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## Third Committee

### Summary record of the 25th meeting

Held at Headquarters, New York, on Thursday, 21 October 2010, at 3 p.m.

*Chairperson:* Mr. Tommo Monthe . . . . . (Cameroon)

## Contents

Agenda item 64: Promotion and protection of the rights of children (*continued*)

Agenda item 68: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

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*The meeting was called to order at 3.05 p.m.*

**Agenda item 64: Promotion and protection of the rights of children** (*continued*)

*Draft resolution A/C.3/65/L.21: Rights of the child*

1. **Ms. Ortigosa** (Uruguay), introducing draft resolution A/C.3/65/L.21 on the rights of the child, said that, as in previous years, the text considered a number of issues relating to child rights, including education, health and nutrition, paying particular attention to the special needs of children. The draft resolution also dealt with the needs of specific groups, such as children in armed-conflict zones. Armenia, Croatia, Iceland, Monaco, Montenegro and Serbia had joined the list of sponsors.

2. **The Chairperson** said that Albania, Burkina Faso, Cameroon and the Congo had also joined the list of sponsors, and that action on the draft resolution would be postponed to the following week.

**Agenda item 68: Promotion and protection of human rights** (*continued*) (A/65/336)

(b) **Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/65/119, 156, 162, 171, 207, 222-224, 227 and Add.1, 254-259, 260 and Corr.1, 261, 263, 273, 274, 280 and Corr.1, 281, 282, 284, 285, 287, 288, 310, 321, 322, 340 and 369)

(c) **Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/65/331, 364, 367, 368, 370 and 391)

3. **Ms. Sekaggya** (Special Rapporteur on the situation of human rights defenders) said that, over the past year, she had met with non-governmental organizations and human rights defenders from several countries and many different fields, and heard direct accounts of the situations that defenders faced during their daily work. Her report (A/65/223) focused on the responsibility of non-State actors for human rights violations against defenders. Although States bore the primary responsibility for protecting human rights defenders, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms was addressed to all sectors of society.

4. Diverse categories of non-State actors committed human rights abuses against defenders. The report highlighted the types of violations that they committed and their responsibilities, and focused on the non-State actors most regularly accused of violating the rights of defenders, namely armed groups, private corporations, individuals and the media. Armed groups included rebels, paramilitaries, mercenaries and militias, which often attempted to stigmatize the work of human rights defenders and legitimize campaigns of violence against them in times of armed conflict and of peace. In such cases, it was vital that Governments publicly reaffirmed the importance of their work and denounced any attempts to delegitimize it.

5. The harassment and even rape of women human rights defenders was of particular concern. Human rights defenders who helped victims of human rights violations to access justice were also regularly subjected to threats and harassment. Some attacks committed by non-State armed groups were directly or indirectly instigated by States by providing non-State armed groups with weapons and/or logistical support or by condoning their actions, explicitly or implicitly.

6. Private corporations were also responsible for human rights violations against human rights defenders, especially defenders whose work concerned labour rights, the exploitation of natural resources, and the rights of indigenous peoples and minorities. In addition, isolated individuals harassed defenders, while community leaders and faith-based groups were increasingly resorting to attacks on defenders working on issues such as gay rights and violence against women. Lastly, the media also violated the rights of human rights defenders, notably in relation to their right to privacy. In some States, the press even portrayed them as troublemakers, legitimizing attacks against them.

7. Non-State actors had an obligation to comply with national laws and international norms and standards and could be held accountable for violations of the rights of defenders that amounted to offences under national law. Moreover, they could, and should, play a preventive role by promoting the Declaration and the rights and activities of human rights defenders. Nevertheless, those obligations did not relieve the State of its responsibility to respect, protect and ensure all human rights, by investigating alleged violations, prosecuting alleged perpetrators and providing defenders with remedies and reparation.

8. Ending impunity was an essential condition for ensuring the security of defenders. The State's unwillingness to investigate violations committed by non-State actors could be seen as granting them free rein to continue attacking defenders with total impunity. Moreover, weaknesses in the judicial system and flaws in the legal framework had often deprived defenders of adequate tools for obtaining justice. National human rights institutions could play a leading role by dealing with complaints against non-State actors whenever States' judicial systems were unable or unwilling to adjudicate on alleged violations against defenders.

9. The report sought through its recommendations to raise awareness about the responsibility of non-State actors to comply with the provisions of the Declaration on human rights defenders. It was paramount that non-State actors acknowledge the important role of defenders in ensuring the full enjoyment of all human rights by everyone. Finally, the initiative of the High Commissioner for Human Rights to focus the next Human Rights Day, 10 December 2010, on human rights defenders who acted to end discrimination should be commended.

10. **Mr. Andrade** (Brazil) said that his country had adopted several measures to protect human rights defenders, and that State policy in that field involved all relevant national institutions, including the security apparatus. In that regard, Brazil welcomed the Special Rapporteur's emphasis on the need for States to deal more proactively with attacks on human rights defenders by non-State actors. Lastly, he underscored that Brazil's national programme to protect human rights defenders addressed the point made by the Special Rapporteur on upholding the honour of human rights defenders in the face of media attacks, and thanked Ms. Sekaggya for her willingness to participate in an international seminar on human rights defenders that his country would host in November 2010.

11. **Mr. Vigny** (Switzerland) said that, although the responsibility to protect human rights defenders fell to States first and foremost, the 1998 Declaration on human rights defenders was addressed to all entities in society, including companies. He would like to know what concrete measures all relevant actors should undertake in order to abide by the "respect, protect and repair" framework proposed by the Special Representative of the Secretary-General on human

rights and transnational corporations and other business enterprises.

12. He also wondered whether the Special Rapporteur deemed necessary the establishment of a monitoring and accountability mechanism — and if so, what sort of mechanism — for corporations' social responsibility policies. The obligation to protect would require the existence of such a mechanism to ensure impartial investigations and prosecution of violations.

13. **Ms. Kocharyan** (Armenia) said that her Government was ready to cooperate with Ms. Sekaggya and make its limited resources available with a view to eliminating violations against human rights defenders and guaranteeing their effective operation in Armenia. Her country was also looking forward to the Special Rapporteur's report in 2011.

14. **Mr. Huth** (European Union) speaking on behalf of the European Union; the candidate countries Croatia, Iceland, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Armenia, Georgia, Liechtenstein, Norway, the Republic of Moldova and Ukraine, said that the European Union endeavoured to go farther towards implementing its guidelines on human rights defenders but did not share the Special Rapporteur's analysis of the legal relationship between non-State actors and international human rights law, as the principle at the heart of the latter was that States were obliged to provide human rights protections to individuals within their territories. Taking note of the evolving nature of the concept of corporate responsibility to respect human rights, highlighted in the Special Rapporteur's report, he enquired about the main challenges and priorities in States' engagement with national and transnational corporations, as well as into the nature of her own engagement with them.

15. He also wondered how one might best work with those non-State actors to halt the stigmatization of and attacks against defenders working on such issues as gay rights or violence against women. The European Union expressed support for Ms. Sekaggya's mandate, and, in particular, for her appeal to States to publicly affirm the value of the activities of human rights defenders and to denounce their detractors.

16. **Ms. Boutin** (Canada) said that her Government was deeply concerned by the threats, intimidation,

arrests and imprisonment to which human rights defenders were continually exposed. She would like to know what steps the international community might take to ensure the effective implementation of the Declaration on human rights defenders.

17. Canada agreed with the Special Rapporteur that in order to strengthen the international human rights regime, measures must be adopted to promote responsible conduct on the part of companies. She wondered how the Special Rapporteur's recommendations worked alongside those of the Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises and asked what primary conclusions companies, which were in need of clear guidelines in order to respect the rights of defenders, should draw from the Special Rapporteur's report.

18. **Ms. Tvedt** (Norway) said that the Special Rapporteur's mandate gave visibility to human rights defenders worldwide and thus contributed to their protection. Norway agreed that, while States bore primary responsibility to protect defenders, it was essential to address the accountability of non-State actors. Her Government also welcomed the close cooperation between the Special Rapporteur and the Special Representative of the Secretary-General on human rights, transnational corporations and other business enterprises under the "protect, respect and remedy" framework.

19. Her delegation requested more information on ways in which companies might include and consult with human rights defenders, and on how national human rights institutions might participate in that process. Also, it would be useful to know how United Nations peacekeeping operations might contribute to the protection of human rights defenders. Lastly, noting the gender focus of the Special Rapporteur's mandate, she asked how attacks by non-State actors on women human rights defenders in particular might affect their work.

20. **Ms. Nemroff** (United States of America), welcoming Ms. Sekaggya's report, said that despite the commitments made by States to protect human rights defenders, the latter continued to be subjected to harassment in many countries. She would therefore be interested to know what concrete actions could be taken to encourage States to end the policies that restricted the freedom of human rights defenders.

21. **Ms. Freedman** (United Kingdom) said that, while her Government agreed with the Special Rapporteur that non-State actors should be held accountable for criminal offences under international law States were responsible for promoting and protecting human rights as well as for all violations thereof.

22. She enquired whether Ms. Sekaggya had guidance for States on measures to help create a safe and conducive environment for human rights defenders to work in. Noting with concern the complete lack of such an environment in the Islamic Republic of Iran, whose Government continued to harass, intimidate and arbitrarily arrest human rights defenders, she called on the Iranian authorities to cease such actions immediately and to fulfil domestic and international obligations to guarantee the basic human rights and freedoms of all its people.

23. In addition, she wondered whether the Islamic Republic of Iran had contacted the Special Rapporteur to discuss a visit or undertaken investigations into the torture, mistreatment or killing of human rights defenders while in official custody, as that country had accepted recommendations relating to those matters in its universal periodic review before the Human Rights Council.

24. **Mr. Butt** (Pakistan) said that it, was indeed difficult for Member States to understand how to induce non-State actors to ensure the human rights of people in a given territory when it was the State that bore primary responsibility for doing so and for implementing the provisions of the human rights conventions that it had ratified. He would appreciate more information on the link between the subject of her report and the ratification of the domestic legal system statute of the International Criminal Court. Lastly, he wondered whether there could be situations in which certain actors, under the guise of doing human rights work, were in fact involved in extraneous activities.

25. **Mr. Matjila** (South Africa) said that his delegation agreed with Ms. Sekaggya that non-State actors also had a responsibility to respect human rights, in addition to that borne by Governments. He asked the Special Rapporteur what recourse human rights defenders whose own rights had been violated by transnational corporations might have in the event that such corporations refused to cooperate with proceedings aimed at holding them to account.

26. **Mr. Mamdouhi** (Islamic Republic of Iran) expressed regret that the interactive dialogue in the Committee could be used by certain States to name others selectively in pursuit of their political agenda. It was a distortion of fact to cast doubt on the situation of human rights defenders, including NGOs, in the Islamic Republic of Iran. Its Government had taken measures to safeguard their activities, and hundreds of them were working actively for human rights. Centres for ensuring respect for citizenship rights were located in different ministries. The United Kingdom which did not have a defensible human rights record, arrogated to itself a leading global role and hid behind a finger-pointing policy, accusing others of human rights violations in order to deflect attention from human rights violations under its jurisdiction.

27. **Ms. Sekaggya** (Special Rapporteur on the situation of human rights defenders) said that, according to the Declaration on human rights defenders, the right and responsibility to protect human rights extended beyond the State to include non-State actors, although States did hold a primary responsibility of due diligence. Her report focused on human rights defenders and how to protect them. States should prevent, investigate and punish violations and provide human rights defenders with reparation.

28. On how best to engage with non-State actors, she said that if those actors were transnational corporations, human rights defenders should be consulted during the impact assessment of projects. The environment and national laws should be examined, mechanisms for redress should exist in the event of violations, and national human rights bodies should be given mandates to hear complaints.

29. United Nations peacekeepers played a major role in protecting human rights defenders and in preventing excesses by non-State actors. In areas of conflict, women human rights defenders had been most affected. They had suffered sexual abuse from non-State actors and needed protection to do their work. If not, abuse would continue, as had occurred in the Democratic Republic of the Congo. Her report gave simple recommendations to States and transnational corporations: namely, to act with due diligence, to disseminate the Declaration, to incorporate it into law and to implement the measures contained in it.

30. **Mr. Bielefeldt** (Special Rapporteur on freedom of religion or belief) said that his predecessor's report in document A/65/207 gave an overview of issues of

concern relating to the implementation of the freedom of thought, conscience, religion or belief. The preamble to the Universal Declaration of Human Rights referred to the inherent dignity of all human beings and systematically related human dignity to the equal and inalienable rights of all. That concept of human dignity resonated strongly in religious and philosophical traditions across regional and cultural boundaries. In turn, it enhanced the prospects of a widespread, active and lasting cross-cultural promotion and protection of human rights, including freedom of religion or belief.

31. Because of its universal nature as a human right, freedom of religion or belief had a broad scope of application, protecting theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. In addition, protection should be accorded to those who exercised their right to change their religious affiliation as, in some countries, they could be exposed to criminal prosecution or lose the custody of their children. In other countries, recognition of religious practice was limited to a particular list of religions, while small communities were sometimes stigmatized as cults. Moreover, freedom of religion or belief could not be made dependent on compulsory State registration of religious groups. Nevertheless, in many countries registration requirements were used to control and restrict its exercise.

32. Equality constituted a cornerstone of human rights in general; consequently, States were obliged to combat all forms of discrimination, including discrimination against religious minorities and gender-based discrimination. Members of religious minorities typically lived in situations of increased vulnerability and frequently faced discrimination with regard to education, employment and health care as well as obstruction when trying to erect places of worship. Furthermore, stereotyping often branded members of certain religious communities as dangerous or hostile and even as potential terrorists.

33. Gender-based discrimination had at least two dimensions in the context of religion: women in discriminated communities often suffered from gender-based discrimination, while religious traditions sometimes appeared to justify or even call for discrimination against women. The fundamental objective should be to protect both the positive freedom to manifest one's religious conviction and the

negative freedom from pressure, especially from the State, not to display religious symbols or perform religious activities.

34. In addition, religious traditions were at times invoked to deny or dilute the equality in the rights of men and women. The issue had been at the centre of heated controversies within various religious communities, with members claiming that traditional justifications of gender-related discrimination stemmed from cultural contexts rather than the substance of the religious teaching. Whatever the justification, all practices that were contrary to women's rights should be condemned and combated.

35. Under international human rights law, States were obliged not merely to respect freedom of religion or belief but also to actively protect such freedom against undue interference from third parties. In addition, they should promote an atmosphere of tolerance and appreciation of religious diversity, for instance by encouraging interreligious dialogue as well as by dispelling prejudices which often caused particular harm to members of minorities. Such initiatives could serve the purpose of conflict prevention and also have an early warning function.

36. Unfortunately, pernicious stereotypes continued to exist in many States, while incitement to religious hatred frequently drew on actual or perceived religious differences. Such factors could lead to serious human rights abuses perpetrated in the name of religion, and States were obliged to take appropriate action. At the same time, any limitations on freedom of expression to prevent incitement to religious hatred must be defined with the utmost care so as not to affect the exercise of freedom of expression or other human rights. Lastly, freedom of religion or belief was vital for building a holistic system of human rights protection, based on due respect for the inherent dignity of all human beings.

37. **Mr. Butt** (Pakistan) said that he agreed with the report by Mr. Bielefeldt's predecessor, Ms. Asma Jahangir, that States must protect people from religious intolerance and that the media played a key role in combating discrimination. Nevertheless, he disagreed on how to combat the defamation of religions and felt that it was a question of protecting not religions themselves but their followers. Early warning signs of religious intolerance included stereotyping by public figures, who sometimes cited the failure of

multiculturalism. That phenomenon had become more widespread and he asked if Mr. Bielefeldt had any specific advice about it.

38. **Mr. Andrade** (Brazil) said his country's Constitution enshrined freedom of religion. A new statute of racial equality had been introduced to give equal opportunities to the Afro-Brazilian population, especially in the area of religion. In that spirit of diversity, a project was under way to catalogue, restore and protect Afro-Brazilian works of art. He also commended the gender perspective in Ms. Jahangir's report.

39. **Mr. Huth** (European Union) said legal protection was key to ensuring freedom of religion or belief and asked Mr. Bielefeldt to highlight the necessary components of that protection. He also wondered what the main focus and challenges were of Mr. Bielefeldt's cooperation with the Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression and on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

40. **Mr. Vigny** (Switzerland) expressed great concern that religious convictions were often used to justify human rights violations, in particular against women. States must guarantee respect for human rights, without any discrimination based on religious affiliation; they also had a responsibility to combat hatred and intolerance and to promote pluralism. His country supported interreligious dialogue, including with Muslims in Switzerland itself. He asked what steps should be taken to handle warning signs of intolerance and what priorities and challenges Mr. Bielefeldt envisaged in his mandate.

41. **Ms. Nemroff** (United States of America) said that cultural environments that were open to religious freedom and pluralism fostered communal harmony and voices of moderation. Her Government approved of the Special Rapporteur's focus on discrimination against women and his call for States to establish a strong legal framework that guaranteed the freedom of religion. She asked what measures States could take to eliminate harmful practices against women in the name of religion and would also appreciate his views on taking up the issue with the Human Rights Council's recently established Working Group on Discrimination against Women in Law and Practice.

42. **Mr. Al Nsour** (Jordan) asked for concrete remedies and proposals to address the areas of contention between the concepts of freedom of belief; freedom of religion; the prohibition of incitement to discrimination, as defined in article 20 of the International Covenant on Civil and Political Rights; and freedom of expression.

43. **Ms. Boutin** (Canada) said that her Government was concerned at the deterioration of the protection of freedom of religion around the world, as noted in the Special Rapporteur's report. She would appreciate recommendations on measures that the international community could take to reverse that trend, as well as good examples that he had observed of measures to promote and protect the freedom of religion.

44. **Ms. Kuijpers** (Denmark) affirmed that the concept of defamation of religion did not belong in human rights discourse and wondered if the Special Rapporteur, like his predecessor, would be encouraging Member States to move away from that idea. She also wished to know what issues he would be prioritizing during his mandate and requested specific ways in which States could balance promoting freedom of religion with protecting citizens from abuses committed in the name of religion.

45. **Ms. Hu Miao** (China) said that her Government stood firmly against religious intolerance and discrimination. China was home to many religions, which enjoyed equal status and existed in harmony. There were about 100 million believers and 50,000 religious sites in the country. Regarding the issue of Falun Gong, she noted that it was not a minority religion. Falun Gong was an evil cult that exercised psychological control over its practitioners, inciting them to resist medical treatment and commit suicide and assassinations. Those crimes must be punished in accordance with the law. Efforts to eradicate Falun Gong did not violate human rights, but instead sought to protect those rights and maintain social order.

46. **Mr. Michelsen** (Norway) said that his delegation welcomed the focus of the Special Rapporteur on the early warning signs of discrimination and violence in the name of religion and found the recommendations to States and civil society helpful. His Government was concerned by legislation in many countries that was openly discriminatory and would lead to a lack of religious diversity and tolerance. He would welcome more information on early warning signs in order to

prevent discrimination and violence in the name of religion.

47. **Mr. Bielefeldt** (Special Rapporteur on freedom of religion or belief) said that despite the claims of some politicians, the notion that multiculturalism had failed was contrary to reason. Multiculturalism was not only a reality, it was the natural outcome of taking a human rights approach to building society. Respect for freedom of expression and religion led to pluralistic societies; the notion of multiculturalism was an appreciation of that fact. It was a concept that needed to be clarified, not abandoned. The idea of respect was a key term in the human rights framework and should be applied broadly, emphasizing the need for respect both among religious groups and within religious groups. Human beings were the ultimate rights holders, and their diversity should be recognized through respect for the range of beliefs expressed individually and through community life.

48. For all the differences between freedom of religion and freedom of expression, their commonalities deserved analysis. Both were universal human rights, encompassed the right to intellectual freedom and guaranteed the possibility of exchanging ideas. Both were also crucial to the intellectual development of individuals and groups in society. Article 20 of the International Covenant on Civil and Political Rights made it clear that freedom of expression as a human right could not cover hate speech, incitement to hostility, discrimination or real violence. Those were limits that needed to be drawn, and delineating them precisely was a serious challenge that should be approached carefully.

49. He concurred with both his predecessor and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance that the concept of defamation often triggered confusion and should be abandoned. However, the serious concerns underpinning the concept must still be taken up. An appropriate approach would be to use the concept of incitement to hatred, as defined in article 20 of the Covenant, to define limits. In the service of human rights, it must remain clear that human beings as individuals and groups were the rights holders, not religious beliefs or systems.

50. A strategy for the defence of women's rights in the context of religion required three basic elements.

First, existing problems needed to be identified. In that sense, he recommended a review of the reports of the Special Rapporteur on violence against women, its causes and consequences, particularly insights into violence perpetrated in the name of culture. Second, a clear normative stance was required. Many treaty bodies, including the Committee on the Elimination of Discrimination against Women, had affirmed that the invocation of religion could not justify the violation of women's rights, thus providing a foundation for legislative work. Third, efforts should be made to raise awareness of the potential for change in religious traditions. Doctrines had and would change over time, including those on gender and discriminatory practices. No one could predict the outcome of movements within religions, but providing dissenters a share of public attention could lead to improvements.

51. Regarding the question as to whether freedom of religion or belief applied to cults, he reiterated that it was not the business of the State to act as a guardian of people's conscience. The concept of freedom of religion must be broad, as affirmed in general comment No. 22 of the Human Rights Committee. The State was responsible for protecting citizens from harm, which, under the criteria of article 18, section 3, of the International Covenant on Civil and Political Rights, could include protection from harm resulting from religious beliefs. However, those criteria should be applied with caution.

52. Interreligious dialogues must be inclusive in order to reflect the real pluralism of a country. Rather than simply providing a forum for exchange between dominant authorities, States should offer opportunities to minorities, dissenters and voices beyond the confines of their own borders. Promoting a broad understanding of subjects beyond religious issues in such dialogues was also productive. Religion was one of many aspects that made up complex human identities. Experiencing differences and commonalities in other aspects that people cherished, for example, in common political projects, could be fruitful.

53. It was important to connect early warning signs of violence with early actions, which could be accomplished through human rights defenders. Empowering people about their human rights was the first step, as it offered those vulnerable to abuse the possibility of speaking out about their concerns at an early stage. Promoting the types of dialogue mentioned earlier was also an important measure. Education

efforts should not only provide knowledge about religions and beliefs, but include opportunities for face-to-face interactions among diverse groups. Lastly, anti-discrimination legislation should cover both the public and societal spheres and should be accompanied by appropriate mechanisms to offer redress and monitor implementation. In that sense, the work of the Uganda Human Rights Commission offered a good example of effective monitoring.

*The meeting rose at 5.15 p.m.*