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## Third Committee

### Summary record of the 30th meeting

Held at Headquarters, New York, on Tuesday, 26 October 2010, at 10 a.m.

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

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*The meeting was called to order at 10.10 a.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/65/119, 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)

1. **The Chair** invited the Committee to continue its dialogue with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

2. **Ms. Jarbussynova** (Kazakhstan) said that her Government had invited the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit the country the previous year and had affirmed its will to follow up on his recommendations. In response to the assertion in his report (A/65/273) that Kazakhstan, did not criminalize torture committed by individuals acting in an official capacity, she noted that the national criminal code called for the imprisonment of public officials who abused their powers, including through the deliberate infliction of suffering. Furthermore, the broad range of individuals who exercised official State functions were all accountable for any violation that they committed against the human rights of detainees.

3. In response to the Special Rapporteur's concern that acts of torture committed at the instigation of or with the consent of public officials were also not criminalized, she pointed out an order issued by the Prosecutor General in the past year, which called for the prosecution of law enforcement officials that had committed torture as well as of any other officials that had authorized such acts. The process of bringing domestic legislation into line with the international framework on preventing torture had been made a priority, and in that regard, the recommendations of the Committee against Torture were being duly implemented.

4. **Mr. Yahiaoui** (Algeria) said that his Government had great regard for the opportunity for constructive dialogue presented by the special procedures of the Human Rights Council and had invited seven mandate holders to visit Algeria. His delegation, however, regretted the use of the reductive term "hostile environment" in the report of the Special Rapporteur in the context of the work of civil society in Algeria, including the establishment of non-governmental rehabilitation centres for victims of torture. Contrary to the claims in the report, the public authorities recognized the critical role of civil society organizations in the promotion of human rights and fully supported their activities. Furthermore, both public and non-governmental rehabilitation centres did in fact exist in the country, which provided services to victims of terrorist attacks, rape and trauma. National legislation criminalized all acts of torture and inhuman treatment in accordance with the severity of the acts.

5. **Mr. Ali** (Sudan) said that, while the Sudan was not a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the country's Constitution prohibited torture, a measure that was upheld by the national Penal Code and the Constitutional Court. His delegation was concerned with the labelling of the Sudan in the report of the Special Rapporteur as an environment that was hostile to rehabilitation centres owing to the closure of a centre for victims of torture. The centre had been closed because it had violated its mandate and laws, and it had a full right to contest the decision before the judiciary. The Special Rapporteur had been unfair in his judgment, as the report only mentioned that single case in the Sudan. Furthermore, the Special Rapporteur had never visited the Sudan or asked for information from national authorities to balance his assessment.

6. The United Nations mission in the Sudan was one of the Organization's largest; Government experts and United Nations representatives met regularly to assess the situation in the country, and torture had never been included on the agenda. In fact, the independent expert on the situation of human rights in the Sudan had noted progress in the country in his recent report to the Human Rights Council. The Special Rapporteur's censure of a few African countries in his report was not worthy of his mandate. The fact that the closure of a single centre had led to such an accusation while thousands of non-governmental organizations remained

in operation in the Sudan caused his delegation to suspect the criteria for what constituted a “hostile environment”.

7. **Ms. Tvedt** (Norway) said that her delegation welcomed the Special Rapporteur’s brave, forceful and visible approach. She requested more details as to how the culture of impunity could be fought in order to reduce the prevalence of torture. She would also appreciate his assessment of the knowledge level of health professionals regarding treatment for the full rehabilitation of torture victims and his suggestions for improving it.

8. **Ms. Bhoroma** (Zimbabwe) said that her delegation objected to the classification of her country as a hostile environment in the Special Rapporteur’s report, resulting from a visit he had made to a counselling centre in Zimbabwe, presumably in a private capacity. The Special Rapporteur’s conduct was objectionable given that his official visit to the country had yet to take place. She therefore questioned his reference to “extreme circumstances” in the country and his sources of information. Her delegation also wished to know why the Government had not been given an opportunity to respond to the Special Rapporteur’s comments. She asked him whether his findings were to pre-empt a formal visit to the country in the future, as it was clear that he had already drawn his conclusions.

9. **Mr. Vollmer** (Austria) asked the Special Rapporteur to provide good examples of independent bodies that investigated cases against torture and to elaborate on their functioning. He also requested details on how victims could be better protected and assisted during the investigation and prosecution of torture cases. His delegation supported the Special Rapporteur’s suggestion that States parties to the Optional Protocol to the Convention conduct an initial stocktaking of their national mechanisms to prevent torture in order to identify lessons learned and hoped that his successor could lead that task. The Austrian Government would remain a strong supporter of the Special Rapporteur’s mandate.

10. **Mr. Farias** (Brazil) thanked the Special Rapporteur for recognizing the efforts made by the Brazilian Government to face the legacy of a military regime. He wished to know what types of mechanisms the international community could use to support States in establishing rehabilitation centres.

11. **Ms. Raabyemagle** (Denmark) asked for details on the Special Rapporteur’s cooperation with the Human Rights Council and its other special procedures and wondered what his views were on the Council review process. Her delegation would also appreciate information on his experience cooperating with the Office of the High Commissioner for Human Rights (OHCHR), in particular the support that it offered to his mandate. She wondered whether he could comment on the use of ill-treatment as an incentive for reward, as in cases where officials were promoted for obtaining confessions, formal charges or convictions.

12. **Mr. Shen Bo** (China) expressed his delegation’s appreciation to the Special Rapporteur for his report and the efforts that he had made to combat the use of torture and reiterated China’s opposition, as one of the first signatory States to the Convention against Torture, to that practice. Calling on the international community to strengthen its cooperation with a view to eradicating torture, he pledged China’s willingness to work with other States to that end, on the basis of equality and mutual respect, and expressed his delegation’s hope that the incoming Special Rapporteur would exercise his functions in strict compliance with the Code of Conduct for Special Procedures Mandate-holders and respect for the principles of fairness, impartiality and non-selectivity.

13. **Ms. Freedman** (United Kingdom) asked for examples of how to reinforce the message that torture was not an effective means to combat crime, particularly among law enforcement officials. She affirmed that the international framework for combating torture was sound and called for better implementation of standards. Her delegation supported the call for the establishment of national preventive mechanisms in the context of the Optional Protocol to the Convention and urged universal ratification of that instrument.

14. **Mr. Nowak** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) said that he appreciated the comments from representatives of countries that he had visited, which had emphasized that the purpose of his missions was not to criticize Governments, but rather to develop relationships with them, identify problems related to torture and improve the conditions of detention. He was especially pleased by the statement made by the representative of the United States, as he had worked to maintain good relations with the Government,

despite his differences of opinion with the previous administration and its actions under the war on terror.

15. He was surprised by the accusatory remarks that had been made by the representative of Jamaica. The Special Rapporteur had met with him to clarify the misunderstandings expressed during the debriefing with the Government following the Special Rapporteur's mission to Jamaica, yet those misconceptions had been repeated in the address before the Committee. The Special Rapporteur wished to reiterate that he had never said that he had not found a single case of torture. He had observed isolated cases of torture and a high level of police brutality. Torture was not the major problem in the country, but rather extrajudicial killings by the police, long-term police custody, and appalling prison conditions, which amounted to inhuman treatment.

16. That message had been consistent across his statements to the Jamaican Government and the media and the contents of his report. However, as a result of his visit to Jamaica, he had developed excellent working relationships with the Government, including the Minister of National Security, and could therefore only conclude that the remarks of the representative of Jamaica were not related to the position of his Government but were instead a result of his own problems with receiving criticism.

17. The section in his report on hostile environments reflected the urgent concerns of the torture rehabilitation centres cited, such as those in Egypt and the Sudan, and of the International Rehabilitation Council for Torture Victims. He had not been able to confirm whether the allegations were fully justified because the Governments of Egypt, Algeria or the Sudan had not invited him to conduct a mission, despite his repeated requests to visit. Regarding the Sudan, he was one of seven experts to examine the situation in Darfur who had been denied a formal visit to the country.

18. Egypt was in fact the only country in the world that had denied the Committee against Torture its right to visit the country as part of its inquiry procedures into the implementation of article 20 of the Convention. He was pleased to hear that the proposed law on non-governmental organizations in Egypt had been dropped and that the El Nadeem Centre for Rehabilitation of Victims of Violence was not threatened with closing. If the Government was willing

to invite his successor to visit and confirm that information, he would be pleased to indicate in the next report that he had been mistaken.

19. The Government of Zimbabwe had invited him to conduct a formal visit. He had been on his way to the country, when the meeting had been cancelled by the President, despite the fact that the Prime Minister had confirmed that he desired the visit. The Special Rapporteur considered such conduct a violation of the privileges and immunity accorded to independent experts and objected to the comments made by the representative of Zimbabwe. The Government had been duly notified of his private visit, and he had been met by public officials, who had facilitated his visit to the rehabilitation centre, which he had consequently noted was operating with dedication in a difficult environment.

20. Article 14 of the Convention could and should be interpreted as obligating States that were free of torture to establish rehabilitation centres. Victims of torture often had no access to such centres in their own countries and had no choice but to flee. They needed to be protected from reliving their trauma and provided with medical, psychological and social services, which was the universal responsibility of Governments and civil society.

21. Restrictive immigration policies in Europe, North America, Australia and other host countries led to the misuse of asylum systems, ultimately resulting in xenophobic attitudes against all immigrants, including refugees and survivors of torture. In his visit to Greece, he had found that many asylum-seekers from the Middle East had faced police detention and deportation instead of being offered rehabilitation services. He had deemed the issue a migration problem throughout Europe, and he called on European States to rethink their relevant policies.

22. The Convention against Torture had been conceived primarily as a means of fighting impunity, in response to the military dictatorships that had ruled through torture in Latin America. States had a broad jurisdictional obligation to prevent any safe havens for torturers, yet the number of individuals subjected to universal jurisdiction under the Convention was minimal. In recent years, there had been but a single case of a former warlord from Afghanistan being prosecuted in the United Kingdom under the Convention.

23. Many States were also not implementing their territorial obligations in that regard. The first step in fighting impunity was to criminalize torture with adequate sanctions, including long-term imprisonment. Article 4 of the Convention made that measure an obligation, and every act of torture should be prosecuted accordingly. The second step was to create powerful independent mechanisms separate from the police in order to apprehend those suspected of torture, as current systems often required law enforcement officials to arrest their colleagues. The police complaint boards established in the United Kingdom were a good example of such an independent body.

24. Regarding the knowledge level of health professionals, the medical experts and forensic doctors in rehabilitation centres provided appropriate treatment to torture victims. However, in many countries, health professionals were complicit in the problem, for example, by supervising acts of torture and cruel treatment to ensure that they did not become lethal. The health sector held a particular responsibility in ending the propagation of torture.

25. He was disappointed by the level of support that he had received from the Human Rights Council. Many members of the Council acted on behalf of their Governments rather than as defenders of human rights. Time and again, rather than supporting the recommendations of independent experts to take effective measures to end the practice of torture, Council members misused the dialogue to raise objections and defend their particular State interests.

26. He thanked OHCHR for its support, particularly in view of the many special procedures that it assisted. His work assessing human rights abuses across the world would be impossible without the professional support that he had received on a large scale. Like other independent experts, he had also welcomed additional assistance from Member States to fulfil his mandate. He was grateful to the Governments of Austria, Switzerland and Liechtenstein, without whose assistance he could not have conducted his many missions. Both quantitative and qualitative support for OHCHR must be increased.

27. **Mr. Wolfe** (Jamaica) said that he had made his comments in the atmosphere of robust debate and mutual respect that prevailed in the Third Committee. He stressed that he had spoken as a representative of his Government and found the suggestion that he had

expressed personal views highly offensive. He reiterated that his Government remained concerned about the inaccuracies contained in the report and would be preparing a detailed response.

28. **Ms. Bhoroma** (Zimbabwe) said that the Special Rapporteur's visit to Zimbabwe had been postponed due to an emergency subregional meeting being held in Harare, which had coincided with his scheduled visit. She was surprised at his allegations, as he had been informed of the conflict well before his departure, and questioned his objectives in making such claims. She reiterated her delegations objections to his use of information obtained from non-governmental organizations without requesting a response from the Government.

29. **Mr. Nowak** (Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment) said that he respected the statement made by the representative of Jamaica. He denied the statements made by the representative of Zimbabwe. He had not been informed of the cancellation of his visit until his plane arrived in South Africa. He had immediately contacted the Government of Zimbabwe, and the Prime Minister had confirmed that he wished to meet as scheduled and that an officer from the Ministry of Foreign Affairs would escort him in Zimbabwe. He had instead been detained and sent back to Vienna, and the Prime Minister's secretary had even been denied access to the airport. He did not wish statements that did not reflect the truth to go on record.

30. **Mr. Scheinin** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that, in his final report to the General Assembly (A/65/258), he had chosen to focus on the United Nations' own compliance with human rights while countering terrorism. Two cornerstones of United Nations action against terrorism, Security Council resolution 1267 (1999), as revised and expanded, and resolution 1373 (2001), were based on the Council's powers under Chapter VII of the Charter. While international terrorism remained a serious menace and an atrocious crime, it no longer constituted a specific threat to the peace within the meaning of Chapter VII and, therefore, did not justify the Security Council's continued exercise of supranational quasi-judicial sanctioning powers over individuals or of supranational legislative powers over Member States.

31. Security Council resolution 1267 (1999) had been a temporary emergency measure against a specific threat to peace from the de facto regime in Afghanistan. It was only through Council resolution 1390 (2002) that its application had become open-ended, without any link to a particular territory or State. The Security Council had no legal basis under Chapter VII to maintain a permanent list of terrorist individuals and entities anywhere in the world and to make its application legally binding on all Member States.

32. The second resolution, resolution 1373 (2001), had been adopted in the aftermath of 11 September 2001 to give the Security Council emergency supranational powers to prevent the financing of terrorist acts at a time when only four States had ratified the International Convention for the Suppression of the Financing of Terrorism. In 2010, with 173 States parties to the Convention, there was therefore no longer any justification for those powers.

33. Despite steps taken to prevent human rights abuses, the *ultra vires* nature of the United Nations counter-terrorism architecture posed a threat to human rights and the international rule of law. Equally important, it weakened the legitimacy of the United Nations counter-terrorism apparatus and, as a result, its effectiveness against terrorism. In the interest of both counter-terrorism and human rights, it was time to replace the current regime with a single resolution, not adopted under Chapter VII of the Charter, calling on the United Nations to provide advice and assistance, including collecting evidence for States, and instructing the Counter-Terrorism Committee to work with Member States to find measures suited to each situation, as was already the case in practice.

34. The report also addressed human rights compliance by United Nations peacekeepers, who were bound by the norms enshrined in the core international human rights instruments, particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It commended the General Assembly's increased attention to the promotion and protection of human rights while countering terrorism, as reflected by the number of resolutions adopted on the subject and the United Nations Global Counter-Terrorism Strategy.

35. In particular, he was indebted to the General Assembly for its repeated requests to all Governments to cooperate fully with the Special Rapporteur. He thanked the Governments of Iceland, Peru and Tunisia for their recent cooperation, particularly Tunisia, which had allowed him access to places of detention and confidential interviews with detainees.

36. **Mr. Vigny** (Switzerland) said that his country welcomed the decision of the Security Council in its resolution 1904 (2009) to create an Office of the Ombudsperson to receive requests for removal from the list established under Security Council resolution 1267 (1999). Switzerland shared the Special Rapporteur's concern that the revised procedures were not adequate to guarantee the right to a fair public trial.

37. While the World Court of Human Rights proposed by the Special Rapporteur in his report was probably a distant prospect, it was important to bring the registration and de-listing procedures into compliance with article 14 of the International Covenant on Civil and Political Rights. He requested further information on what sorts of mechanisms the Special Rapporteur had in mind, other than the human rights court mentioned, and what the characteristics of those mechanisms would be.

38. **Mr. Baños** (United States) said that in light of what was known about what led young people to become violent extremists, it was clear that adhering to human rights and the rule of law was essential to a successful counter-terrorism effort. The United States could not agree, however, with the Special Rapporteur's characterization of the responsibility of international organizations, nor with his assessments with regard to the scope of the powers of the United Nations under Chapter VII of the Charter and the authority of the Security Council more generally.

39. His country also disagreed with the analysis that the threat of terrorism was no longer sufficient to warrant action by the Security Council through its resolutions 1373 (2001) and 1624 (2005). The United States was firm in its belief that implementation of those resolutions should not come at the expense of the protection of human rights, and in that regard welcomed continued efforts by the Counter-Terrorism Committee to incorporate international human rights approaches into its work.

40. The sanctions regime under Security Council resolution 1267 (1999) was a critical component of the

global response to combat terrorist financing. Replacing it with national terrorist lists would constitute a serious step backwards. The International Convention for the Suppression of the Financing of Terrorism was not an adequate alternative to the Security Council sanctions regime.

41. **Ms. Gintersdorfer** (European Union) asked the Special Rapporteur to share his views on the major challenges to boosting, multiplying and sustaining efforts to mainstream human rights throughout United Nations entities while working on counter-terrorism issues. The Special Rapporteur had said that measures to reduce terrorism-related activities or content on the Internet must be carried out with full respect for human rights and that any restrictions be prescribed by law, in pursuit of a legitimate purpose. His views on whether the global trend was encouraging or worrying and on how to make the response of the United Nations more effective would be appreciated.

42. The United Nations Global Counter-Terrorism Strategy set out the centrality of respect for human rights and the rule of law as the basis of the fight against terrorism. That was often not translated into practice within the United Nations and at the national level. The Strategy encouraged a more comprehensive response that would involve United Nations agencies traditionally outside the area of counter-terrorism. The Special Rapporteur should indicate whether he had identified concrete proposals, examples or good practices to show how an approach involving such agencies could help promote and protect human rights while countering terrorism.

43. **Ms. Tvedt** (Norway) said that her country endorsed the approach whereby the promotion and protection of human rights was both a pillar of the Global Counter-Terrorism Strategy and also a component of the three other pillars. The Counter-Terrorism Implementation Task Force should ensure that each of its working groups incorporated a human rights component in its work.

44. While the establishment of the Office of the Ombudsperson was warmly welcomed, the revised procedures for de-listing did not meet the highest standards for ensuring a fair and independent process. Finally, further detail on the reform of the sanctions regime pursuant to Security Council resolution 1267 (1999) would be appreciated.

45. **Ms. Zolotova** (Russian Federation) said that her country categorically rejected the attempt by the Special Rapporteur to exceed his mandate and consider the legality of the Security Council as part of his functions. Such steps undermined trust in the special procedures of the Human Rights Council.

46. The Russian Federation also strongly disagreed with his conclusions and recommendations, which were at times superficial and lacked objectivity. His comments with regard to the Security Council and its sanctions committees supposedly exceeding their competency in the context of Security Council resolutions 1373 (2001) and 1267 (1999) were regrettable. His references and justifications for those conclusions were dubious. While the idea of a World Court of Human Rights appeared attractive, it stood little chance of practical implementation at the current time.

47. **Ms. Raabyemagle** (Denmark) asked the Special Rapporteur to elaborate on challenges faced by the Office of the Ombudsperson with regard to transparency and how the United Nations and its Member States could ensure due process while maintaining effectiveness. He was also requested to comment on the commitment of the Committee to include human rights criteria in its assessments of compliance by Member States with Security Council resolution 1373 (2001) and how that would be implemented.

48. **Mr. Preston** (United Kingdom) said that his country did not agree with the analysis in the report of the Special Rapporteur that through the sanctions regimes under its resolutions 1267 (1999) and 1373 (2001), the Security Council had exceeded the powers allocated to it under Chapter VII of the Charter of the United Nations.

49. **Ms. Arias** (Peru) said that the visit of the Special Rapporteur to her country had been a positive one. Her Government would continue to improve legal and social structures for the benefit of victims of torture within the framework of respect for human rights.

50. **Mr. Scheinin** (Special Rapporteur on the promotion and protection of human rights while countering terrorism) said that the proposal to establish a World Court of Human Rights was primarily aimed at extending accountability to international organizations. States were already subject to a range of mechanisms, but mechanisms to address non-State actors were

lacking. Apart from such a court, much had been done to improve fairness and due process, such as the establishment of the Office of the Ombudsperson. It would be important to take seriously the findings of the Ombudsperson to ensure effective access to justice. The requirement of consensus decision-making by the 1267 Committee in cases of de-listing was a significant obstacle to that. There was a need for national or regional judicial review over the implementation of the sanctions.

51. The creation of mechanisms such as a World Court of Human Rights would introduce accountability for international organizations. The problem of invoking terrorism as a threat to the peace which triggered powers under Chapter VII was that it was reactive. It was hard to act efficiently against new forms of terrorism when it was necessary to argue that any measure taken was a response to a threat to peace. An approach that was not based on Chapter VII would be easier and more legitimate, making it possible to look at trends and globally address them through the United Nations.

52. The global trend was negative, in that often States and international actors sought a balance between human rights and countering terrorism, whereas it was necessary to seek ways of countering terrorism within the framework of human rights. Only then would counter-terrorism be effective. The security view should be expressed first, with the human rights view coming after, to create balance. There were many opportunities for involving United Nations economic and social development agencies in countering conditions conducive to the spread of terrorism, by building societies where economic, social and cultural rights were fully enjoyed.

53. His report proposed replacing the sanctions regime under Chapter VII with advisory and technical assistance from the United Nations for listing by countries. The current system did not result in equal application of the sanctions list in every country of the world. Moving to softer methods would not necessarily involve less of a common approach. Replacing the sanctions regime would take time. There were disagreements on legal issues with the Russian Federation. It was probably true that the proposal for the creation of a World Court of Human Rights would not be implemented rapidly, but the accountability gap for non-State actors must be addressed.

54. There was a clear trend in the work of the Counter-Terrorism Committee towards a targeted approach tailored to individual countries. The Chapter VII approach was blunt and counterproductive. There was a need for a proactive approach which identified evolving forms of terrorism. Information not in the public domain about interaction between the Counter-Terrorism Committee and Governments was encouraging. The Counter-Terrorism Committee was doing a better job than its public image indicated.

55. **Mr. La Rue** (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression) said that he was pleased to be the first Special Rapporteur to hold the mandate since its establishment in 1993. He had chosen to focus his report (A/65/284) on the protection of journalists, whose exercise of freedom of opinion and expression was essential for an informed public, the very foundation of democracy. Journalists continued to be abducted, imprisoned, tortured and deliberately killed because of their profession. He was deeply alarmed that the number killed in 2009 was the highest recorded since 1992 and that the overwhelming majority had been victims of targeted killings.

56. Most of those killed did not die in armed conflict. Particularly at risk were journalists who reported on social problems, including organized crime or drug trafficking; who criticized the Government or the powerful or who reported on human rights violations, environmental matters, electoral processes, civil order or corruption. In 2009, the six most dangerous countries for journalists had been, in descending order, the Philippines, Somalia, Iraq, Pakistan, Mexico and the Russian Federation.

57. One of the biggest contributing factors to threats of violence and violence was impunity. He was therefore deeply concerned that, in 94 per cent of the cases in which journalists had been murdered in 2009, the perpetrators had enjoyed total impunity. The States with the highest number of unsolved murders of journalists in proportion to their population were, in descending order, Iraq, Somalia, the Philippines, Sri Lanka, Colombia, Afghanistan, Nepal, the Russian Federation, Mexico, Pakistan, Bangladesh and India.

58. Since 2001, more than 500 journalists had been reported to have fled their home countries to avoid death. At least 85 had fled between 1 June 2009 and 31 May 2010, double the number for the preceding



year. Of them, at least 29 were from the Islamic Republic of Iran: the highest annual tally from a single country in a decade. In Africa, 42 journalists, or triple the number for the preceding year, were known to have fled their home countries, primarily Ethiopia and Somalia. Less than a third of such exiled journalists were able to continue to work in journalism, and many encountered challenges in establishing a new legal status and adjusting to different languages and cultures. In that connection, he reminded recipient States of their obligation under the 1951 Convention relating to the Status of Refugees not to expel journalists in exile and to ensure that their rights were respected.

59. In a world where many conflicts were the result of racism, discrimination and religious intolerance, high ethical standards in reporting could help to ease tensions and violence by contributing to a better understanding of underlying grievances. Hatemongering, on the other hand, could exacerbate tensions and was prohibited by international human rights law. He therefore welcomed the various voluntary codes of ethics that had been developed and adopted by journalists.

60. Under international humanitarian law, journalists were protected in armed conflict by virtue of their status as civilians. Engaging in the activities of their profession did nothing to change that status. As civilians, they were also protected by international human rights law, even in situations that only bordered on armed conflict, such as confrontations between the State and organized crime, confrontations between factions of organized crime or pillaging in the wake of natural disaster. He had conferred with the International Committee of the Red Cross regarding the possible need for a new category of non-armed conflict that required a special level of protection for journalists and defenders of human rights.

61. Nevertheless, the problem was not a lack of legal standards for the protection of journalists in conflict situations, but a failure to respect and enforce them. It would be unwise to adopt new treaties or to create a special status for journalists under international law, because doing so would require a precise definition of "journalist" and clearer identification of journalists working in conflict zones. In the first case, States could use journalist accreditation to interfere with freedom of expression, and in the second, journalists could become easier targets.

62. Citizen journalists made important contributions. While they could not replace professional journalists, they were sometimes able to report on events to which professionals did not have access. They played a critical watchdog role in countries without freedom of the press. They increased the diversity of views and opinions in the media, and they could sometimes provide an insider's view of a conflict or catastrophe. Not surprisingly, they, too, were subject to acts of harassment and intimidation, including attacks against their physical integrity, arbitrary arrest and detention, prison sentences and fines, and even assassination.

63. States frequently used restrictive domestic legislation, such as Internet-specific laws or decrees, to investigate, arrest and sentence citizen journalists. Such measures had a chilling effect on freedom of expression. Citizen journalists were particularly vulnerable because they worked in isolation, without the support of media organizations, including lawyers and financial resources.

64. He urged all States to end impunity for attacks against journalists. In particular, he appealed to the States mentioned previously with the highest rates of impunity to investigate all violations immediately and thoroughly and to prosecute the perpetrators. Ultimately, all States needed to ensure that they had a strong and effective judicial system in order to guard against impunity. He also encouraged States to protect journalists by establishing an early-warning, urgent response mechanism: a commission of high-level representatives of relevant State institutions, with an adequate, independent budget and easy access in the event of an emergency to high levels of Government, including the security forces.

65. One of the best ways that he could assist States was through his missions, which allowed him to make specific recommendations, and he urged all States to facilitate them. He wished to underline that his role was not merely to criticize but also to work with States to ensure the enjoyment of the right to freedom of expression, which was an essential basis for a strong, accountable and democratic State.

66. **Ms. Salvesen** (Norway) noted that the report of the Special Rapporteur focused not only on protection of journalists in situations of armed conflict, but also on the fact that many journalists risked their lives in non-conflict situations, while covering social problems, organized crime, human rights violations and

corruption. Shockingly, in 94 per cent of cases where journalists had been killed in 2009, the perpetrators had enjoyed total impunity.

67. The Special Rapporteur's comments on how his own communication procedure could help end impunity for killing journalists would be appreciated, as would his comments on how to provide more effective follow-up to Security Council resolution 1738 (2006), which made reference to protection of journalists in armed conflict.

68. **Mr. Tonatiuh Gonzalez** (Mexico) said that the visit of the Special Rapporteur to his country in August of the current year had helped deepen understanding of the challenges to freedom of expression facing Mexico. The Government agreed with the Special Rapporteur that the greatest threat to freedom of expression in Mexico came from criminal organizations. The Government would carefully consider his report and recommendations and would establish appropriate follow-up and implementation mechanisms.

69. **Mr. Abay** (Ethiopia) requested additional details on the information contained in paragraph 30 the report of the Special Rapporteur (A/65/284), which mentioned 42 journalists, mostly from Ethiopia and Somalia, who had fled their homes in the previous year. For example, he wished to know how many of the journalists were from Ethiopia and were in fact fleeing due to persecution.

70. Citizens of Ethiopia, including journalists, had the freedom to leave the country whenever they wished. A press law had been adopted in Ethiopia 15 years earlier, leading to great freedom of the press. There was no fear of censorship or government interference. However, a lack of professionalism and remnants of undemocratic attitudes were common among some journalists, who incited violence and illegal activities. Certain newspapers engaged in scathing criticism of the Government, and that never led to official complaints, persecution or criminal charges.

71. The comment about journalists fleeing persecution in Ethiopia was unsubstantiated. Many people claimed persecution when they had lost legitimacy or acceptance in their field. The allegations were ridiculous. The Special Rapporteur must solicit information from all relevant sources, including the Government, and verify it before drawing conclusions.

72. **Ms. Nemroff** (United States) said that to harass, threaten, attack, arbitrarily arrest or murder journalists for exercising freedom of expression was abhorrent. Member States should combat impunity for threats and attacks on journalists and should repeal legal provisions that improperly criminalized or limited freedom of expression.

73. Free speech was useful in combating intolerance. Dialogue on racial, cultural and religious diversity was key to fighting intolerance and discrimination. Interpretations of international human rights law which permitted restrictions on speech to combat such problems were not acceptable. The inherent weaknesses of offensive ideas were discredited when such ideas were scrutinized publicly.

74. More details on the issue of States which improperly invoked international human rights law to justify interference with the right to freedom of expression, to prevent them from exposing corruption or misconduct or reporting on other politically sensitive issues would be appreciated. Lastly, she asked whether the Special Rapporteur had observed any trend or correlation between improper human rights justifications by a State for suppression of expression and impunity for threats to the physical well-being of journalists and whether the former might lead to the latter.

75. **Ms. Chevrier** (Canada) said that her country took note of the suggestion for States to establish a rapid alert and emergency intervention mechanism to protect journalists and would like further clarification on the function to be fulfilled by that mechanism. The Special Rapporteur's comments on measures that the international community could take to ensure the protection of citizen journalists would also be appreciated.

76. **Mr. Mohamed** (Maldives) said that, having emerged from a 30-year dictatorship, Maldives now boasted a vibrant media community, including 12 daily newspapers and numerous other outlets, although the country had a population of only 300,000 people. Open criticism of the State and debates on sensitive subjects were commonplace. According to the 2010 World Press Freedom Index, Maldives had made the largest advance of any country, rising in rank from 129 to 52, just behind established democracies.

77. The law had been amended to make defamation a civil rather than a criminal offence. During his visit in

2009, the Special Rapporteur had recommended establishing an independent State body to help ensure that public broadcasting would be free from political and commercial influence. That recommendation had been implemented. The weight of years of censorship and threats to media freedom was still an obstacle, however. In that connection, he wondered if the Special Rapporteur envisioned coordinated efforts to aid States lacking technical and financial capacity to undertake his recommendations.

78. **Ms. Taracena Secaira** (Guatemala) asked for further information on the Special Rapporteur's meetings in Mexico, where the situation for the media was of grave concern, and on how the activities of the Human Rights Council could support the work of the Security Council and General Assembly in protecting civilians, including journalists, in armed conflict.

79. **Mr. Huth** (European Union) said that the European Union had been increasingly engaged in crisis management operations at different stages of conflict and that the Special Rapporteur's report would support its work in that field. He asked the Special Rapporteur to elaborate on his proposal to convene a Human Rights Council panel to consider the protection of journalists in situations where armed conflict had not yet broken out. He also requested information on the main legal and practical difficulties in the protection of citizen journalists and asked if the Special Rapporteur had been cooperating with regional human rights mechanisms in that regard.

80. **Mr. Sjögren** (Sweden) asked the Special Rapporteur to elaborate on his recommendation that States should establish early warning mechanisms and enquired if there were any best practice examples that could be shared, particularly with a view to supporting citizen journalists. His delegation also wished to know what could be done within the United Nations system to strengthen press freedom and protect journalists and if the Security Council had a role to play in that regard.

81. **Mr. Butt** (Pakistan) said that it was regrettable that the Special Rapporteur's report had taken an over-generalized approach in which the killing of journalists was conflated with the issue of impunity. A distinction needed to be made between those killed in indiscriminate terrorist acts and those allegedly killed by State authorities. He asked the Special Rapporteur if he believed that citizen journalists fulfilled the ethical and professional criteria of journalism and if everyone

should be encouraged to undertake that role in conflict situations.

82. **Mr. Mamdoohi** (Islamic Republic of Iran) said that the Special Rapporteur's report contained inaccurate information. His country's laws and Constitution guaranteed freedom of expression and assembly and the independence of the press and prohibited the promotion of factionalism on the basis of race, language, customs or local traditions. No Iranian journalists or writers had been arrested simply because of what they had written; all arrests had taken place because the individuals concerned had broken the law. All those arrested were tried in accordance with the law by a competent court and in the presence of a jury.

83. **Mr. Vigny** (Switzerland) said that it was essential that the media remained independent and impartial. Mechanisms by which the press regulated itself needed to be encouraged. He asked the Special Rapporteur how citizen journalists could best be protected. Switzerland was, moreover, especially concerned that certain States placed restrictions on their citizens' access to the Internet.

84. **Mr. Löning** (Germany) commended the Special Rapporteur for naming certain States in his report; those States must take all necessary steps to improve conditions with a view to protecting journalists from violence, must investigate crimes committed against them and must bring the perpetrators of those crimes to justice. He asked the Special Rapporteur what measures States should adopt to promote citizen and new media journalism.

85. **Mr. Preston** (United Kingdom) asked the Special Rapporteur what had led him to the conclusion that affording journalists special protection or status could make them more vulnerable to targeting and place restrictions on their freedom. He enquired if the Special Rapporteur's next report would provide best practice examples on how governments could apply the existing freedom of expression framework to the Internet and new technologies.

86. In the light of grave concerns about restrictions placed by the Islamic Republic of Iran and the Syrian Arab Republic on the media and on freedom of expression, the Special Rapporteur should indicate if he had received a response to his request to visit the former and whether he intended to visit the latter. He also asked if the Syrian Government had implemented

any measures to ensure that its citizens enjoyed the right to freedom of expression.

87. **Mr. Saadi** (Algeria) reiterated his Government's invitation to the Special Rapporteur to visit Algeria and asked him whether the creation of national early warning mechanisms would not simply create an additional layer of bureaucracy for issues which were addressed by existing human rights mechanisms. A more precise definition of citizen journalists was required in order to afford them better protection. He also asked how it was possible to ensure that citizen journalists upheld professional ethics and standards.

88. **Ms. Zolotova** (Russian Federation) said that the Russian Federation found the accuracy of sources and the geographic scope of the report of the Special Rapporteur severely flawed. The broad range of media outlets freely operating in her country was an indication that all conditions were present in the Russian Federation for the full and effective enjoyment of freedom of expression. While there were attacks on journalists, painstaking investigations were conducted in every case and those found guilty were punished appropriately.

89. **Ms. Hernando** (Philippines) noted that the report of the Special Rapporteur had listed the Philippines as one of the world's most dangerous countries for journalists and said that the Government of the Philippines was fully committed to the promotion and protection of human rights, including freedom of expression, and was making every effort to stop the killing of journalists.

90. **Mr. Al-Obaidi** (Iraq) said that there had been no freedom of the press under Iraq's previous regime. However, Iraqis now had access to hundreds of uncensored newspapers and satellite television stations. Attacks on journalists in Iraq were carried out by remnants of the previous regime and by terrorist organizations, including Al-Qaida, who targeted the Government and Iraqi citizens in their efforts to undermine democracy. The Government of Iraq was making every effort to protect journalists and prosecute those who sought to harm them.

91. **Ms. Raabyemagle** (Denmark) asked the Special Rapporteur if the international community could help combat the climate of impunity with regard to violence against journalists and other media professionals when that issue arose mostly at the national level. She also enquired which United Nations bodies should provide

assistance to States to enable them to promote democracy and the rule of law with a view to safeguarding the rights of all individuals, including journalists, and when that assistance should be provided.

92. **Mr. La Rue** (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), responding to delegations' questions and comments, said that nothing would make him happier than to find himself mistaken about the situation in the countries to which he had referred and encouraged those States that felt that they had been unjustly singled out for criticism to invite him to visit to support their efforts to eradicate impunity and build trust in the justice system. While it was commendable that a majority of Member States had enshrined the freedom of expression in their Constitutions, the problems that occurred were not due to weak legislative frameworks, but rather to ineffective implementation of the law.

93. Impunity, one of the major threats to all human rights, had been mentioned by all the special procedure mandate holders and stemmed from lax law enforcement. He had not implied that States had ordered the killing of journalists. However, many of those killings were not being investigated. In that regard, the motives for an offence must not be prejudged. It was necessary to investigate crimes in order to determine what had motivated them. It should, moreover, be assumed that journalists had been targeted because of their professional activities until proven otherwise.

94. With regard to the implementation of emergency mechanisms, States had a responsibility to ensure both protection and justice. An emergency mechanism had successfully protected human rights defenders and journalists in Colombia. Emergency mechanisms were not an alternative to the justice system, but could offer journalists protection when they felt threatened. For those mechanisms to succeed, political will was necessary at the highest levels of government. In Colombia, the emergency mechanism had earmarked funds to evacuate journalists in armoured vehicles or to pay for travel out of the country. Such mechanisms could save lives.

95. Responding to the representative of Ethiopia, he said that he would be glad to provide statistics on journalists who had left the country and drew attention to the case of Dawit Isaak, an Ethiopian journalist who had been imprisoned on his return to Ethiopia from

exile in Sweden, despite the fact that he held Swedish citizenship. The Special Rapporteur expressed the wish to visit Ethiopia and Mr. Isaak. The legitimate functions of a journalist needed to be decriminalized: while offences such as incitement to racism or violence should be outlawed, anything outside those boundaries should be permitted. Defamation needed to be a civil offence, not a criminal offence.

96. The protection of journalists was a cause of concern for many United Nations bodies including the Human Rights Council and the Security Council. It was therefore desirable to coordinate efforts and request the Special Rapporteur to draw up a report on the situation of journalists and their protection in conflict zones and in zones of intense violence. It was, moreover, important to collaborate with the International Committee of the Red Cross to define criteria for regions suffering from intense armed confrontation due to organized crime, factionalism or street gangs and where it was difficult for the State to impose the rule of law.

97. The Special Rapporteur commended the Maldives for its serious efforts to promote democracy, thanked Mexico for facilitating his mission there and said that he would be glad to visit Algeria. He would, moreover, accept an invitation to visit any country, even if he had to fund such visits himself. Lastly, while citizen journalists were not professionally trained journalists, they had an acute understanding of their own communities. A code of ethics for journalists must be developed to enable them to help build a culture of respect for all identities, cultures and religions.

98. **Ms. Tedesse** (Ethiopia) suggested that the Special Rapporteur should consult his records: Mr. Isaak was not Ethiopian. He was, in fact, an Eritrean citizen and was in Eritrea.

*The meeting rose at 1.05 p.m.*