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Chair: Mr. Tommo Monthe (Cameroon)

Contents

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 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/65/369, A/65/280,

A/65/280/Corr.1, A/65/340, A/65/256, A/65/119, A/65/227, A/65/227/Add.1, A/65/224, A/65/257, A/65/156, A/65/171, A/65/263, A/65/285, A/65/322, A/65/287, A/65/258, A/65/207, A/65/223, A/65/282, A/65/281, A/65/321, A/65/273, A/65/222, A/65/274, A/65/288, A/65/310, A/65/255, A/65/254, A/65/260, A/65/260/Corr.1, A/65/261, A/65/162, A/65/259, A/65/87 and A/65/284)

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

1. **Mr. Heyns** (Special Rapporteur on extrajudicial, summary or arbitrary executions), introducing the final report to the Committee (A/65/321) of his predecessor, Philip Aston, said that the report examined three topics: new technologies and human rights fact-finding; targeted killings and accountability; and extrajudicial killings and robotic technologies. On the whole, human rights groups were not taking adequate advantage of the potential of new information and communication technologies to enhance their fact-finding capabilities. New social media, social networking sites, user-generated content sites or platforms and crowdsourcing tools allowed anyone with access to the necessary technology to report information on killings or other human rights abuses instantly. Others gave investigators access to new types of data that might provide important supporting evidence of human rights abuses. Still others presented new advocacy opportunities. It was time for human rights institutions to abandon their catch-up mentality and to take a more proactive approach to new technologies. As a step in that direction, the report recommended that the Office of the United Nations High Commissioner for Human Rights should convene an expert group of information and communication technology experts, humanitarian and human rights actors with experience using new technologies and relevant private-sector representatives to discuss the current and potential human rights

applications of new technologies and the obstacles to their effective use.

2. Targeted killings posed a significant and rapidly growing challenge to the international rule of law. Without transparency and accountability for such killings, grave damage would be done to the international legal framework. At a minimum, States should be required to disclose the legal bases for action, the legal criteria for selecting targets and the precautions taken to prevent civilian casualties. For further reading, he referred the Committee to his predecessor's June 2010 report to the Human Rights Council (A/HRC/14/24 and Add.1-9).

3. The rapid growth of robotic technologies, especially those with lethal capacities or decreased levels of human control, raised serious human rights and humanitarian issues that remained largely unexamined. Furthermore, very little consideration had yet been given to the international framework necessary for dealing with their legal, ethical and moral implications, particularly in terms of the right to life and the fight against extrajudicial executions. Also, although a large part of the research and technological innovation currently being undertaken was driven by military and related concerns, there was no inherent reason why human rights and humanitarian law considerations could not be factored into their design and operationalization. Urgent action was needed to address the legal, ethical, political and moral implications of the new robotic technologies. It was critical for the international community to move quickly to agree on a uniform set of definitions, settle the issues of international or criminal responsibility and determine what technical safeguards and programming and development standards should be required. To that end, he urged the Secretary-General to convene a group of military and civilian representatives of States, leading authorities in human rights and humanitarian law, applied philosophers and ethicists, scientists, and developers to advise on measures and guidelines to address the major concerns: greater definitional uniformity, optimization of technologies to allow more effective compliance with international human rights and human rights law, the need for empirical studies of the human rights implications, and the fundamental question — whether lethal force should ever be permitted to be fully automated.

4. As he began his term, he said that he saw his mandate as an opportunity to work with Governments, intergovernmental organizations and civil society to promote prevention and accountability with respect to killings in violation of international human rights. He would be interested in examining the right to life of children, as well as aspects of the protection of civilians in armed conflict and the effects of organized crime on the right to life, although he would be sensitive to potential overlap with other mandates. He would conserve the mandate's focus on the death penalty and, in particular, on ensuring that the safeguards required by international law were in place wherever it was used.

5. In addition to the recent visits by the outgoing Special Rapporteur to Colombia, Ecuador and the Dominican Republic, he himself had already accepted invitations from the Governments of Argentina, Mexico and Turkey. He would continue the practice of issuing follow-up reports on country visits and would endeavour to ensure greater regional representativeness in the countries selected for visits. In addition, he intended to explore opportunities for collaboration with regional and subregional human rights mechanisms, especially with regard to norm-setting.

6. **Mr. Butt** (Pakistan) said that his delegation agreed that the human rights community had not done enough to meet the challenges of the twenty-first century. However, as new communication technologies were expensive and their global availability was limited and variable, applying those technologies across the board would not resolve the double standards in the promotion and protection of human rights.

7. Further to the references made in the report to the use of lethal technologies and the resulting legal, ethical and moral issues, particularly with regard to the problems of transparency, accountability and establishing criminal responsibility, he wondered which specific obligations under international law required a State to disclose information in order to establish criminal responsibility in cases where there were clear violations of international law as a result of the use of lethal force through unmanned systems, and what recourse was available to the international community to deal with such cases in the event of non-compliance.

8. **Mr. Vigny** (Switzerland), given the increased use of robotic technologies and unmanned systems in armed conflict situations asked whether the Special

Rapporteur was aware of any States that had met the obligation to determine whether their use would be prohibited by article 36 of Additional Protocol 1 of the Geneva Conventions or by any other international norm. Did he really consider it possible that a robot could be developed that would be a more ethical decision maker than a human?

9. **Mr. Berti** (Cuba) asked for more details on the expert group called for in paragraph 47 of the report, in particular whether it would go beyond the Special Rapporteur's mandate. He noted with interest the observations made in Chapter 3 of the report, but wondered why they were not reflected in the final recommendations and whether it would be possible to make a recommendation, particularly with regard to the information contained in paragraph 15, and submit it to the Committee for consideration.

10. **Mr. Giaufret** (European Union) welcomed the discussion on how new technologies could be used in human rights fact-finding. The report mentioned that crowdsourcing could be used by national human rights institutions, ombudsmen or non-governmental organizations to receive notifications of alleged abuses, which could then be tracked and investigated. He asked whether there were any examples of such methods being used at a national level by human rights institutions or ombudsmen and whether the United Nations had used crowdsourcing or other new information-gathering applications in other contexts besides human rights.

11. He asked the Special Rapporteur to elaborate on the issues related to the right to life of children that he intended to explore. He would also like to know what forms of collaboration the Special Rapporteur foresaw with regional organizations, if he had made any initial contacts with any of them and whether there were regional or subregional norms or good practices which could be used at the international level to address extrajudicial executions more effectively.

12. **Ms. Boutin** (Canada) said that her delegation welcomed the focus on the use of emerging information and communication technology for human rights monitoring and protection and encouraged the new Special Rapporteur to collaborate with the Special Rapporteur on the right to freedom of opinion and expression, who was also examining that issue.

13. She would like to know whether he intended to continue to investigate those issues discussed in his

predecessor's report, in particular the use of new technologies for human rights fact-finding; targeted killings and accountability; and robotics. She also asked what actions States could take to counter concerns regarding the misuse of technology raised in the report.

14. **Mr. Baños** (United States of America) said that his Government condemned all extrajudicial, summary and arbitrary executions and called for the punishment of perpetrators. He welcomed the report's findings on the potential role of new technology in timely and more accurate human rights fact-finding, while recognizing the need to ensure credibility and reliability of that information. However, the Special Rapporteur had gone beyond his mandate in his comments on operations during armed conflict and many of the findings and conclusions in his final report seemed to be based on a fundamental confusion over the applicable framework or an imprecise reading of the substantive law, and had failed to take into consideration that the lawful use of force in armed conflict or in self-defence, in line with international humanitarian law, did not constitute an extrajudicial killing. He disagreed with the report's contention that his Government had not disclosed the legal framework for operations involving the use of force in its ongoing conflict with Al-Qaida, the Taliban and other associated forces, as, under international law, the United States of America had the right and responsibility to its citizens to defend itself. The rules governing targeted operations had been carefully reviewed to ensure that such operations were conducted in line with rules on the use of force in armed conflicts or self-defence, including the principles of distinction and proportionality, and that only legitimate objectives were targeted so that collateral damage was kept to a minimum.

15. **Mr. Kerschischnig** (Liechtenstein) noted the calls made in the report for further dialogue on the legal implications of the use of robotic technologies in extrajudicial killings, particularly in warfare. He asked the Special Rapporteur what measures should be taken at an international and national level to address that issue, and how he intended to continue the research of his predecessor on that topic.

16. **Mr. Heyns** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that there was no single answer to the issue of double standards in human rights and access to technology; however, mobile telephones and satellite images were widely used,

which, while not providing a solution, could be used to great effect in human rights monitoring. Information and communication technology could prove very useful in disputed human rights cases, to prove or refute allegations.

17. With regard to the issue of information and communication technology being developed to be more ethical than human beings, he considered it important to establish an expert working group to address the pros and cons of removing human emotional responses from decision-making processes. The objectives of such a working group and its bearing on his mandate would have to be determined. In his views it should examine whether technology could be used to settle some factual disputes, both in the context of extrajudicial executions and the broader context of human rights, and as an early warning mechanism when dealing with large-scale atrocities.

18. In reply to the delegate of Cuba, he said that the recommendations made in the report had focused on establishing expert groups to examine the issues surrounding information and communication technology and robotics, and the matter of targeted killings, raised in Chapter 3 of the report, was dealt with in a different way.

19. As for instances where Governments, the United Nations or other international organizations had used information and communication technology for fact-finding, he noted that close circuit television was widely used in crime prevention and detection and satellite imaging was widely available. Information and communication technology had been used to great effect to humanitarian ends, for example to monitor forest fires in Italy, the aftermath of the earthquakes that had recently affected Haiti and Chile and refugee flows. The work of the United Nations Operational Satellite Applications Programme (UNOSAT) was a useful reference point in global mapping exercises. The United Nations Children's Fund (UNICEF) had used mobile telephone reporting systems and text messaging services to improve food supply distribution in certain areas as well.

20. He would of course continue to investigate the issues covered in his predecessor's report, particularly robotics and the use of information and communication technology in human rights fact-finding. Proactive engagement was needed on such issues and the international human rights community should be

involved. The research areas of his mandate had still to be decided, especially as upcoming country visits would help to determine priorities. However, his predecessor had already identified a number of areas for future investigation, such as sexual violence and unlawful killing; crime scenes and forensic evidence; non-State actors and the use of the death penalty; mass graves; civil defence groups; corruption and unlawful killing; United Nations peacekeeping missions; demobilization; and reparations. His own priorities included the right to life of children in armed conflicts, the death penalty, harmful cultural practices and crime, including gangs and domestic violence. Furthermore, he hoped to explore the impact of organized crime. He looked forward to collaborating with various regional human rights mechanisms during his mandate, including the European, Inter-American, African and the newly established Association of Southeast Asian Nations (ASEAN) human rights systems, as well as the Organization of the Islamic Conference and the Arab League, and would be interested to see if there was any overlap between the mandates of those organizations and the United Nations, particularly in the field of norm setting. With regard to regional jurisprudence that could be useful to the United Nations mechanisms, respect for and protection of the right to life by States was one area where action needed to be taken on the vertical and horizontal levels.

21. The human rights community was increasingly aware of the need to deal with the issues arising from targeted killings, particularly when used in armed conflicts, where human rights and humanitarian law were both applicable and the principles of discrimination and proportionality were respected, in which case targeted killings could be said to be in compliance with legal requirements. However, outside of that context it was difficult to conceive of a situation where targeted killings would be justifiable. The real problem was the grey area outside of clearly defined armed conflicts. In those cases the international human rights community and mechanisms must continue to monitor the situation, particularly with regard to the involvement of contractors and non-governmental forces in hostilities, as recourse to such tactics could have serious implications for international human rights and humanitarian law. He considered that his mandate covered both humanitarian and human rights law, as they were complementary and it would be artificial to separate them; that could lead to a protection gap.

22. **Ms. Knaul de Albuquerque e Silva** (Special Rapporteur on the independence of judges and lawyers) said that her report (A/65/274) examined the role of national judicial systems in combating impunity for human rights violations. Impunity undermined democracy, the rule of law, and the people's trust in their institutions. To combat impunity, criminal justice systems must be able to bring those who committed crimes to trial, convict them fairly and enforce their sentences.

23. The first step in that process was to amass sufficient evidence to make the case. Investigators should not be hindered in their efforts by structural obstacles or insufficient resources. They should not be subject to intimidation, undue pressure or threats. They should be aware of international human rights and know that evidence obtained in violation of the law, specifically, by the use of torture or cruel, inhuman or degrading treatment, was not admissible. Public prosecutors should not have absolute discretion to decide to defer charges or to close an investigation.

24. To ensure a fair trial, the court itself should be free from direct or indirect political interference, which implied clear separation of the judiciary and the executive, and should have adequate staff, materials, technical resources and funding, as required under paragraph 7 of the Basic Principles on the Independence of the Judiciary. Defence lawyers should have unfettered access to their clients, and the defence and the prosecution should enjoy procedural equality. There should be adequate protection programmes, not only for victims and witnesses but also for judges, prosecutors, defence lawyers, public defenders and investigators. Lastly, to counter judicial corruption, internal controls should be put in place, including activity reports, confidential complaint mechanisms and asset disclosure by persons accepting or resigning from judicial office.

25. To protect the victim's right to justice, criminal procedures should not be so complex, obscure or bureaucratic that they discouraged victims, especially the marginalized and the most vulnerable, from applying for remedy. There must also be the will and the means to enforce the decisions of the court, particularly in the case of reparation measures or compensation.

26. The fight against impunity required a strong, independent judiciary composed of independent and impartial judges that could deliver justice free of intimidation or threat and was fully respected by the

other branches of Government. It required a criminal procedure system that guaranteed full access to justice for all. To those ends, she recommended in her report that each State should review its institutional and legislative framework and its current policies as they related to combating impunity. She also recommended that they should analyse the root and structural causes of impunity; create necessary databases; correct deficiencies at the court, prosecution and police levels; safeguard the rights of the defence; remove barriers to justice; establish internal control mechanisms and provide capacity-building for judges, public prosecutors, public defenders, investigators and lawyers specializing in international human rights. Lastly, she urged all States to cooperate fully with the international tribunals and, if they had not already done so, to ratify to the Rome Statute of the International Criminal Court.

27. She could not end her statement without an express appeal for the immediate release of Venezuelan judge María Lourdes Afiuni Mora, who had been incarcerated since December 2009 for having applied the recommendation of the United Nations Working Group on Arbitrary Detention by ordering the provisional release on bail of a fellow Venezuelan. While she thanked the Government of Venezuela for having provided information at her request, its continued detention of the judge in conditions that threatened her life and physical integrity would not only undermine the independence and impartiality of the Venezuelan courts; it would also represent an open attack on the United Nations special procedures system and the principle of State cooperation with special procedures on which that system was based.

28. **Mr. Jiménez González** (Mexico) said that his Government considered the regulatory and structural aspects of the administration of justice to be fundamental to the effective protection of the right of access to justice and therefore to maintaining the rule of law and preventing corruption and impunity. He hoped that the recent visit by the Special Rapporteur to Mexico had given her a comprehensive view of the institutional and legislative measures taken by his Government, including the constitutional reform of the criminal justice system and public safety which was underway, to promote the proper administration of justice and ensure the independence and autonomy of the judiciary while ensuring due process.

29. His Government was committed to the proper implementation of the judgements of the Inter-American

Court of Human Rights and to following the recommendations of the Special Rapporteur further to her visit to Mexico. He asked about recent progress towards achieving a comprehensive prevention and protection system for all judicial officers.

30. **Ms. Kourany** (Canada) noted that the investigation and prosecution of complex international crimes was often a major challenge for national criminal justice systems. Canada recognized that supporting domestic jurisdictions was essential in efforts to end impunity but also recognized the important role that international institutions played in prosecuting perpetrators of serious international crimes when a State was unable or unwilling to do so. National and international justice should be complementary and to that end, Canada strongly supported the International Criminal Court and tribunals. Canada also strongly supported the Rule of Law Coordination and Resource Group and asked the Special Rapporteur for her views on potential synergies between her work and that Group.

31. **Ms. Brown** (New Zealand) said that the rule of law was often the last line of defence against corruption and the erosion of democracy. She asked the Special Rapporteur to elaborate on her recommendations regarding training and capacity-building for criminal justice personnel and their role in combating impunity.

32. New Zealand welcomed collaboration between the Special Rapporteur and the United Nations Rule of Law Coordination and Resource Group and fully supported efforts by that Group to ensure that the United Nations took a coordinated and strategic approach in its work to strengthen the rule of law.

33. **Mr. Giaufret** (European Union) said that the European Union endorsed the recommendation made by the Special Rapporteur that Member States that had not yet done so should become Parties to the Rome Statute of the International Criminal Court. He asked for more information on her proposal that States should conduct a mapping exercise to identify the root and structural causes of impunity and establish mechanisms to ensure compliance with judicial decisions, and if any examples of good practices could be shared. He also asked for information on how United Nations technical assistance programmes could be used to develop, rebuild or reinforce capacities at the national level in those States that had undergone a transition or crisis situation, including for the investigation and prosecution

of crimes that constituted serious violations of international law.

34. **Ms. Carnal** (Switzerland) asked the Special Rapporteur for her views on cooperation with other special procedures of the Human Rights Council with a view to combating impunity. Her report had highlighted the fact that it was often extrajudicial bodies rather than judicial bodies that most strongly supported activities to combat impunity. In that regard, she asked what extrajudicial bodies must do to ensure that perpetrators of crimes were brought to justice.

35. **Ms. Méndez Romero** (Bolivarian Republic of Venezuela), responding to the comments made by the Special Rapporteur regarding the independence of lawyers in Venezuela, said that the lawyer in question was in detention because she had violated national laws. Her arrest and imprisonment was in no way linked to the recommendations of the Working Group on Arbitrary Detention. Furthermore, her life was not in any danger. Venezuela emphatically rejected those charges. Human rights were respected in Venezuela and the rule of law enforced. The Special Rapporteur was supposed to be independent and accusations of that kind against any country were unacceptable.

36. **Mr. Ali** (Sudan) noted that the Special Rapporteur had proposed a global thematic study to assess human rights training for judges and lawyers as well as a follow-up conference to address human rights education in light of any shortcomings identified in that study. In that regard, Sudan requested guidelines on conducting that study and resources to facilitate the follow-up conference.

37. The politicization of international justice remained a serious issue for Sudan and for many other countries. In that regard, many countries believed that the activities of the International Criminal Court should be restricted to Member States of that Court, in accordance with Security Council resolution 1422 (2002).

38. **Ms. Knaul de Albuquerque e Silva** (Special Rapporteur on the independence of judges and lawyers) said that a failure to apply the principles and standards of international human rights law in legal proceedings at the national level was one of the reasons why grave and systematic violations of human rights persisted in many countries. Training in international law for all those working in the judicial system was vital. However, many judges and other legal professionals had no access to the study of international human rights law or

to international law in general. The Human Rights Council had entrusted her with the task of presenting, in December 2012, a global thematic study to map the status of information available to those working in the judicial system and identify mechanisms to improve their work. However, she lacked the staff and resources necessary to carry out that major task and reiterated her appeal for the necessary additional resources. A global network of academics and experts was required to help identify the type of training received by judicial actors and how training programmes were developed. A world conference should then analyse the results of that study, identify shortcomings in training capacity and formulate guidelines to help strengthen that capacity.

39. All Member States of the United Nations were urged to cooperate fully with international tribunals, particularly the International Criminal Court, and to comply fully with their verdicts, including prison sentences. Such tribunals should complement national jurisdictions in combating impunity, particularly in the light of the difficulties encountered by national judicial authorities. She called on Member States to amend their national jurisdictions to bring them into line with international jurisdiction and urged them to become parties to the Rome Statute of the International Criminal Court.

40. She thanked the Venezuelan Government for responding to the urgent appeals that she and other special procedures mandate holders had sent with regard to Judge María Afiuni Mora, who had been held in pretrial detention since December 2009. She remained gravely concerned about the life and physical integrity of Judge Afiuni Mora, who had been arrested shortly after ordering the conditional release on bail of a prisoner, in application of an opinion handed down by the Human Rights Council Working Group on Arbitrary Detention. She drew attention to Commission on Human Rights resolution 2002/17 on reprisals as well as the relevant report by the Secretary-General. She was, moreover, concerned that other judges in Venezuela might perceive that they faced dismissal or imprisonment if they handed down a verdict that ran counter to the interests of the Government. Such treatment of actors in the judicial field undermined the rule of law, democracy and the credibility of the United Nations special procedures.

41. Many States had included the principle of universal jurisdiction in their national legislations. Courts in Belgium, France and Switzerland had

initiated proceedings in relation to genocide, crimes against humanity and war crimes committed in Rwanda. Italy and Switzerland had initiated criminal proceedings with regard to extrajudicial killings, disappearances and torture in Argentina in the 1970s and 1980s. Guatemala had striven to identify those responsible for directing criminal networks and El Salvador, Peru and South Africa had established truth and reconciliation commissions to investigate human rights violations. Such actions were to be commended.

42. Competent judges were essential for the application of internationally recognized rights at the national level and it was of the utmost importance that national efforts against impunity were strengthened. Fewer than three per cent of those responsible for grave human rights violations were convicted and actually served their sentences. The United Nations must give serious consideration to the reasons for such levels of impunity, particularly when it was linked to organized crime and drug trafficking. States held primary responsibility for such actions, but they must also collaborate in the fight against impunity, particularly in the light of the major challenges they faced in combating criminal networks. The United Nations needed to draw up an inventory of good practices to ensure that all perpetrators of crimes were brought to justice. However, all individuals detained had the right to due process and their human rights must be respected.

43. **Ms. Méndez Romero** (Bolivarian Republic of Venezuela) said that a code of conduct governed the behaviour of the Special Rapporteur on the independence of judges and lawyers. She reiterated her delegation's appeal to her to remain independent. It was deplorable that the Committee was clearly being used for political ends and that manipulated information had been presented. The accusations against Venezuela were based on an isolated incident and the Special Rapporteur's latest remarks once more demonstrated her lack of impartiality.

44. **Ms. Knaul de Albuquerque e Silva** (Special Rapporteur on the independence of judges and lawyers) said that she was open to dialogue with all Member States. The mandates of Special Rapporteurs guaranteed their independence and allowed them to bring attention to particular cases when they felt they had a duty to do so. She had attempted to do that in a manner that was as respectful and technical as possible.

45. **Ms. Méndez Romero** (Bolivarian Republic of Venezuela) said that, while she did not want to engage in an interminable dialogue, the Special Rapporteur should not engage in propaganda. Her comments, which would be conveyed to the Venezuelan Government, were not technical and were clearly political and accusatory in nature.

46. **Mr. Darusman** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea) said that, given his late appointment, the report before the Committee (A/65/365) focused primarily on his approach to the mandate. He viewed the current transition as a fresh opportunity to reopen cooperative dialogue with the Government of the Democratic People's Republic of Korea on the promotion and protection of human rights. He would begin by gathering information and listening to various relevant actors in order to avoid making any hasty conclusions. In March 2010, after a visit to the region, he would present his first report to the Human Rights Council.

47. His cooperative approach would also involve interacting with civil society, the international community and the relevant bodies of the United Nations. While he would certainly take the work of his predecessor into consideration, he would make his assessment independently. Since his appointment in August 2010, he had noted several positive factors, including the nationally and internationally recognized work of several United Nations entities in the Democratic People's Republic of Korea. That country was also party to four key human rights treaties and had by and large reported to the relevant treaty committees. Furthermore, it had participated in the universal periodic review process in December 2009. Although close follow-up on its implementation of the recommendations and conclusions would be required, they represented a key entry point for engagement with the Government. He was therefore optimistic, despite the challenges ahead.

48. **Mr. Pak Tok Hun** (Democratic People's Republic of Korea) said that his country neither recognized nor accepted the mandate of the Special Rapporteur, which was extended each year under a resolution of the Human Rights Council at the initiative of the European Union and Japan. The resolution was a political plot fabricated by hostile forces to isolate and stifle his country's political and social system. The report of the

Special Rapporteur was merely a tool to serve that purpose.

49. The European Union had had dialogue on human rights with the Democratic People's Republic of Korea, including official human rights talks, starting in 2001. However, just two and a half months after the country's withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in January 2003, the European Union had taken the surprising step of initiating and enforcing the adoption of its resolution on the Democratic People's Republic of Korea without prior notice or consultation with that country, at the fifty-ninth session of the Commission on Human Rights. It had done so in conspiracy with the United States and Japan and continued to do so each year.

50. **Mr. King** (United States of America) said that the people of the Democratic People's Republic of Korea continued to suffer from human rights abuses. The currency revaluation in late 2009 and subsequent clampdown on markets had greatly restricted the population's ability to provide for its own basic needs. Any ideas the Special Rapporteur had on what else the international community could do to help the people provide for themselves and what more the donor community could to ensure that resources reached the most vulnerable parts of the population would be welcome.

51. The plight of North Korean refugees and asylum-seekers was particularly worrisome. The Democratic People's Republic of Korea was urged to end the punishment and imprisonment of returned asylum-seekers and their families.

52. He asked the Special Rapporteur to provide insight on how countries could cooperate to advance human rights in the Democratic People's Republic of Korea. That country's participation in the universal periodic review in late 2009 had been a welcome sign. Its willingness to consider 177 recommendations from the international community was noted. However, its refusal to identify those recommendations it was willing to consider was discouraging. Insights into how the universal periodic review could be better used to improve the human rights record in the Democratic People's Republic of Korea would be appreciated.

53. **Mr. Kim** Bonghyun (Republic of Korea) said that his delegation was concerned that the expertise and experience of the previous Special Rapporteur had not been fully tapped. The Government of the Republic of

Korea shared the deep concern of the international community over continuing reports of grave and systematic violations of human rights and fundamental freedoms in the Democratic People's Republic of Korea and was disappointed in its refusal to accept any of the recommendations made in the context of the universal periodic review in late 2009.

54. The proposed approach of the Special Rapporteur based on dialogue and cooperation was welcome. The gravest concern was the consistent refusal of the Democratic People's Republic of Korea to cooperate with the international community and to recognize the mandate of the Special Rapporteur and allow him to visit the country. It would be helpful if the Special Rapporteur could expand on the question of how he would address the issue of access to the country and also on how the mandate would initially focus on the humanitarian aspect without diminishing the human rights dimension.

55. **Mr. Kodama** (Japan) said that the issue of the abductions of Japanese citizens was unresolved. A general agreement had been reached in 2008, but to date no concrete action had been taken, despite the fact that in late 2008, the Democratic People's Republic of Korea had clearly stated its readiness to launch a reinvestigation into the abductions. The Prime Minister of Japan had stated at the sixty-fifth session of the General Assembly that if the Democratic People's Republic of Korea took constructive, sincere steps and implemented its agreement with Japan, then Japan was ready to respond in kind. The Democratic People's Republic of Korea had never granted country access to the Special Rapporteur, and direct dialogue had yet to take place. The Special Rapporteur had stated that initially he would focus on humanitarian issues without diminishing the human rights dimension. How did he intend to translate that approach into concrete action?

56. **Mr. Schwaiger** (European Union) said that the European Union remained seriously concerned by grave violations and the alarming lack of fulfilment of a broad range of human rights which had been discussed during the universal periodic review and in the Human Rights Council. The reports on the Democratic People's Republic of Korea were dominated by accounts of severe restrictions on political rights and fundamental freedoms, alarming situations in political prisons and detention centres, allegations of extrajudicial execution, torture, forced labour, criminal sanctions imposed on

people attempting to leave the country and multiple violations of social, cultural and economic rights.

57. Despite limited improvements with regard to the delivery of humanitarian assistance and activities of United Nations agencies in the country, there was an urgent need to ensure the right to food, water, sanitation and health. The continuing lack of cooperation with international mechanisms was alarming. The Democratic People's Republic of Korea was encouraged to ratify further international human rights instruments and to cooperate with the Special Rapporteur and other Special Procedures.

58. It would be helpful if the Special Rapporteur could elaborate on implementation of the new cooperative approach and whether there were preliminary results, and in particular, indications that he would receive an invitation to visit the country. In addition, he wondered whether there were indications that the country's refusal to recognize the resolutions of the Human Rights Council and the General Assembly would change in the future. Also, his thoughts on the likelihood of a positive response from the Democratic People's Republic of Korea to offers of technical human rights assistance by the Office of the High Commissioner for Human Rights would be welcome.

59. It remained unclear which of the recommendations from the universal periodic review would be accepted, and the fact that no follow-up action had been taken was worrisome. Information on how the Special Rapporteur would deal with the Universal Periodic Review recommendations and their implementation would be appreciated.

60. **Ms. Jones** (United Kingdom) said that the mandate of the Special Rapporteur as an objective source of reporting was crucial owing to the difficulty of obtaining reliable information. Reports of serious, widespread and systematic abuses of the rights to life, liberty and freedom of religion and association, as well as extremely harsh conditions of detention were of concern, as was the refusal of the Government to engage constructively on those issues.

61. Cooperation with the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF) and resumption, on a small scale, of relations with the United Nations Development Programme (UNDP) were encouraging. The agreement between the Democratic People's Republic of Korea, the Food and Agriculture Organization of the United Nations (FAO)

and the World Food Programme to conduct a crop and food security assessment was also welcomed. However, until the country began to engage with United Nations human rights mechanisms and allowed the Special Rapporteur unfettered access to the country, it was very difficult to verify reports about the situation. The lack of clarity in the response to UPR recommendations was disappointing.

62. Human rights violations inflicted on those who had crossed the border and were then returned remained a cause of concern. The Special Rapporteur should speak with China and other receiving States on that issue, to urge that citizens of the Democratic People's Republic of Korea who qualified for refugee status should be treated in accordance with international law and the principle of non-refoulement. Information on specific areas which the Special Rapporteur had in mind for initial engagement would be welcome.

63. **Ms. Zhang Dan** (China) said that her country was opposed to country-specific human rights resolutions and human rights mechanisms. Politicized criticism and pressure could not have a positive impact on human rights. On the contrary, they created unnecessary confrontation. It was hoped that the international community would focus more on the social and economic development challenges facing the Democratic People's Republic of Korea and provide effective humanitarian assistance and that the Special Rapporteur would make an objective, balanced and fair assessment of the human rights situation in the country and act to promote stability on the Korean Peninsula. China always respected domestic and international law and humanitarian principles in dealing with those who crossed the border illegally and had cooperated positively with those concerned. The practice of the Chinese Government was in line with the interests of the parties concerned and had the universal understanding of the international community.

64. **Ms. Kourany** (Canada) said that her country called upon the Democratic People's Republic of Korea to cooperate with the Special Rapporteur and allow him entry into the country. Canada was deeply disturbed by reports of torture, public executions, indefinite holding of political prisoners, mistreatment of repatriated asylum-seekers, collective punishment of returnees' families and unequal distribution of food and implored the Government to respect the fundamental rights of its citizens and comply with its obligations under international law.

65. She asked the Special Rapporteur to provide more details on his plans to engage civil society and the international community.

66. **Ms. Carnal** (Switzerland) said that improvement of the human rights situation was of great importance for peace and security in the region. She wished to know how to ensure that humanitarian action as a point of entry would be followed by a human rights approach.

67. **Mr. Robinson** (Australia) said that his country would continue to raise its concerns about the human rights situation in the Democratic People's Republic of Korea directly with that country. Unless the Special Rapporteur had seen any signs that the Democratic People's Republic of Korea was prepared to engage with him, it would be helpful to hear how he intended to carry out the mandate. It would also be helpful to know if the Special Rapporteur had seen any progress on the recommendations resulting from the universal periodic review or those contained in the final report of the previous Special Rapporteur. His views on how the international community and individual countries could mobilize more effectively to improve human rights conditions and concrete measures that could be adopted in pursuit of that goal would also be welcome.

68. **Mr. Darusman** (Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea) said that he had submitted requests to the Permanent Mission of the Democratic People's Republic of Korea in Geneva in order to seek a meeting as well as possible entry into the country. The response to the first request had been that it was not possible currently to meet with the Mission, nor had the request to visit the country received a favourable decision.

69. Recently there had been intensified signs of involvement of the Democratic People's Republic of Korea in the work of several United Nations entities that had implemented humanitarian programmes. Its participation in the universal periodic review also contrasted with the previous state of affairs. Those signs might constitute an opening to greater engagement by the Government with the mandate of the Special Rapporteur.

70. The humanitarian approach was not intended to substitute for human rights; the intention was rather to align the humanitarian and the human rights approaches. The previous Special Rapporteur had been prevented from visiting the country. It was the intention of the

current Special Rapporteur to establish communication with the Government so that the mandate holder could discharge his responsibilities. Indirect approaches through third countries were also necessary to convey to the Government the intention of the Special Rapporteur to engage in a cooperative approach.

71. **Mr. Pak Tok Hun** (Democratic People's Republic of Korea) said that there were no systematic violations of human rights in his country. The Special Rapporteur was not accepted because the mandate discriminated against the Democratic People's Republic of Korea. It was not a human rights issue. There had been very close contacts and cooperation with United Nations human rights bodies in the past, with the Special Rapporteur on violence against women, its causes and consequences, the European Union and representatives of non-governmental organizations such as Amnesty International, inter alia, to visit prisons and meet with prisoners. There had been regular meetings with ambassadors of European Union countries in the capital and official human rights dialogue in the context of high-level political discussions. The talks with the European Union which had begun in 2001 had lasted only a year and a half, and after his country's withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons, a resolution on his country had been railroaded through by the European Union. Did they still want dialogue? There had been visits, and people had been allowed in, but since the resolution that was not possible. That was the principled position of the Government of the Democratic People's Republic of Korea.

72. The Government had done its best to solve the abduction issue. A nationwide investigation had been conducted, and all those who were alive had been returned to Japan, along with their children. Japan had requested a reinvestigation. An investigation team had been organized, and Japan had said that it would lift sanctions. But instead, Japan had reinforced sanctions and created obstacles.

73. It had taken Japan over 60 years to acknowledge the forcible draft of 8.1 million Koreans. Japan had neither taken responsibility nor spoken of redress. It was not clear how many more decades it would take for Japan to recognize legal and moral responsibility for crimes against humanity committed in Korea and many other Asian countries.

74. **Mr. Kodama** (Japan) said that of the 17 Japanese nationals recognized by the Government of Japan as having been abducted by the Democratic People's Republic of Korea, only 5 had been repatriated. To date, there had been no satisfactory explanation of the fates of the remaining 12. There had been other cases of disappearance where the possibility of abduction could not be ruled out.

75. In August 2008, both sides had agreed on objectives and modalities for investigation of the issue. The Government of the Democratic People's Republic of Korea should make good on its promise by establishing an authorized investigation committee and commencing investigation without delay.

76. **Mr. Pak Tok Hun** (Democratic People's Republic of Korea) said that there had been only 13 missing persons, and that his Government had provided all available information about their fate. According to a report in Japan, those who, according to Japan, had been abducted by his country had reappeared in Japan. It was not clear how Japan could continue to insist that they had been abducted.

77. His country had already announced the organization of an official investigation team, but Japan had not lifted sanctions. Japan should see reality clearly and not lie to the international community. The Democratic People's Republic of Korea was prepared to answer all questions and do its best to improve relations. But there could be no good relations between the two countries unless past actions against Korea were laid to rest. Japan should provide redress for the past. It should apologize. That was the only way it could re-establish its good name.

The meeting rose at 6.10 p.m.