Security Council.

19. **Ms. Xu Daizhu** (China) said that terrorist activities deprived people of their rights, including the rights to life, health and development. All States must therefore take effective measures to prevent and combat terrorism, implement the United Nations Global Counter-Terrorism Strategy in a balanced manner, eliminate the root causes of terrorism and help in the achievement of the Sustainable Development Goals. She enquired about best practices for eliminating hate speech while protecting economic, social and cultural rights.

20. **Ms. Bakytbekkyzy** (Kazakhstan) said that, during the visit of the Special Rapporteur to her country in May 2019, the Government had organized visits to three cities and meetings with representatives of government entities and non-governmental organizations, as well as individuals serving sentences for acts of terrorism. In order to fulfil its international commitments to protect and promote human rights, Kazakhstan had sent a standing invitation in 2009 to all United Nations special

rapporteurs to visit the country to study the human rights situation.

21. **Ms. Ní Aoláin** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that, with regard to the challenges of violent extremism that fuelled terrorism, there was no internationally agreed definition of either extremism or violent extremism. The definitions of extremism currently used in a number of countries impinged on fundamental rights under international law, including the right to freedom of religious belief and expression. While she was mindful of the challenges of extremism, and violent extremism in particular, those challenges could not be an excuse to use counter-terrorism law and practice against those who had different opinions or religious views. The current proliferation of that kind of expansive usage of such definitions was extremely worrying at the national level. Discussions had also been held with a range of technology companies and platforms on the issue of the regulation of online content, where overreach could result in the quashing of legitimate free expression as protected by international law.

22. Regarding the role of civil society, it was important to invite representatives consistently, not just occasionally, and to systematically engage with their points of view and recommendations, without imposing limits on who could participate, including among independent civil society actors. It was in the collective interest to encourage and include civil society participation throughout the process for preventing and combating terrorism and violent extremism, even when what they had to say was painful for some States to hear. That discomfort resulted in the production of better counter-terrorism policy and practice. Only the fulsome engagement of civil society brought about long-term solutions to the fragile and complex problems of violence and armed conflict. When informal organizations or those outside the traditional multilateral groupings made their processes more transparent and consistently engaged with civil society, it increased the likelihood of those processes being implemented and of civil society actors embracing the resulting recommendations and best practices. Information on websites also needed to be more accessible, so that both special rapporteurs and the general public could learn more about the function and operations of the institutions concerned and the implications of their activities. Inclusion therefore required a willingness to listen to difficult messages and to accept the recommendations of civil society in a way that strengthened global counter-terrorism policy.

23. Regarding amendments to the mechanisms of the Financial Action Task Force and the Global Counterterrorism Forum, it was critical that the Task Force, as an entity with an outsized effect on global financial market regulation and other access to funding, include a reference on its website to compliance with international law. Greater transparency needed to begin with the Task Force putting more information on its website about its activities and the Forum showing more openness about its working methods, in order to disseminate a clear sense of how human rights would actually, not theoretically, be benchmarked in its work. Although useful engagement with the Task Force was already taking place, it was necessary to move away from ad hoc discussions on particular issues to structured and consistent engagement with human rights experts and entities. While she had appreciated the opportunity to participate in the Forum in September 2019, the previous invitation received by the mandate holder had been in 2012.

24. The Special Rapporteur also remained seized of the issue of the use of the death penalty in relation to counter-terrorism, in particular the ongoing challenges in the context of Iraq and the Syrian Arab Republic with regard to citizens from States that had moratoriums on that practice or had abolished it. The humanitarian exemption was another issue raising serious concerns, especially with regard to the global financing of terrorism, as the widely criticized risk-based strategy of the Financial Action Task Force had had a grave impact on the capacity of civil society to engage and operate on the ground in the most fraught areas in order to contain and prevent the spread of extremist ideas. She also echoed the importance of support for integrating a gender-based perspective, which was profoundly and consistently marginalized, together with human rights, in the production of soft law norms and in many of the new institutional settings.

25. Welcoming the openness and transparency of Kazakhstan during her visit, she noted that, while many States did not allow Special Rapporteurs to visit, those who did were strengthened, despite the risk of being subject to scrutiny. She also acknowledged the country as being exemplary among States that had brought back foreign fighters from conflict zones, including women and children, many of whom had been left in precarious situations that met the threshold for torture or inhuman or degrading treatment under international law.

26. **Mr. García-Sayán** (Special Rapporteur on the independence of judges and lawyers), introducing his report (A/74/176), said that it was time to take stock of the application of the Basic Principles on the Independence of the Judiciary, adopted in 1985. While

the original concept of institutional independence as referring to the relationship between judicial systems and other branches of government remained valid, constituted the foundation of the rule of law and was essential to ensuring respect for human rights, it was important to refine and expand on the Basic Principles in order to strengthen their impact in the light of contemporary threats and challenges that had arisen in the past 34 years.

27. The following issues had emerged as clear priorities for broadening the scope of the Basic Principles, to be addressed through a process of analysis and debate: global and transnational corruption and its effects on society and institutions, including the judiciary; growing threats and influences exercised by organized crime networks to manipulate the judicial system or weaken its functioning; and the desirability of integrating into the Basic Principles the content of the Bangalore Principles of Judicial Conduct, in particular the principle of judicial integrity and accountability. Consideration needed to be given to explicitly identifying threats to judicial institutions and independence from criminal corruption structures and to the primary responsibility of judges and prosecutors in addressing those threats in accordance with national law and the United Nations Convention against Corruption.

28. He highlighted a number of recommendations from his report. First, the international community should continue to strengthen the current content of the Basic Principles so as to reflect contemporary challenges faced by judges in various parts of the world as a result of transnational corruption and organized crime. Second, it was important to promote linkages between the Basic Principles and the Bangalore Principles, the Convention against Corruption and the Guidelines on the Role of Prosecutors. Third, Member States should establish an open-ended intergovernmental expert group to expand the Basic Principles on the basis of those already in force. Fourth, Member States should raise the issue at the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, to be held in Kyoto, Japan, in April 2020, and provide a clear mandate for a formal intergovernmental process aimed at integrating new legal standards into the Basic Principles.

29. Expressing his readiness to share his expertise on the matter, he stressed that the initiative proposed in his report was aimed at strengthening, not replacing, the existing content of the Basic Principles, which must remain intact, given their relevance to and impact on the daily work of judicial systems worldwide.

30. **Mr. Giordano** (United States of America) said that the fundamental rights of freedom of expression, religion or belief, association and peaceful assembly must be safeguarded for judges and prosecutors when acting in their personal capacity. The United States opposed actions that permitted the executive or legislative branches of States to overpower the judiciary, thus undermining judicial independence and systems of checks and balances. Given the benefits that social media could provide in strengthening public trust in the judiciary, judges and prosecutors should be permitted to exercise their freedoms online as they did offline. He wondered whether the Special Rapporteur had observed any significant divergences in professional codes of conduct articulated by regional and international bodies as compared with professional groups.

31. **Mr. Lavalle Merchán** (Spain) said that judges were responsible for the restoration of human rights when they were violated by the State or other institution with power. Just as human rights were all related, so were the principles that guaranteed the independence of judges. Those principles could be summarized as the need for integrity in judicial work and were supported by State-provided security and protection. Echoing the call for countries to integrate the Basic Principles on the Independence of the Judiciary into their constitutions, he agreed that the Principles needed to be updated to include new measures for guaranteeing judicial independence in the face of contemporary threats.

32. In that process, United Nations human rights mechanisms needed take into account regional mechanisms in order to ensure respect for such principles as *res judicata*. For example, the European Court of Human Rights and the Court of Justice of the European Union, which protected the recognition of human rights through binding judgements, were continuously updating their human rights jurisprudence. With regard to the call for future multilateral regulations on judicial independence to include prosecutors and lawyers, Spain recognized that judicial independence needed to be backed by prosecutor impartiality and a legal profession prepared to protect the right to a defence for all, regardless of gender, age, social status or other circumstance.

33. **Mr. Matt** (Liechtenstein) requested information on the scope and impact of the recommended training on ethical principles for judges and prosecutors in relation to the exercise of their fundamental freedoms. He also enquired about ways to improve national nomination processes, given that securing judges of the highest possible quality was both supremely important for the success of international courts and an ongoing challenge.

34. **Mr. Chaudhry** (Norway) said that it was of utmost importance to ensure the independence, integrity and accountability of judges, lawyers, prosecutors and other legal professionals, as well as that of the judicial system as a whole. Attendees at the seventh Conference of the States Parties to the United Nations Convention against Corruption had adopted a resolution on preventing and combating corruption involving vast quantities of assets, which was frequently referred to as grand corruption or large-scale corruption. International standards, norms, operative measures and cooperation were necessary to prevent and combat such activity in accordance with the Convention and the 2030 Agenda for Sustainable Development. The United Nations Office on Drugs and Crime (UNODC), in cooperation with the Governments of Peru and Norway, had organized two global expert group meetings, at which participants had raised concerns about persistent challenges involved in investigating, prosecuting and adjudicating corruption cases. They had also underscored successful efforts in that regard resulting from effective international cooperation and issued a number of relevant recommendations.

35. **Mr. Solari** (Peru) said that it was necessary to consolidate and protect judicial independence through effective national public policies to counter the harmful effects of organized crime and corruption and through the diligent application of international legal instruments to ensure that investigations yielded results. Discussions within the framework of the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, to be held in 2020, and the preparatory process for the special session of the General Assembly against corruption, to be held in 2021, should lead to progress in the area, by identifying concrete actions to prevent and combat corruption and strengthen international cooperation. The continuation of current efforts to strengthen the independence, impartiality and integrity of judges would help to combat judicial corruption, encourage honesty and fairness, promote trust and prevent State interference, while prioritizing public interests.

36. **Mr. Roijen** (Observer for the European Union) said that tackling global and transnational corruption and its impact on society and institutions, especially the judiciary, was of the utmost importance. The suggestion that the content of the Basic Principles be supplemented and rendered more responsive to modern challenges was therefore welcomed. With regard to the importance of international cooperation in safeguarding judicial independence and integrity, in particular through UNODC, and of strengthening the link between existing instruments, the Convention against Corruption, as a

legally binding instrument for 186 State parties, was at the core of national and international initiatives and a centrepiece for further United Nations efforts in fighting corruption in the judiciary. Any adjustment to the Basic Principles should therefore reflect the wording of the Convention.

37. He requested elucidation of existing gaps in the Basic Principles and clarification on possible references in a revised version to both the Convention against Corruption and the United Nations Convention against Transnational Organized Crime. He asked the Special Rapporteur to specify the main risk referred to in his admonition that the revision process should not undermine the existing standards. Given preliminary discussions suggesting that emerging forms of crime in the digital era would place new demands on judges and lawyers, as modern crime was more global than local, he enquired about the Special Rapporteur's expectations for the Fourteenth United Nations Crime Congress.

38. **Mr. Ahmed** (Maldives) said that his delegation appreciated the consideration given to the difficulties faced by States in striking a balance between protecting their judges' right to freedom of expression and protecting their citizens' right to an independent and impartial justice system; the guidance provided in that regard; and the helpful overview of applicable international, regional and ethical standards. The inclusion in the report of a section on social media was also welcomed, as the phenomenon was increasingly pervasive and raised new challenges relating to freedom of expression. A key target of his Government's new strategic action plan was the reform of the Judicial Service Commission, which would improve judicial independence and accountability. The Government also planned to further develop transparent procedures for the appointment and evaluation of judges and to establish, review and strengthen conflict-of-interest rules within the judiciary. The conclusions of the Special Rapporteur provided useful guidance for efforts to strengthen the independence of judicial systems.

39. **Mr. Driuchin** (Russian Federation) said that the work of judges and lawyers was vitally important to ensuring the effective enjoyment of the right of access to justice and a fair trial, as their professionalism, impartiality and independence could determine the fate of individuals. Judges and lawyers faced various challenges and threats in their daily work, the most perilous of which was corruption. Given the scale and transboundary nature of that threat, which affected all countries, it could not be effectively countered by individual States. It required a collective effort and, consequently, common rules and requirements that would allow the judiciary to effectively fulfil their

functions. The Basic Principles had proven their worth as a useful benchmark for national justice systems. The most relevant body of professionals at the United Nations for creating that type of compendium was the Commission on Crime Prevention and Criminal Justice, which had the appropriate skills and expertise to conduct analyses and draw up proposals to improve and update the Basic Principles. Other United Nations system mechanisms, including the special procedures of the Human Rights Council, should provide the Commission with any necessary assistance within their own remits. His delegation wished to know how the Special Rapporteur viewed the place and role of his mandate with regard to the work done in that field.

40. **Ms. Jakstiene** (Lithuania) said that the independence of the judiciary was necessary to ensure the rule of law and the effective protection and promotion of human rights. Judges, lawyers and prosecutors must be free of any external interference, pressure or threat that could affect the impartiality of their judgements and decisions. As the challenges faced by judiciaries came in various forms, she asked whether, in expanding the Basic Principles to address new challenges, explicit reference should be made to threats and pressure coming from other States, in addition to those coming from within the State. She cited the example of multiple criminal proceedings instituted between July 2018 and April 2019 by the Investigative Committee of the Russian Federation against Lithuanian judges, prosecutors and investigators involved in investigating the violence perpetrated by troops of the former Soviet Union in Vilnius on 13 January 1991, resulting in 14 civilian deaths and leaving more than 800 people injured. In March 2019, the Vilnius Regional Court had found all the suspects in the case guilty of war crimes and crimes against humanity. Her delegation was alarmed by the threat to the independence and impartiality of judges of another State, in disregard of international law and its principles, and it would appreciate additional emphasis on the issue in future reports by the Special Rapporteur.

41. **Mr. García-Sayán** (Special Rapporteur on the independence of judges and lawyers) said that, as stressed in his 2019 report to the Human Rights Council ([A/HRC/41/48](#)), the right to freedom of expression and association was a fundamental right of judges and prosecutors around the world. Moreover, in certain cases, such as when the democratic system was threatened in some way, they had both the right and the obligation to publicly express their opinions. Other important rights to be safeguarded, as referred to in prior reports, included stability with regard to the positions and functions of judges and prosecutors, with clear rules



that protected them from arbitrary transfers, suspensions or removals.

42. The question of appropriate nomination and appointment mechanisms was a complex and difficult issue. In his previous report (A/73/365), he had addressed the topic of bar associations or councils as one institutional mechanism that existed in many countries, although it was far from mandatory for that model to be implemented worldwide. There were, however, two principles that he wished to stress: transparency in the nomination and selection process so that citizens could express their opinions and provide additional information they might have about individuals being proposed for promotion; and training for judges and prosecutors on ethical principles essential to their functions.

43. With regard to tackling corruption in general, and transnational corruption specifically, and no matter how many political declarations States might issue about the role of government in pursuing and prosecuting perpetrators, the role and function of the judiciary was crucial and decisive. The United Nations Convention against Corruption was one of the most significant treaties adopted by the international community since the founding of the United Nations, not only in terms of the declarations and principles outlined therein, but also because of the central role given to the judiciary in its implementation and in its consideration of international judicial cooperation as an invaluable tool for detecting illegal activity and conducting serious and effective investigations.

44. That system, however, functioned effectively only as long as the judiciary remained independent and as long as the only criteria guiding their actions were the national and international standards outlining their roles and responsibilities. Any loss of independence undermined their legitimacy, both in their own countries and with regard to international judicial cooperation. A fully independent judge or prosecutor was more trustworthy than one who was subject to political or government interference or influenced by organized crime or corruption. While the Convention against Corruption was the most relevant international tool in effect to address that issue, its implementation required an independent judiciary. The Basic Principles currently made no mention of the threat of corruption or the obligation to act in response to it. Identification of the most effective mechanism for correcting that situation was an issue that would need to be discussed at the Fourteenth Crime Congress, but there would certainly be a role for the Commission on Crime Prevention and Criminal Justice. Ultimately, it was up to the States and the relevant national bodies to expand the Basic

Principles; the role of the Special Rapporteur would be to provide support when required.

45. While the Basic Principles applied to all threats to the independence of the judiciary, not only from political authorities within their own State, but also from persons involved in corruption and organized crime and from Governments of other States, those aspects needed to be clarified with regard both to State actions and to the necessary training for judges and prosecutors. He did not have sufficient information to comment on the case referred to by the representative of Lithuania.

46. Integrating the additional rights to independence of the judiciary and the obligations related to judicial integrity found in the Bangalore Principles of Judicial Conduct would, in turn, lead to their permanent incorporation in ongoing training and upgrading processes for judges and prosecutors worldwide.

47. **The Chair**, introducing the report of the Special Rapporteur on the negative effects of unilateral coercive measures on the enjoyment of human rights (A/74/165), said that, in the report, the Special Rapporteur had outlined legal issues arising from the use of such measures, had considered the situation in a number of countries and had included recommendations for possible measures to address the human rights violations that had occurred in those situations. The Chair invited delegations to take the floor for questions or comments, which would be transmitted to the Special Rapporteur for a response at a later date.

48. **Mr. Poveda Brito** (Bolivarian Republic of Venezuela), speaking on behalf of the Movement of Non-Aligned Countries, said that his delegation wished to reaffirm the position agreed upon at the Ministerial Meeting of its Coordinating Bureau, held in Caracas in July 2019. The Movement was opposed to the use of all unilateral coercive measures, including those used as tools for political, economic or financial pressure against any country, in particular developing countries, which violated the Charter of the United Nations or international law. The Movement was concerned by the continued imposition of measures that hindered the well-being of civilians and the full realization of human rights.

49. That position had been recently reaffirmed at a meeting of the Ministers for Foreign Affairs of the Movement, held in the margins of the seventy-fourth session of the General Assembly, on the theme of defending the principles of sovereignty and political independence as a means of maintaining international peace and security and promoting friendly relations and cooperation among States. The member States of the Movement reiterated their profound concern about the

growing tendency to resort to unilateralism and their commitment to promoting and strengthening multilateralism in the decision-making process, with a view to establishing a truly democratic international order.

50. **Mr. Hassani Nejad Pirkouhi** (Islamic Republic of Iran) said that the cruel and unlawful sanctions imposed by the United States on the import of advanced medicines and equipment was affecting medical patients, both children and adults, who were gravely ill. Their intense suffering and deaths attested to the horrendous and cowardly mindset behind the economic terrorism unleashed against civilians in Iran and elsewhere. It was untrue that humanitarian goods were exempt from sanctions, as evidenced by the failed attempts by some European countries to secure goodwill exemptions from the United States Department of the Treasury to export medicines to Iran. Unilateral sanctions did, indeed, kill and could therefore be considered “war by another name”, as indicated by the Special Rapporteur in his report. Such measures solely and indiscriminately targeted large numbers of vulnerable civilians and caused their deaths, and they therefore amounted to economic terrorism.

51. **Mr. Driuchin** (Russian Federation) said that the use of unilateral coercive measures was unacceptable. They not only violated the standards of international law and hindered the enjoyment of fundamental human rights and freedoms of citizens, but also undermined political and diplomatic efforts by States to resolve crises. Opportunistic and political attempts to isolate States through sanctions and restrictions rarely solved political problems; instead they undermined international relations and more often led to greater losses for those imposing the sanctions.

52. **Ms. Xu Daizhu** (China) said that the General Assembly and the Human Rights Council had adopted multiple resolutions highlighting the serious and negative impacts of unilateral coercive measures on the enjoyment of human rights by citizens of the countries targeted. However, one State continued to pursue power politics and arbitrary unilateral coercive measures through the use of State machinery and administrative measures to suppress other States. The use of such measures as a political tool contravened the Charter of the United Nations and the basic norms governing international relations and seriously undermined other countries’ efforts to promote and protect human rights based on the needs of their own people. As a staunch supporter of multilateralism, her Government firmly opposed all forms of unilateral coercive measures, regardless of the reason, and urged the State in question to return to consultation and cooperation as a means of

solving problems. All States, United Nations mechanisms and stakeholders must work together to tackle the negative impact of such measures on human rights.

53. **Ms. Ali** (Syrian Arab Republic) said that unilateral coercive measures were inhumane and destructive acts that were contrary to international law, the principles of the Charter of the United Nations and human rights standards. They constituted a form of collective punishment of civilian populations, including the most vulnerable, by preventing them from meeting their basic needs. Her delegation failed to understand how a ban on exports of medical equipment served to protect the rights and interests of the Syrian people or how the goals and objectives of the 2030 Agenda for Sustainable Development were consistent with the continued imposition of unilateral coercive measures. The imposition of such measures on her country constituted a “de facto embargo” and a form of economic terrorism by certain States that made a rhetorical show of concern for the interests, security and stability of the Syrian people. Her delegation called on those States to respect their obligations under international humanitarian law and human rights instruments and to immediately lift their unilaterally imposed illegal coercive measures.

54. **Ms. Gebrekidan** (Eritrea) said that unilateral coercive measures had, time and again, been proven to have a destructive impact on countries and their populations while almost always failing to achieve their supposed objectives. The ongoing negative impacts of such measures on human rights, as well as on the economic growth and development aspirations of the countries targeted, was contrary to the principles of international cooperation and multilateralism and undermined collective efforts to achieve the Sustainable Development Goals relating to peace, security and respect for human rights. As a country that had suffered from almost a decade of unjustified sanctions, Eritrea shared the Special Rapporteur’s concerns about the growing use of sanctions and embargoes and welcomed his recommendation to appoint a dedicated special representative of the Secretary-General. Given the inhumane nature of unilateral coercive measures and their impacts on innocent people, her delegation wished to know what efforts could be made to increase international involvement, including by raising public awareness of those impacts, especially considering the dominant media narrative and the lack of attention brought to the issue.

55. **Ms. Cue Delgado** (Cuba) said that it was regrettable that the Special Rapporteur could not be present, as it was important for Third Committee members to exchange views with special procedure

mandate holders, and vitally so with regard to the topic at hand. Having suffered from an economic, commercial and financial embargo imposed by the United States for almost 60 years, Cuba was well aware of the damage caused by unilateral coercive measures. Those measures had significant extraterritorial implications, in particular since the enactment, in March 2019, of Title III of the Helms-Burton Act of 1996. Her Government reiterated its opposition to all unilateral coercive measures, including those used to impose economic or political pressure on countries, especially developing ones, as such measures were contrary to international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States. They destabilized economic development and prevented the full enjoyment of human rights.

*The meeting rose at 11.55 a.m.*