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Chair: Mr. MacDonald (Suriname)
later: Mr. Sparber (Vice-Chairperson) (Liechtenstein)
later: Mr. MacDonald (Chair) (Suriname)
later: Ms. Šćeponović (Vice-Chairperson) (Montenegro)

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

Agenda item 69: Promotion and protection of human rights (*continued*) (A/67/387 and A/67/390)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/67/159, A/67/181, A/67/271, A/67/56, A/67/163, A/67/260, A/67/260/Add.1, A/67/293, A/67/296, A/67/226, A/67/288, A/67/267, A/67/285, A/67/287, A/67/396, A/67/303, A/67/292, A/67/289, A/67/268, A/67/299, A/67/304, A/67/286, A/67/310, A/67/277, A/67/368, A/67/178, A/67/275, A/67/205, A/67/302, A/67/278, A/67/380, A/67/261 and A/67/357)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/67/362, A/67/333, A/67/327, A/67/370, A/67/379, A/67/383 and A/67/369)

1. **Mr. Shaheed** (Special Rapporteur on the situation of human rights in the Islamic Republic of Iran), introducing his report (A/67/369), said that he had received several responses from the Iranian Government to the various communications that he had transmitted on specific cases of concern. He was therefore optimistic that a substantive dialogue could be established and looked forward to positive engagement on his recent request to visit the country. Since the report was prepared, the Iranian Government had announced hundreds of pardons and released a number of prisoners of conscience, including Pastor Youcef Nadarkhani. However, he would continue to call for the release of all prisoners of conscience and to investigate allegations of violations of due process rights.

2. Since his last report to the nineteenth session of the Human Rights Council, he had met with numerous stakeholders, including Iranian officials and members of the Iranian diaspora, many of whom had raised concerns about the direct and indirect impact of sanctions on the human rights situation in the country, including food security and access to medical supplies. He intended to examine those issues in his future reports but, as it would involve the careful and comprehensive analysis of a wide range of indicators, it would require the cooperation of the Iranian Government and a visit to the country.

3. Information gathered from other sources continued to present a deeply troubling picture of the human rights situation in the country. The fact that over 300 people had been executed after having been found guilty of drug-related offences was a cause for serious concern, as was the continued detention of a large number of journalists and bloggers, four of whom had been sentenced to death. The report also raised concerns about the impact of legislation to combat computer crimes on the freedom of expression and the right to information. Concerns had also been voiced over loopholes, continued gender bias and harsh punishments for national security crimes in the revised Islamic Criminal Code, which was currently being examined by Parliament. He was also alarmed by reports of violations of due process rights and the treatment of lawyers and human rights defenders, including Nasrin Sotoudeh, who were often charged with national security crimes because they represented prisoners of conscience.

4. The human rights situation in the Islamic Republic of Iran continued to undermine the Government's ability to adhere to its commitments under the five human rights instruments that it had ratified and to implement the recommendations of the universal periodic review. In order to improve that situation, it was imperative for the Government to tackle the problem of impunity. He would continue to engage with Iranians both inside and outside the country, the international community and the Iranian Government in order to establish a constructive space for substantive dialogue on the human rights situation in the country.

5. **Ms. Vadiati** (Islamic Republic of Iran) said that her country had had high hopes for the political independence and professionalism of the Human Rights Council and its special procedures when they were established; however, the political interference by the United States of America and its European allies in the appointment process of the Special Rapporteur had undermined the status and mechanisms of the Council. The Special Rapporteur should observe the principles of impartiality, honesty, transparency and fairness. It was therefore regrettable that the Special Rapporteur had decided not to take into consideration her Government's comments and observations or annex them to his report, in breach of articles 8 and 13 the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council.

6. The report appeared to be based on outdated, unfounded and politically motivated allegations and, by focusing on issues relating to ethnic and religious minorities, intent on fomenting discord. Iranian society was testament to the peaceful coexistence of different ethnicities and religions; the Constitution recognized all ethnic groups and provided for their political representation at all levels. In addition, the National Development Plan sought to enhance the social, political, cultural and economic situation of all Iranians.

7. In response to the concerns over the legislation to combat cybercrime, her country needed to strengthen its cyberspace security in order to protect it from the highly sophisticated cyber attacks, often orchestrated by the United States and Israel. It had nothing to do with freedom of information. The report had failed to address the acts of terrorism perpetrated against her country, the assassination of Iranian scientists or the daily threats of military action made by the United States and Israel. Many of the allegations made in the report were based on information taken from Iranian news agencies and newspapers, proving that citizens enjoyed freedom of expression and the right to information. Moreover, the report had failed to mention policies adopted to promote human rights in her country and ensure cooperation with international human rights mechanisms.

8. The report of the Special Rapporteur did not accurately reflect the current human rights situation in her country and its analysis was often contradictory. Nevertheless, her Government had expressed its willingness to engage in constructive cooperation with United Nations human rights mechanisms during the recent visit of the Secretary-General to Tehran and had invited the High Commissioner for Human Rights to visit her country in the near future.

9. **Mr. Faizal** (Maldives) said that his delegation welcomed the constructive participation of the Iranian Government in the recent universal periodic review and hoped that every effort would be made to implement the resulting recommendations. He called upon the Government of the Islamic Republic of Iran to give serious and timely consideration to all visit requests made by United Nations bodies. He asked to what extent the sanctions and other punitive measures had affected the human rights of ordinary Iranian citizens and the ability of the Iranian Government to meet its international human rights obligations, and

how the Special Rapporteur intended to work with various international stakeholders and the Iranian authorities to assess the impact of those sanctions.

10. **Mr. Han Qing** (China) said that his delegation was opposed to the creation and use of country-specific human rights mechanisms and resolutions, and supported the right of the Islamic Republic of Iran to choose its own path.

11. **Mr. Rishchynski** (Canada) reiterated his delegation's call for the Iranian Government to cooperate with the Special Rapporteur and to allow him to visit and travel freely around the country. His delegation was very concerned by the persistent reports of torture and other cruel, inhuman or degrading treatment or punishment and persecution of religious minorities. All persons had the right to change and practice their religion freely. He called upon the Iranian President to ensure that all Iranians enjoyed religious freedoms, in addition to the freedoms of association and expression, and to promote and protect women's rights.

12. In the light of the reports of harassment during the recent parliamentary elections in the Islamic Republic of Iran, he asked what could be done to ensure that the 2013 presidential elections were free and fair. He noted that the right to education of followers of the Baha'i faith was often not respected and that increasing gender segregation in universities had resulted in a drop in the number of female students. He called upon the Iranian government to remedy those matters.

13. **Ms. Syed** (Norway) said that the report was informative despite the lack of cooperation from the Iranian authorities. She noted that the Centre for the Defence of Human Rights in the Islamic Republic of Iran was under a great deal of pressure and that many of its founders were now in prison and asked how the Special Rapporteur would monitor those cases. She also asked what was being done to ascertain the fate of political prisoners in the Islamic Republic of Iran, particularly those arrested in the wake of the 2009 protests.

14. **Mr. Geurts** (Observer for the European Union) said that his delegation was deeply concerned about the human rights situation in the Islamic Republic of Iran, which had led the European Union to adopt sanctions against Iranian officials suspected of grave human rights violations. While he welcomed the

Government's ratification of five human rights conventions, their effects were negated by impunity. He asked what could be done to ensure that the Iranian Government complied with its international human rights obligations and the recommendations of the universal periodic review. The Special Rapporteur's views on the entry into force of new Criminal Code, given the apparent contradictions between the assessments of its provisions contained in the report and that of the Secretary-General and the claims made by the Iranian authorities, would also be welcome. The reported increase in the number of executions was to be deplored, and he asked for the Special Rapporteur's assessment of that trend, particularly with regard to public and secret executions. Lastly, recourse to country-specific special procedures should not be seen as a punitive measure, but rather as a tool to facilitate cooperation with an impartial agency. His delegation therefore supported the calls for the Special Rapporteur to be allowed to visit the country soon.

15. **Ms. Sidebottom** (United Kingdom) said that her delegation supported the mandate of the Special Rapporteur and was very concerned about the human rights situation in the country and the lack of cooperation from the Iranian authorities, particularly as no steps appeared to have been taken to address the 123 recommendations made during the universal periodic review. She asked what the international community could do to ensure the Iranian authorities' genuine engagement with the special procedures.

16. The low level of observance of international human rights standards was also a cause for concern, notably in the use of the death penalty and the continuing persecution of religious and ethnic minorities. Her delegation joined the Special Rapporteur and others in deploring the recent execution of 10 people found guilty of drug-related crimes and stressed that the death penalty should only be applied in accordance with international standards and in the case of the most severe crimes. There appeared to be no basis for the suggestions, made by the Iranian authorities, that elements of the report regarding the death penalty were anti-Islamic; the international community had legitimate concerns about its application, the lack of due process and politically motivated trials. She asked which issues would be the focus of the Special Rapporteur's next report and whether he intended to further explore the question of the rule of law, in particular the imprisonment and

mistreatment of lawyers who defended the most repressed groups in the country.

17. **Ms. Robl** (United States of America) said that while her delegation welcomed the report, the picture it painted of the human rights situation in the Islamic Republic of Iran was alarming. She called upon the Iranian authorities to allow the Special Rapporteur to visit the country and carry out his mandate. The report documented credible allegations of the Iranian Government's repression of its own people, in violation of country's obligations under the International Covenant on Civil and Political Rights. Many people had been sentenced to death, without due process, for exercising basic human freedoms that the Government was obligated to protect. In violation of international law and the Iranian Constitution, academics, journalists, human rights defenders, political and cultural rights activists and ethnic and religious minorities faced persecution and women's access to higher education had been severely restricted. Her delegation was also concerned at the Government's attempts to restrict the freedoms of expression and information and at the recent arrests of 19 netizens, some of whom had allegedly been tortured and sentenced to death.

18. **Mr. Kaminek** (Czech Republic) said that, despite the existence of a basic legislative framework, the wide range of human rights violations reported by the Special Rapporteur were the result of impunity, widespread immunity and a failure to implement the rule of law. He asked how the international community could provide effective support to journalists, lawyers, women's activists and human rights defenders in the Islamic Republic of Iran, who, together with their families and friends, were often the targets of intimidation and arbitrary detentions, subject to unfair trials and sentenced to death. His delegation was concerned at the closures of a number of newspapers, the suspension of political parties and the arrests of editors and opposition leaders, as a free and vibrant media and broad political landscape were crucial for free and fair elections. The provisions of article 21 of the International Covenant on Civil and Political Rights should also be respected. Lastly, he echoed the calls for the Iranian authorities to allow the Special Rapporteur to visit the country.

19. **Mr. de Séllos** (Brazil) said that despite the positive progress made with regard to the economic and social rights of the Iranian people, concerns

persisted over the human rights situation in the country, particularly the arbitrary arrests and detention of human rights defenders and prisoners of conscience. The treatment of women and religious and ethnic minorities was also troubling. His delegation remained open to the possibility of bilateral dialogue and cooperation with the Iranian authorities and encouraged them to cooperate with the international human rights mechanisms. Dialogue with the Special Rapporteur offered an opportunity for confidence building and for balance and objectivity in the assessments of the human rights situation in the country. In line with the principles of universality, non-selectivity and impartiality, his delegation's concerns were based on the same human rights criteria that it would use to evaluate the situation in any other country, including Brazil.

20. *Mr. Sparber (Liechtenstein), Vice-Chair, took the chair.*

21. **Mr. Bichet** (Switzerland) said that while the report covered a number of serious issues, such as the death penalty, women's rights and the treatment of ethnic and religious minorities, the lack of cooperation from the Iranian Government made it difficult to assess the situation properly. He asked the Special Rapporteur to evaluate the cooperation he had received from the authorities and which areas could be improved and whether he considered it likely that he would be able to visit the country in the near future. Lastly, he asked what role the international community could play to improve the human rights situation in the Islamic Republic of Iran.

22. **Mr. Shaheed** (Special Rapporteur on the situation of human rights in the Islamic Republic of Iran) said that, while he welcomed the comments submitted by the Iranian delegation, he had been unable to append them due to the word limit imposed by the Secretariat on all reports and, as his last report to the Human Rights Council had addressed the victims of terrorism, he had decided to focus on different issues in the current report. Moreover, the comments in the report regarding the blasphemy laws were in line with the concerns raised under article 19 of the International Covenant on Civil and Political Rights by the Human Rights Committee. He intended to monitor and assess the impact of the international sanctions on the Iranian people in his next report. However, to establish a true picture a much more rigorous methodology, based on a visit to the country and data

provided by the authorities, would need to be adopted; it would not be possible to rely solely on corroborated witness statements. He therefore hoped that the Government would cooperate on that important matter.

23. There were numerous concerns surrounding the election procedures in the country, particularly the fact that women were barred from standing in the presidential elections and the high number of journalists who faced persecution. In order for there to be free and fair elections it was essential that there was a free and fair press and freedom of expression and of association. Any elections should be transparent and monitored by international observers.

24. Although progress had been made on the educational rights of women in the Islamic Republic of Iran in recent years, he was concerned that some universities had recently introduced quotas of female students and banned women from certain academic courses. Students who professed to be followers of the Baha'i faith were also discriminated against and often refused access to educational institutions.

25. The fact that the new Criminal Code did not include provisions to assess the mental fitness of accused persons and failed to ban stoning was also a cause for concern. He stressed that legislation should be drafted in compliance with the country's obligations under the International Covenant on Civil and Political Rights. The Human Rights Committee had highlighted four major areas of concern, namely the role of the judiciary, gender-based discrimination, and the use of capital punishment and the execution of minors. The international community could help to improve the situation in the country by ensuring that the Iranian Government abided by the provisions of the five international human rights treaties to which it was party and respected international law and the rule of law.

26. **Mr. Heys** (Special Rapporteur on extrajudicial, summary or arbitrary executions) introducing his report (A/67/275) which focused on specific issues of concern and areas for international engagement regarding the imposition of the death penalty, said that the recent tenth annual World Day against the Death Penalty had provided an opportunity to reflect on the issue. Although many States had now abolished or introduced a moratorium on the death penalty, encouraged by the series of General Assembly resolutions on the matter, an albeit decreasing number

continued to impose capital punishment, in many cases in contravention of the narrowly defined exceptions outlined in international law. He welcomed the developments on the issue in Africa, notably the accession of Benin to the Second Optional Protocol to the International Covenant on Civil and Political Rights. However, the executions carried out recently in Gambia represented a significant step backwards.

27. He stressed that the death penalty should only be imposed in retentionist States in cases of intentional killing, and that drug-related or economic offences did not constitute the most serious crimes. Moreover, mandatory death sentences violated various human rights standards and should be abolished. It was also arbitrary, and hence in violation of international law, to impose the death penalty in cases where legal proceedings did not adhere to the highest standards. It was therefore inappropriate for military tribunals to impose the death penalty. There was also evidence that innocent people had been sentenced to death and executed as a result of errors in capital proceedings. States must therefore ensure transparency at every stage and in all cases where the death penalty was handed down; with condemned persons, their families and legal representatives receiving timely and sufficient information on their case. Moreover, the general public should be informed of a State's capital punishment policies and practices. The absence of transparency in such cases violated the right to life.

28. Although it was the duty of retentionist States to observe the very stringent international standards for the imposition of the death penalty, it was the responsibility of all States, including abolitionist ones, to ensure that those countries that continued to have recourse to capital punishment only applied it in strict observance of those requirements. The report therefore addressed collaboration and potential complicity between States in the unlawful use of the death penalty and outlined the legal requirements for both retentionist and abolitionist States in cases of extradition to countries where the death penalty was used. It was hoped that those recommendations would lead to thorough reflections on how to ensure that the decreasing number of States that continued to impose the death penalty only did so in exceptional cases and in accordance with the stringent international requirements. Lastly, he announced that in 2013 he intended to examine the use of robotic technology and

remote controlled aerial vehicles and the implications for the right to life.

29. **Mr. Bichet** (Switzerland) said that the coordinated efforts between the Special Rapporteur and the Special Rapporteur on torture were to be commended. His delegation welcomed the trend towards abolitionism and called upon those States that still imposed capital punishment to abolish it. He agreed that it was essential for retentionist States to ensure that their legal procedures were transparent and respected due process, and that the death penalty was imposed only for the most serious crimes. It was hoped the General Assembly would adopt a resolution calling for a global moratorium on the death penalty at the current session. He asked how the Special Rapporteur intended to continue his work on the question of the death penalty and the right to life, and whether he thought it would be appropriate to establish a special procedure on capital punishment.

30. *Mr. Mac-Donald (Suriname) resumed the chair.*

31. **Ms. Syed** (Norway) said that her delegation supported the recommendation made in the report that the Secretary-General should conduct a survey of all retentionist States to determine to what extent they complied with the obligations of transparency. It would also be useful to provide retentionist States with practical guidance on how to comply the relevant, international standards in a future report. Lastly, it was important to coordinate efforts to restrict the use of capital punishment and implement human rights standards for sentences imposed for drug-related offences with, inter alia, the United Nations Office on Drugs and Crime and the International Narcotics Control Board. She asked what steps States could take to ensure effective cooperation in that regard.

32. **Mr. Neo** (Singapore) said that his delegation believed that extrajudicial, summary and arbitrary executions had no place in any society and strongly condemned such executions, which, regrettably, often went unpunished. However, he failed to see how the application of the death penalty, which was in accordance with due process and judicial safeguards, could be considered an extrajudicial, summary or arbitrary execution. His delegation categorically rejected the argument of the Special Rapporteur that the mandatory imposition of the death penalty or its use as a punishment for crimes other than intentional killing was arbitrary. No international instrument

proscribed the use of the death penalty and there was no international consensus either for or against mandatory death sentences for those found guilty of drug trafficking as a result of a fair trial. Drug trafficking was a serious crime that had a pernicious and widespread impact on society at large. His country was one of the countries that considered it a most serious crime, punishable by death. Any debate on the issue should take into account the rights of those whose lives and communities had been destroyed as a consequence of that trade.

33. Under international law, every country had the sovereign right to determine its own criminal justice system. His country's application of the death penalty was in no way arbitrary; there was a robust legal framework in which the presumption of innocence was inherent. His delegation was therefore of the opinion that the scope of the mandate of the Special Rapporteur did not cover the death penalty. Lastly, he asked whether the Special Rapporteur considered that the number of extrajudicial, summary and arbitrary executions in situations of armed conflict had worsened in the past year and what his primary concerns were in that regard.

34. **Mr. Geurts** (Observer for the European Union) said that the report clarified the stringent requirements for the lawful application of the death penalty and he encouraged Governments to respond positively to requests by the Special Rapporteur to visit their countries. He asked the Special Rapporteur to elaborate further on the discussion of article 6, paragraph 2, of the International Covenant on Civil and Political Rights as an exception, as outlined in paragraph 42 of his report. Given that there was increasing evidence that innocent people had been sentenced to death and executed, what could national authorities do to prevent such tragic situations? Lastly, he asked for further details on the role of non-State actors in unlawful executions.

35. **Mr. Newman** (United States of America) said that his delegation shared the Special Rapporteur's concerns over the use of the death penalty that violated international standards, but noted that capital punishment was permitted under the International Covenant on Civil and Political Rights in certain specific cases. His delegation therefore urged those retentionist States to use it in conformity with their international human rights obligations, with regard for transparency and due legal process and only as

punishment for the most serious crimes. He asked what the international community and civil society could do to gather information on national practices.

36. **Mr. Mosoti** (Kenya) said that his delegation applauded the increasing number of countries that had abolished the death penalty or adopted a moratorium. However, while it was important that States understood the difference between imposing the death penalty legally and extrajudicial killings, it was not clear that the scope of the Special Rapporteur's mandate covered capital punishment. He asked the Special Rapporteur to explain how a legally established punishment for a serious crime could be compared to an extrajudicial killing. Those countries whose criminal codes continued to allow capital punishment did so at their own discretion; it was therefore not a human rights issue, but a legal one. Although his country retained the death penalty in legislation, no executions had been carried out in over 25 years. He asked what steps his Government could take to move from a de facto moratorium to the complete abolition of the death penalty.

37. **Ms. Mozolina** (Russian Federation) asked whether the Special Rapporteur intended to examine the use of drones and other remote controlled devices to carry out extrajudicial killings, and whether their use constituted a terrorist act, particularly in the light of the numerous civilian deaths.

38. **Mr. de Séllos** (Brazil) said that his delegation was encouraged to see the restrictions on the use of the death penalty set out in the report. His country had not imposed or carried out the death penalty in the last 10 years and his Government supported a worldwide moratorium. Brazil was also party to various international agreements that prohibited sentencing vulnerable people, such as minors, pregnant women or the elderly, to death.

39. **Ms. Nguyen** Cam Linh (Viet Nam) said that her Government agreed that the death penalty should only be imposed by competent courts and for the most serious crimes, and welcomed restrictions in the use of capital punishment. Nevertheless, it was a criminal justice issue and States had the sovereign right to decide such matters, based on their national particularities. Many States considered the death penalty to be an effective punishment and imposed it in accordance with international law. In her country, some 21 serious crimes were punishable by death and legal

safeguards were in place to ensure that the rights of the accused were respected, that sentences were reviewed before they were carried out, and that all death sentences were reported in the mass media. The Special Rapporteur should have used the opportunity to focus on the numerous extrajudicial, summary and arbitrary executions carried out during armed conflicts.

40. **Mr. Heyns** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that between 20 and 25 per cent of his communications dealt with issues directly linked to the death penalty. He would therefore continue to ensure that the international standards on that matter were observed and implemented. The creation of a new, separate special procedure on the death penalty was a possibility, but it would depend on the financial and other resources available to mandate holders. Moreover, he recalled that paragraph 5 of General Assembly resolution 65/208 and paragraph 7 (e) of Human Rights Council resolution 8/3 included provisions for the Special Rapporteur to monitor the imposition of capital punishment. Many regional systems were also focusing attention on the issue, with the creation of a dedicated working group within the African system and he encouraged efforts to work with other agencies, particularly those working in drug enforcement policy, to ensure that capital punishment was not legitimized. Another concern was that non-State actors were encouraging the use of the death penalty in violation of international standards, by providing resources and financial assistance to national legal systems.

41. There had been a shift in recent years by many retentionist States to impose the death penalty only in cases concerning the most serious criminal offences, rather than moral or religious crimes. Nevertheless, it was essential that rigorous legal procedural safeguards were in place to ensure that innocent people were not executed. Where those safeguards were not in place, a moratorium was the route recommended by the General Assembly. A moratorium also allowed citizens to see that crime rates did not increase. Governments could then move to abolish the death penalty completely. He highlighted the case of South Africa, where the Constitutional Court had decided to abolish capital punishment.

42. In response to the question posed by the representative of the United States, he recalled that the international supervision systems placed the onus on retentionist States to prove that the death penalty was

imposed in accordance with international standards; otherwise evidence gathered from other sources would be considered to be conclusive. Steps taken by many retentionist States, such as Viet Nam, to restrict the use of the death penalty within the confines of international law was a welcome trend. Lastly, he announced that his next report would examine the use of drones within the framework of international humanitarian and human rights law, particularly in armed conflicts.

43. **Ms. Knaul** (Special Rapporteur on the independence of judges and lawyers), introducing her report to the General Assembly (A/67/305), said that she had made an official visit to Pakistan and would soon be conducting a visit to El Salvador; the related reports would be presented to the Human Rights Council in June 2013. She thanked the Government of the Russian Federation for inviting her to conduct a visit in 2013 and encouraged the Governments of Argentina, Bangladesh, China, Fiji, India, the Islamic Republic of Iran, Kenya, Malaysia, the Maldives, Myanmar, Nepal, the Philippines, Togo, the United States, the Bolivarian Republic of Venezuela and Zimbabwe to consider extending an invitation to her mandate.

44. Her report was focused on the issue of judicial corruption, identifying the elements needed to prevent conditions that led to the corruption of officials in the judicial system as well as the type of support required to strengthen their capacity to counter all forms of corruption. The report also analysed the effects of corruption and addressed the essential role that could be played by an independent judicial system to help prevent impunity. Her recommendations were grounded in international principles and standards concerning the independence of judges, prosecutors and lawyers as well as international legislation on corruption and aimed to promote human rights and respect for the independence of the justice system.

45. The widespread phenomenon of corruption undermined economic and social development, democracy and the rule of law. The report identified several conditions that States could seek to mitigate as a means of detecting and deterring corruption. She had decided the issue of judicial corruption merited an in-depth analysis after having observed its pervasiveness firsthand and having expressed concerns on many occasions regarding reports of corruption in the judiciary and the legal profession. Extending from pre-trial through trial proceedings, the settlements of

disputes and the enforcement of court decisions, judicial corruption undermined the protection of human rights and threatened the independence of the judiciary and members of the legal profession. She had limited her analysis to judicial corruption involving judges, prosecutors and lawyers, although corruption among the police, court personnel and officials responsible for the enforcement of judicial decisions was an equally important issue.

46. Corruption in the justice system weakened public trust in justice institutions, which perpetuated further acts of corruption and hampered democratic and development-related processes. In that context, the credibility of the entire justice system depended on the public's perception of its independence and impartiality. Those living in poverty were particularly victimized by corrupt systems and subjected to various forms of discrimination. Distrust in the judiciary also led people to divert the dispute of settlements to informal systems, which frequently did not abide by the basic principles of impartiality, fairness, non-discrimination and due process.

47. Combating and preventing judicial corruption required Member States to strengthen the judiciary from within and create institutional safeguards that ensured its independence from the interests of public officials and private actors. At the same time, all actors in the justice system, in particular judges, prosecutors and lawyers, must be properly trained with regard to their respective codes of ethics and standards of conduct, national and international legislation on corruption, international standards relating to the proper discharge of their functions, and international human rights law, including provisions relating to the right to a fair trial. Codes of ethics should clearly set out the disciplinary proceedings to be taken in response to unacceptable conduct. Furthermore, effective mechanisms must be in place to deal with reports or evidence of acts of corruption within the judicial system. Such mechanisms should be developed by appropriate stakeholders and guarantee the right to a fair hearing, as unfounded accusations of corruption were sometimes used to threaten the independence of the judiciary.

48. Member States could also seek to institutionalize the assistance offered to judges, prosecutors and lawyers to investigate, prosecute and sanction acts of corruption, whether through the criminal, civil or administrative justice systems. For example, anti-

corruption agencies should be established and supported as a means of strengthening transparency. Such agencies should function as technical-administrative units that reported and denounced acts of corruption and assisted with criminal proceedings when requested. The establishment of specialized tribunals to investigate act of corruption could also improve the quality of investigations and the collection of evidence, provided that the police, prosecutors and judges were adequately trained and equipped with proper resources. In addition, Member States should abolish the prerogative of "special guarantees" for high-level officials in the justice system.

49. She drew attention to the situation of the Cambodia War Crimes Tribunal, whose operation had been seriously impaired owing to a lack of financial resources. Notwithstanding the difficulties the global economic crisis had created for Member States, it was unacceptable that a lack of financial support was threatening the existence of the body responsible prosecuting those responsible for one of the most horrendous massacres ever witnessed by the international community. It was critical that the perpetrators of those crimes were brought to justice and their victims compensated for their suffering. States and international organizations must continue to provide the Tribunal appropriate resources to ensure its independence, while demanding that its work should proceed with fairness, impartiality and independence. The Tribunal should also administer its budget with the utmost transparency to ensure the appropriate use of resources and to prevent corruption from permeating its activities.

50. Any strategies employed in the fight against corruption in the judiciary should be pursued within an established legal framework that provided for the respect and strengthening of the independence and impartiality of the justice system. By providing safeguards against corruption, States could greatly contribute to the capacity of their justice system to act in accordance with international standards, defend human rights and guarantee the rule of law.

51. **Mr. Faizal** (Maldives) said that his delegation appreciated the Special Rapporteur's assessment of the effects of judicial corruption and the emphasis she placed on fostering independent and accountable judicial systems, which were necessary to the functioning of any governance structure. In line with the Secretary-General's initiatives on strengthening the

rule of law, Maldives would be pursuing measures to strengthen its justice sector and Government bodies that oversaw public spending and financial accountability. In light of those reforms, there was a keen interest in hosting a visit from the Special Rapporteur; appropriate arrangements would be made to schedule the visit.

52. **Ms. Mozolina** (Russian Federation) said that her Government's anti-corruption programme included the publication of sentences and judgements online, providing the public with access to information on criminal actions and investigations. She asked the Special Rapporteur whether she viewed such actions as effective in the fight against corruption.

53. **Mr. Newman** (United States of America) said that his delegation was concerned about reports of attempts to intimidate members of the judiciary through threats and assault; in a recent high-profile case, a member of a judicial service commission had been brutally attacked in broad daylight, with impunity, highlighting the severity of the problem. He asked whether such attacks on members of the judiciary had been on the rise in specific States or regions and how the international community could ensure that perpetrators were held accountable. He also wished to know what actions were most important to insulating members of the judiciary from interference from political actors.

54. **Mr. Geurts** (European Union) said that the European Union attached importance to efforts to ensure an independent judiciary. In that regard, it welcomed the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels (A/67/L.1*), in particular its references to the importance of the independence of the judicial system and the need to make justice institutions more responsive to the needs of all individuals.

55. While the independence of judges was a crucial safeguard for the functioning of the justice system, it should not constitute an obstacle for ensuring the accountability of judges and prosecutors in cases of corruption. He asked for examples of good accountability mechanisms in judicial systems and best practices in reporting cases of widespread corruption.

56. **Ms. Knaul** (Special Rapporteur on the independence of judges and lawyers) said that she would consult with the Government of Maldives in

order to arrange for a visit in 2013. She encouraged Member States that had not yet done so to ratify the United Nations Convention against Corruption. She also drew Member States' attention to the panel discussion on the negative impact of corruption on the enjoyment of human rights planned by the Human Rights Council for its twenty-second session (see A/HRC/21/L.13).

57. When a justice system was not independent, political and economic motivations could interfere, directly and indirectly, with the rule of law and result in violations of human rights. Judges, magistrates and court officials had expressed concerns regarding the inadequacy of their budgets, a factor that was conducive to corruption. In some countries, court systems were shut down on a weekly basis owing to a lack of funds. She reiterated the need for Governments to authorize and allocate adequate budgets for the judiciary, which would also prevent any inappropriate negotiations between the judiciary and the executive or legislative branches. She had also heard many reports of interference by the executive branch in judiciary affairs. For example, the role of minister of justice, a representative of the executive, was often abused, for example through the appointment of judges for personal reasons or the management of budgets.

58. Appropriate safeguards and an adequate budget were essential to providing the judiciary with full autonomy to investigate, prosecute and punish cases of large-scale corruption among public officials, without interference from the executive branch. In addition, procedures should be established to handle disciplinary proceedings against judges accused of corruption, which could place particular pressures on judges handling such cases. Appointments of judges to positions within the executive or legislative branches could create conflicts of interest and should be avoided.

59. For cases of large-scale corruption, Member States should explore appointing or electing a prosecutor to coordinate the gathering of evidence jointly with the judiciary of other countries. She stressed that an independent and transparent judiciary was possible, including for Member States struggling with corruption in the public sector.

60. **Ms. Manjoo** (Special Rapporteur on violence against women, its causes and consequences), introducing her report to the General Assembly

(A/67/227) said that the report addressed the issue of violence against women with disabilities, a largely overlooked problem which took on unique forms and resulted in unique consequences.

61. In keeping with the Convention on the Rights of Persons with Disabilities, Member States should adopt a gender-mainstreaming, disability-inclusive approach when fulfilling their obligations to ensure appropriate accommodation, inclusion and support for persons with disabilities. That social model for approaching disability also questioned the assumption that disability was a deficiency, defining it from a social rather than a medical perspective.

62. Factors such as economic status, race and language often rendered women with disabilities subject to multiple forms of discrimination and increased their risk of experiencing violence. Violence against women with disabilities occurred in the home and the community and in many cases was condoned or perpetrated by the State. Such violence could be physical, psychological, sexual or financial in nature and took the form of, inter alia, neglect, degradation, detention, denial of health care and forced sterilization.

63. Women with disabilities were more likely to experience domestic violence than non-disabled women, suffered more severe consequences as a result and often feared reporting or leaving an abuser because of emotional, financial or physical dependence. Their right to make their own sexual and reproductive choices was frequently violated. For example, they were forcibly sterilized or forced to terminate wanted pregnancies — sometimes with the approval of partners, parents, institutions or guardians — or were denied access to reproductive health care. Women in institutions who needed support services were more vulnerable and subject to numerous forms of violence, including forced psychiatric treatment or intake of psychotropic drugs.

64. There was a systematic failure by court systems to acknowledge women with disabilities as competent witnesses, an issue that became particularly problematic in cases involving sexual assault. The tendency to infantilize women with mental disabilities contributed to the discounting of their testimony in sexual abuse cases, which rarely went to court. Law enforcement agencies viewed women with disabilities who required assistive accommodations as lacking credibility and dismissed their cases. Witnesses with

disabilities faced barriers to participation throughout the justice system, including in institutions, in physical accommodations and in the conduct of legal proceedings.

65. It was difficult to determine whether States' implementation of international conventions on the rights women and on the rights of persons with disabilities had improved the response to violence against women with disabilities. Many States lacked a specific policy on disability, while those with existing regulations and programmes did not specifically address the rights of women with disabilities. In some countries, civil society organizations conducted research and provided services and training on the prevention of and response to violence against women with disabilities; innovative use of the Internet had also led to improved dissemination of information and sharing of experiences. She had recommended that appropriate training materials for all sectors be developed in collaboration with women with disabilities in order to enhance their skills as well as the relevance of the materials.

66. Her 2012 report to the Human Rights Council (A/HRC/2016) was focused on the issue of gender-related killings of women, which were on the rise globally. Gender-related killings were not isolated incidents; they were the ultimate act perpetrated in a continuum of violence in the family, the community or the Government system and represented the most extreme form of violence against women. The report provided an overview of the global manifestations of such killings, which included killings of women as a result of intimate partner violence, in response to accusations of witchcraft, in the name of "honour" and in the context of armed conflict; extreme forms of violent killings, such as those related to gang activities, organised crime and human and drug trafficking chains; killings as a result of indigenous status, sexual orientation or gender identity; and female infanticide.

67. In order comply with their due diligence obligation to prevent killings of women, States had developed appropriate legislation, carried out awareness-raising campaigns and provided training for professional groups, including the police, prosecutors and members of the judiciary. Some States had also adopted multi-sectoral national action plans on violence against women. In the report, she called for States to employ a holistic approach in all measures to prevent and respond to gender-related killings.

68. During the reporting period, she had conducted country visits to Jordan, Italy, Somalia, Solomon Islands and Papua New Guinea and had received positive replies to her requests to visit Bosnia and Herzegovina, Croatia, India and South Africa. She also looked forward to receiving positive responses from the Governments of Bangladesh, Nepal, Tajikistan, Uzbekistan, the Bolivarian Republic of Venezuela and Zimbabwe to her requests to conduct a visit.

69. During her visit to Jordan in November 2011 (see A/HRC/20/16/Add.1), she had analysed different manifestations of violence against women in the country, such as domestic violence, sexual harassment and sexual violence, gender-related killings and violence against migrant domestic workers and refugee women. The status of women in the country had been gradually changing and, in principle, women enjoyed equal rights with men with regard to political participation, education and employment. Although many positive legislative amendments had been adopted, their implementation was hampered by the persistence of patriarchal cultural norms, resulting in de facto discrimination, while current legislation still discriminated against women on issues such as citizenship rights and social security rights. While she had commended the adoption of a specific law on family violence, she had also expressed concern regarding the emphasis it placed on family reconciliation, which could be detrimental to the protection of women's rights. She had also welcomed plans to establish a new, specialized shelter that would offer an alternative to holding women in prisons under the guise of protection.

70. Although women and girls in Jordan had made great progress in terms of educational achievements, they only comprised 14 per cent of the labour force in the country. Given that the majority of women remained in traditional roles, a purely legal or programmatic approach would be insufficient to achieve women's equality. Women needed more incentives to seek employment in the private sector and make career choices based on their interests and the country's development needs.

71. During her visit to Somalia in December 2011 (see A/HRC/20/16/Add.3), she had learned that there was a lack of accountability mechanisms and substantive reporting of the many forms of violence against women and girls. Those included sexual violence, particularly against internally displaced

women, domestic violence, female genital mutilation and forced marriages. Specialized services for survivors of violence were also lacking and contributed to silencing their voices. The invisibility of domestic violence, which remained the most pervasive form of violence against women, was further exacerbated by the internal conflict, the displacement of populations and the non-functioning of authorities. Her assessment of the situation in Somalia had taken into account the historical, sociological and environmental context. While there was a need to repair the country's social fabric and implement institutional, political and economic reforms, the pursuit of those objectives should not preclude addressing past and ongoing violations of women's human rights.

72. She commended the Government's initial efforts to address violence against women, which included a draft law against female genital mutilation, the creation of a task force on gender-based violence and the appointment of women as ministers and members of Parliament through quota policies. She urged the international community and United Nations agencies to assist Somalia in the follow-up and implementation of the recommendations resulting from the universal periodic review process, which the Government had accepted in full.

73. The many programmes being implemented by United Nations agencies, donors and other humanitarian stakeholders in Somalia were fragmented, and, despite the substantial resources dedicated to strengthen the authorities' capacity to respond to violence, the lives of the Somali people had generally not improved and thousands remained extremely vulnerable. More creative efforts were needed to include civil society in political development processes, in particular projects focused on the empowerment of women.

74. During her visit to Italy (see A/HRC/20/16/Add.2), she had examined the issues of domestic violence; femicide; and violence against women facing multiple forms of discrimination, including Roma, Sinti and other migrant women, detained women, women with disabilities and transgender people. Violence against women remained a significant problem owing to the structural causes of inequality and discrimination against women. The legal protection framework was fragmented; inadequate punishment of perpetrators and a lack of effective redress were issues of concern.

75. Domestic violence was the most pervasive form of violence, affecting between 70 per cent and 87 per cent Italian women. Statistical studies did not necessarily take into consideration the prevalence of violence against women from minority communities, who faced multiple forms of discrimination in the private and public sectors. Manifestations of domestic violence were underreported, given the context of a family-oriented and patriarchal society; lack of awareness that violence in the home was a crime; and women's economic dependency and perceptions that the State response to such complaints would not be appropriate or helpful.

76. The political and economic situation faced by Italy could not justify the decrease in resources dedicated to address violence against women and girls. In that regard, she called for the practical and innovative use of the limited resources available to address the social, economic and cultural barriers that perpetuated violence. State and non-state sectors could offer a vast amount of experience and expertise in the provision of legal, social, psychological and economic assistance to victims of violence against women; they should not be lost in the difficult economic climate.

77. Recalling that preparations had begun for the 2013 meeting of the Commission on the Status of Women, which would focus on violence against women, she reiterated the need to address the fragmentation of responses to the issue; the need for greater focus on prevention measures; and the need for a holistic approach underpinned by respect for the universality, interdependence and indivisibility of rights.

78. **Ms. Costa Chaves** (United Kingdom) asked how the international community could ensure that women with disabilities were included in efforts to promote the rights of persons with disabilities. She also wished to know how Member States could eradicate the misconception that sex with a virgin could cure HIV and AIDS, recalling that, as highlighted in the Special Rapporteur's report, women with disabilities were targeted for trafficking as sex workers based on the stereotype that they were virgins.

79. *Ms. Šćeponović (Vice-Chairperson), took the Chair.*

80. **Ms. Hoffman** (Liechtenstein), recalling that the issue of women's underrepresentation in post-conflict reconciliation processes had gained prominence in the

General Assembly in 2011, asked whether the Special Rapporteur had observed greater attention devoted to the issue among Member States.

81. **Ms. Ploder** (Austria) said that Austria's national action plan to implement the Convention on the Rights of Persons with Disabilities included objectives aimed at eliminating violence against women with disabilities. She asked the Special Rapporteur how Member States could reform their justice systems to better support women with disabilities reporting experiences of violence and whether she had found examples of good practices in that regard.

82. The possibility of creating mechanisms for special procedures to collaborate with the Commission on Social Development should be explored. She wondered in what ways the Special Rapporteur currently collaborated with the Commission and how such efforts could be improved.

83. **Ms. Mollestad** (Norway) said that, in their roles as partners, brothers and leaders, men and boys could contribute to eliminating the high levels of violence against women. She asked the Special Rapporteur for guidance on engaging men and boys in advancing the women's rights agenda, a task which presented particular challenges and could involve substantial costs to Member States.

84. **Mr. Hisajima** (Japan) wished to know how the many United Nations agencies and mandate-holders were working together to address common concerns. For example, how was the Special Rapporteur working with bodies involved in gender issues, such as the Commission on the Status of Women, and those dedicated to disability issues, such as the Committee on the Rights of Persons with Disabilities?

85. **Mr. Nsour** (Jordan) said that, while his Government was approaching the recommendations made by the Special Rapporteur in a constructive manner, it wished to correct several inaccurate statements contained in her report to the Human Rights Council (A/HRC/20/16/Add.1). The Government of Jordan did not deny refugee women and children their rights to health care and public education. In fact, Jordan hosted large numbers of Palestinian and Iraqi refugees, an act that should be considered in the context of the Middle East peace process. Furthermore, his Government disagreed with the assertion that the amendment made to article 6 of the Constitution reinforced a traditional view of women as mothers in

need of protection. The article, which aimed to protect mothers, children, the elderly and persons with disability against abuse and exploitation, in fact constituted an important legal basis for combating violence against women.

86. He asked the Special Rapporteur for her assessment of the effects of Arab women's organizations on regulation aimed at eliminating violence against women.

87. **Ms. Burgess** (Canada) said that Canada's work on the Human Rights Council resolution on the elimination of violence against women and girls demonstrated the importance it attached to the issue. Her Government had developed targeted programmes to address the challenges facing women with disabilities and support their inclusion and participation in society. Furthermore, it recognized that such women brought an important perspective to the issues of peace and security. She asked the Special Rapporteur whether she had observed any positive trends in the response to violence against women with disabilities.

88. **Mr. Geurts** (European Union) wished to know what Member States could do to ensure that women with disabilities were included in post-conflict reconciliation activities. He also wondered what role the United Nations system, including other human rights mandate holders, could play in that process. Lastly, he asked how Member States could improve the collection of disaggregated data, including data that was comparable between States, and how such data could be used to combat violence against women.

89. **Mr. Mosot** (Kenya) said that his delegation welcomed the reports of progress made in Somalia towards developing a legislative framework on combating violence against women. With the help of the international community, his Government had been providing support to Somali refugees, who numbered some 1 million in the country. He asked for proposals for the international community to provide greater protection of women refugees with disabilities, who faced multiple forms of discrimination, as Kenya alone could not meet the overwhelming needs.

90. **Mr. Bichet** (Switzerland) asked the Special Rapporteur whether best practices on addressing the problem of multiple discrimination against women with disabilities had been documented. Switzerland called for the issue of forced sterilization of women

with disabilities to be examined more closely, as appropriate legal protection of their reproductive rights was lacking.

91. **Ms. Manjoo** (Special Rapporteur on violence against women, its causes and consequences) said that periods of conflict and post-conflict often caused disabilities while simultaneously rendering the needs of people with disabilities invisible, creating serious challenges to the adequate provision of humanitarian assistance and the inclusion of women in reconciliation processes.

92. The Convention on the Rights of Persons with Disabilities held Member States responsible for ensuring appropriate accommodations, inclusion and support services. Some States had limited the concept of accommodations to physical accommodations, to the detriment of the economic, social and cultural participation of women with disabilities affected by violence. The concept of inclusion should include participation in decision-making processes. In the context of sterilization and abortion, States should strive to institute systems that ensured free and informed consent, including in cases when a third party was designated to give consent on behalf of a woman with disabilities. Resources for support services should be allocated through dedicated budgets in times of conflict, transition and peace, as recommended by the Office of the High Commissioner for Human Rights. Research by the academic sector had found that Member States rarely based policy on a rights-based framework.

93. She had consulted with the Special Rapporteur on the right to education, who had examined disability-related issues, and the Special Rapporteur on the right to health, with regard to gender issues. Such cooperation had enriched the work of all of the mandate-holders involved and had highlighted the ways in which their various mandates intersected.

94. Women with disabilities faced social, economic and political barriers to accessing the justice system. In addition, the lack of accommodations in the system led to the discrediting of testimony by women with visual, hearing and intellectual disabilities and generated a lack of accountability for crimes committed against them.

95. The absence of measures to ensure informed consent had perpetuated the myths surrounding HIV and AIDS. More education concerning prevention and

treatment methods was needed to stem the harmful practices mentioned.

96. There had been some success in ensuring emergency humanitarian responses were more gender responsive, although such efforts were still lagging in long-term plans. In Somalia, the needs of women with disabilities were overlooked, which was an aspect of the larger problem of exclusion of women from post-conflict political processes. In response to the representative of Jordan, she proposed consultations on a one-on-one basis.

97. **Ms. Vadiati** (Islamic Republic of Iran) said that, during the dialogue with the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, the representatives of Canada, the United States, the United Kingdom, Norway and the European Union had not spoken out of any concern for human rights but on the basis of their Governments' politically motivated interests aimed at disparaging the Islamic Republic of Iran. Given their poor human rights records, those Governments should not seek hypocritically to act as champions of rights.

98. A report of the Council of Europe had provided evidence that children trafficked into the United Kingdom often went missing when they became the responsibility of public institutions. In addition, concerns had been expressed about the severity of the sentences handed down to those who had participated in protests. Furthermore, the United Kingdom provided support for repressive regimes abroad. The High Commissioner for Human Rights had named Canada among the worst human rights offenders, owing to the Government's restrictions on the freedom of assembly the right of public employees to protest, while in the European Union, there were worrying trends in the areas of migration and counter-terrorism policy. For its part, the United States should look to its domestic issues, such as the use of solitary confinement in prisons, and the reported human rights violations and oppressive policies enacted in response to the "Occupy Wall Street" protests.

The meeting rose at 6.05 p.m.