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## Third Committee

### Summary record of the 27th meeting

Held at Headquarters, New York, on Friday, 25 October 2013, at 10 a.m.

*Chair:* Mr. Tafrov . . . . . (Bulgaria)

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*The meeting was called to order at 10.10 a.m.*

**Agenda item 69: Promotion and protection of human rights** (*continued*) (A/68/487)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/68/292, A/68/207, A/68/185, A/68/211, A/68/210, A/68/210/Add.1, A/68/208, A/68/177, A/68/261, A/68/224, A/68/323, A/68/301, A/68/209, A/68/390, A/68/277, A/68/287, A/68/304, A/68/56, A/68/268, A/68/279, A/68/298, A/68/290, A/68/262, A/68/225, A/68/288, A/68/283, A/68/289, A/68/294, A/68/284, A/68/345, A/68/382, A/68/385, A/68/297, A/68/362, A/68/293, A/68/256, A/68/299, A/68/296, A/68/931, A/68/389, A/68/176 and A/68/496)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/68/392, A/68/331, A/68/377, A/68/319, A/68/376, A/68/397, A/68/503, A/68/276 and A/C.3/68/3)

1. **Mr. La Rue** (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression) said that his report (A/68/362) emphasized the link between the rights to information and to truth. In addition to focusing on, *inter alia*, the impact of mass surveillance technologies on freedom of expression, in June 2013 he had made official visits to Montenegro and the former Yugoslav Republic of Macedonia. He would be visiting Italy in November 2013 and was awaiting confirmation of visits to Indonesia and Pakistan.

2. As the right to truth had gained official recognition, the right to access to information had increasingly been accepted as crucial for the promotion of good governance and civil society participation in public affairs. International human rights bodies had recognized the right to truth and the right to information as two distinct rights, with the latter enabling access to other rights. The link between those rights was especially relevant when addressing access to information on human rights violations and discussing permissible limitations to the right to information. Victims of human rights violations and their families often faced great challenges when demanding the release of State information, even after

the fall of authoritarian regimes. States must take proactive measures to ensure the preservation and dissemination of such information. Any restrictions imposed on the right to freedom of expression must be clearly defined by law, in compliance with the State's international human rights obligations. National security should not be used as a justification for restricting access to information held by governmental entities. The recently adopted Global Principles on National Security and the Right to Information (Tshwane Principles) were useful for States and non-governmental organizations working to improve confidentiality laws and policies.

3. States should revise or adopt national laws guaranteeing the right to access to information, based on the principle of maximum disclosure, and establish a clear list of exceptions. They should create simplified procedures for gaining access to information and appoint a focal point to assist in implementing national norms. State capacity-building was needed so that public bodies and officials could respond adequately to requests for information. Anyone who wilfully obstructed access to information must be held accountable.

4. **Mr. Hajnocz** (Austria) said that, in the interests of transparency, his country's legislation had long required the authorities to respond swiftly to requests for information about their activities. The need to protect journalists and the media in general had been a priority for Austria during its membership of the Human Rights Council. He asked the Special Rapporteur what he felt was the best way to ensure that the media could share classified information with the public without incurring liability, provided that they did not put anyone at risk of serious harm.

5. **Ms. Tschampa** (Observer for the European Union) said that the European Union agreed that access to information was crucial for transparency and accountability, while the right to truth was important for the transitional justice process. She requested further information on the Tshwane Principles and the consultations that had led to their development. She welcomed the Special Rapporteur's recommendation on the adoption of national legislation on access to information, which should be neither expensive nor onerous, and asked him for examples of effective legislation in countries with limited resources. Could he give examples of the right to truth being recognized outside Europe and the Americas?

6. **Mr. Nardi** (Liechtenstein) said that the authorities in countries in transition should pay particular attention to the need to disclose information on serious human rights violations. Welcoming the Special Rapporteur's call for States to restrict exceptions to the right to access to information, he asked how the United Nations and the international community could best ensure that his recommendation was implemented in accordance with international law.

7. **Ms. Torres** (United States of America) said that her Government did not agree with all the legal arguments put forward by the Special Rapporteur, but concurred that openness and transparency were vital for democracy and the promotion of human rights. Her Government was actively involved in promoting the right to access to information through diplomatic engagement and international mechanisms, including the Open Government Partnership. Her delegation wished to know what other opportunities existed for the international community to share best practices in that regard.

8. Stressing that human rights were individual rights, she agreed that granting access to the truth for victims of human rights violations could benefit communities and societies as a whole. She asked the Special Rapporteur in what practical ways Governments could facilitate access to the truth in such cases and requested his opinion on the detention of journalists and bloggers who reported on government corruption or human rights violations.

9. **Mr. Patriota** (Brazil) said that his country had experienced human rights violations under military dictatorships and not only agreed with the Special Rapporteur's recommendations but had already put some of them into practice. In 2011, his Government had enacted comprehensive and progressive legislation protecting the right to access to information. That legislation was applicable at all levels of authority and curbed the capacity to restrict access to information, even on national security. Information could be kept secret for a maximum of 25 years and information on human rights violations committed directly or indirectly by the State could not be kept confidential. A national truth commission had been established in Brazil to examine all allegations of human rights violations committed from 1946 to 1988, thereby connecting the right to truth with the right to access to information, as the Special Rapporteur had done in his reports. He asked what more the United Nations could

do to protect those interlinked rights. In the light of recent revelations concerning State surveillance, which was on the increase and specifically affected his country, he asked whether the right to privacy should not also be linked to the other two rights. Certain groups, such as young people, were particularly vulnerable to violations of privacy in cyberspace. There were currently no international norms guaranteeing the right to privacy, a situation that his delegation believed should be remedied.

10. **Ms. Zogravska-Krsteska** (The former Yugoslav Republic of Macedonia) said that her Government appreciated the visit made to her country by the Special Rapporteur in June 2013. It looked forward to the report on that visit to be submitted to the Human Rights Council in 2014 and would continue to cooperate with the Special Rapporteur.

11. **Ms. Larsen** (Norway) noted that the Special Rapporteur had asserted in his report that there could be exceptions to the rights to information and truth when the harm was greater than the overall public interest in having access to the information. She asked him how the people's right and need to know could be balanced against the Government's possible need for secrecy. It would be interesting to know how the Special Rapporteur defined "substantial harm". Given the dilemma often posed in transitional justice by the choice between peace and justice, she asked the Special Rapporteur to elaborate on his premise that information on gross violations of human rights must not be withheld on national security grounds.

12. **Ms. Fontara** (Switzerland) said that access to information was crucial for democracy. Her Government shared the Special Rapporteur's analysis that the right to that access was especially important in countries where human rights had been systematically violated. It would be useful to have further explanations of the right to truth in relation to impunity, with reference to the updated Set of principles for the protection and promotion of human rights through action to combat impunity. She asked the Special Rapporteur for his views on how to facilitate access to archives and ensure that their destruction was avoided. Her delegation also wished to hear his opinion on the possible link between his mandate and that of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, since those were the four pillars underpinning the right to freedom of expression.

13. **Ms. Walker** (United Kingdom of Great Britain and Northern Ireland) said that her Government was encouraged by the findings in the Special Rapporteur's report on the number of countries that had taken measures with regard to the right to access to information and called on all States to protect that right in accordance with international law. Noting that the Special Rapporteur had identified a number of challenges facing Governments in that regard, she asked him for his views on how those challenges could best be overcome. It would be interesting to hear more about the set of core principles guiding the design and implementation of national laws on access to information, mentioned in his report (A/68/362), and how they could best be translated into practice.

14. **Mr. Šćepanović** (Montenegro) expressed appreciation for the Special Rapporteur's visit to Montenegro in June 2013. His Government was committed to ensuring free and independent media and was making efforts to amend its legislation on freedom of expression and to allow free access to information and data in accordance with European and international standards. Civil servants were receiving training to that end and the Government was endeavouring to improve dialogue between the authorities on the one hand and the media and civil society on the other. It would do all it could to implement the recommendations in that regard in the Special Rapporteur's report and looked forward to continuing a dialogue with him.

15. **Mr. Waheed** (Maldives) said that his country was engaged in a process of transition to democracy and that his Government, with the assistance of United Nations programmes, had undertaken a number of legislative and administrative measures aimed at guaranteeing transparency and improving its relationship with civil society, in accordance with its obligations under international treaties. The media had won full independence, defamation had been decriminalized and measures had been taken to protect journalists. Legislation had been enacted to protect the right of freedom of information, inspired by laws in other Commonwealth countries. Such legislation stipulated a clear set of exceptions to the right to access to information, based on the need to balance public interest against the need to protect citizens from harm. He asked the Special Rapporteur where the line could be drawn between truthful and untruthful media reporting. Since it was recommended that authorities' responses to requests for data must meet certain

standards, he wondered how the quality of such responses might be monitored in an international context.

16. **Ms. Sukacheva** (Russian Federation) said that the Russian Constitution protected the right to free access to information, provided that such information was transmitted legally. Under Russian law, the right to information could be limited only to protect the Constitution, morality, health, the rights and legal interests of others and State defence and security. There were strict guidelines on how to respond to citizens' requests for information and how to determine liability if no response was given.

17. **Mr. Rahman** (Bangladesh) said that the right to information must be exercised responsibly and respectfully. In his country, legislation had been enacted and institutions established to protect that right and oversee its implementation. It was often difficult to strike a balance between the need to guarantee security and the principle of maximum disclosure. Thanks to information technologies, the abundance of information seemed to be as great a challenge as the lack of it, often leading to the deliberate disclosure of misinformation and disinformation through the Internet and other media by individuals and groups. He asked the Special Rapporteur what could be done to tackle that problem and whether he would consider producing a report on the matter that proposed remedial measures.

18. **Mr. Moreno Zapata** (Bolivarian Republic of Venezuela) said that the Special Rapporteur's report made specific reference to a case currently before the Inter-American Court of Human Rights that was being contested by his Government. In 2002, a short-lived coup d'état in his country had been backed by the media at the highest level. The media had disseminated false information to the public and had taken part in the illegal suspension of a legitimate Government. His Government had enacted legislation to ensure that the media, in particular television companies, assumed shared responsibility for respecting the right to freedom of expression. He wished to know the Special Rapporteur's opinion on the matter.

19. **Mr. La Rue** (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression) said that the debate on the right to truth had been initiated within the inter-American system, following reports of enforced disappearances in many Latin American countries. The

European Court of Human Rights had also recognized the importance of the right of victims and their families to the truth. Even when violations could not be investigated legally, the right to truth remained valid because it was the foundation of other rights. Unlike the right to truth, the right to information had always enjoyed the status of a right, especially in the case of human rights violations. Exceptions should apply only where the risk of harm arising from disclosure outweighed the overall public interest in access to information, for instance when children were victims or testimony was provided on a confidential basis.

20. While lack of access to information had been an important challenge in societies making the transition from authoritarian rule to democracy, the right to the truth was essential for every society and should be enjoyed by all. Human rights violations could never be excused. Part of his answer to the question about privacy could be found in his report, where he had highlighted the need to protect whistleblowers, who played an important role, particularly in denouncing gross and systematic violations of human rights.

21. The media must assume corporate responsibility, as they were mainly self-regulatory. However, any criticism of the media should come from civil society and not through State controls, as that would inevitably lead to censorship. He agreed that journalists needed to be protected, possibly through the establishment of special mechanisms, above all with regard to the investigation of systematic human rights violations. His office would produce a document on such mechanisms and another, as requested, on the core principles guiding the design and implementation of national laws on access to information.

22. **Mr. Heyns** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that his report (A/68/382) focused on the lethal use of armed drones from the perspective of the right to life and was being presented in parallel with that of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. In addition to the other activities under his mandate, he had made official visits to India, Mexico and Turkey and would be visiting Papua New Guinea later in the year.

23. It was widely accepted that drones were not illegal and that more States would be acquiring drone technology. The core questions in that regard

concerned the law, policy and practices governing their use, especially in extraterritorial counter-terrorism operations by States that employed them or would employ them in future. Protection of the right to life could be adequately secured only if all the requirements of international human rights law and humanitarian law and the law on the inter-State use of force were met. There was no need for new laws. The existing international framework should be applied and attempts to lower the standards for the use of force should be resisted. There was a need for greater transparency and accountability in the use of drones and the taking of life must be both unavoidable and proportionate.

24. Noting that drone attacks had largely targeted non-State actors in other countries, he reminded States that they were bound to respect the right to life, as recognized by international custom and general principles of law, outside their own territories. It was also widely accepted that human rights treaties applied extraterritorially. The prohibition on the use of inter-State force without the consent of the State concerned was an integral part of the protection of the right to life under the Charter of the United Nations. Even when States used force in self-defence against an armed attack, such force must be necessary and proportionate. Anticipatory self-defence could be justified only against a truly imminent threat and its exercise must be reported to the Security Council. The issue of imminence had been the subject of considerable controversy. A flexible interpretation of imminent threat would significantly increase States' authority to use lethal force. He was particularly concerned that self-defence on its own might be used to justify targeted killing, which would risk expanding the notion of who could be targeted and killed and where. Official reassurances that individuals were targeted only when they posed a continuing imminent threat might also be exploited by other States wishing to use drones. States that used drones must be more transparent about the law, policy and facts concerning their use. Increased reliance on drones might also lead to a reduced emphasis on peaceful means of settling disputes. International norms protecting the right to life would be significantly undermined if States exercised the authority to use drones or any other weapons to right perceived wrongs anywhere in the world.

25. **Mr. Emmerson** (Special Rapporteur on the promotion and protection of human rights and

fundamental freedoms while countering terrorism), introducing his report (A/68/298), recalled that the Human Rights Council had urged him to focus on the use of drones in counter-terrorism operations by reference to the principles of international law governing the use of force, as well as international humanitarian and human rights law.

26. The first challenge that he had faced was to identify what was meant by civilian casualties. Drone technology had been developed specifically for use in asymmetrical conflicts with non-State armed groups. In such contexts, civilians who provided varying degrees of support to such groups might be regarded as either taking part in hostilities or enjoying protected civilian status. Differences of view as to which types of activity were tantamount to direct participation in hostilities under international humanitarian law would almost inevitably result in different assessments of civilian casualties. Lack of transparency was also the single greatest obstacle to evaluating the civilian impact of drone strikes, making it difficult to assess claims of precision targeting objectively. The international community might consider outlawing clandestine inter-State military agreements in that regard. Lastly, uncertainty surrounded some of the key principles of international law and their relevance to modern forms of asymmetrical conflict. An international consensus was needed on the correct interpretation of the core legal principles applicable to drone technology. The reports before the General Assembly were intended to initiate an informed international debate on the use of drones with a view to possible agreement on a framework that was consistent with international law.

27. Although his report focused on the use of armed drones by Israel, the United Kingdom and the United States of America, the issues raised were not State-specific. The proliferation of drone use and the particular suitability of drones for counter-insurgency and counter-terrorism operations had brought into sharp focus the evolving debate concerning the geographical boundaries of the battlefield. The increasingly asymmetrical nature of armed conflict demanded that the use of drones be considered urgently at the international level. At the same time, there seemed to be no appetite for a specific international instrument or an amendment to the Geneva Conventions on the issue. If deployed in an armed conflict in strict compliance with international humanitarian law, drones could reduce the risk of

civilian casualties. However, the existing international legal framework needed to be clarified and implemented. The term “targeted killing” was potentially misleading, because the decisive issue was whether or not such killings took place in an armed conflict as recognized under international humanitarian law. In an armed conflict, the adoption of a pre-identified list of individual military targets was not unlawful. Outside an armed conflict, international human rights law prohibited almost any counter-terrorism operation, the main purpose of which was to inflict deadly force. The key issue, therefore, was when did a non-international conflict come into existence and what, if any, were the geographical limitations on the application of international law. Whenever civilians were killed, by whatever means, the State responsible must conduct a prompt, independent and impartial inquiry and provide a detailed public explanation. In his analysis, he had drawn on the findings of the Turkel Commission, set up by the Israeli Government to investigate the Gaza flotilla raid and the blockade of Gaza. The obligation to investigate should be triggered by any information on possible civilian casualties provided by any source, including recognized non-governmental organizations.

28. **Mr. Khan** (Pakistan) said that the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism had produced a seminal report on the use of drones, after having visited the affected areas of Pakistan and conducted thorough research by engaging with officials, legal experts and communities on the ground. His delegation supported the legal points raised by the Special Rapporteur, including his assertion that the existing international legal framework was applicable, and agreed with the thrust of his analysis, including the fact that the proliferation of the use of drone technology was disturbing.

29. However, his Government disagreed with the suggestion in the preliminary report that civilian casualties resulting from drone strikes, often occurring outside recognized areas of conflict, did not constitute violations of international human rights and humanitarian law. Such strikes not only violated Pakistan’s territorial integrity but also could not be justified on the grounds of legitimate self-defence and inflicted death and suffering on unarmed, innocent civilians, in violation of the principles of international law governing armed conflict. Drone strikes, in turn,

provoked further radicalization, putting the lives of all Pakistanis at risk. He recalled that his Government had not approved the use of drones on its territory and had urged the United States President to end it. He hoped that the United States Government would respond immediately to that appeal. The Special Rapporteur should strengthen the recommendations in his final report and include a call for a more stringent legal framework to protect civilians from drone attacks. He should set out specific proposals for measures concerning the use of drones, with a sharper focus on the disastrous consequences for civilians. His Government stood ready to contribute to the building of an international consensus on the issue.

30. **Ms. Tschampa** (Observer for the European Union) said that the European Union agreed with the Special Rapporteur on extrajudicial, summary or arbitrary executions that the established international legal framework adequately governed the use of drones, that the right to life could be adequately secured only if every requirement of international law was met, that the norms of international law must not be abandoned to combat terrorism and that States must be transparent with regard to their use of drones. She asked him how he thought that transparency about the development, acquisition and use of drones could be achieved.

31. Turning to the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, she said that the countries of the European Union were committed to combating terrorism and protecting their citizens' fundamental rights and freedoms. They would continue to ensure that counter-terrorism measures were consistent with their obligations under European and international law. They would like to know how the Special Rapporteur thought transparency could be increased with regard to evaluating the civilian impact of drone strikes. How could the United Nations and other multilateral bodies better coordinate their counter-terrorism programmes in ways that promoted and protected human rights? How should States cooperate with each other and with the United Nations in building their counter-terrorism capacity and foiling threats, in particular when there were concerns about the prevailing standards of protection of human rights in the country where the investigation, prevention or detention activity must take place?

32. **Ms. Diaz Gras** (Mexico) expressed appreciation for the official visit made to her country earlier in the year by the Special Rapporteur on extrajudicial, summary or arbitrary executions and said that she looked forward to his report. All States must comply with their obligations under international law when combating terrorism and her Government had striven to do so at all levels, including through United Nations initiatives. With regard to the use of drones, her delegation believed that any action affecting civilians should be regulated and investigated in full accordance with international law. She asked whether the Special Rapporteur could shed further light on specific cases of their use.

33. **Ms. Larsen** (Norway) said that her Government believed that international terrorism must be combated in ways that did not undermine the fundamental norms of international law. While the use of drones was not illegal per se, their use for targeted attacks against individuals raised complicated legal questions, including with regard to the right to life. Her delegation particularly welcomed the discussion in the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions of the interplay between international human rights law and international humanitarian law, which posed an especially difficult legal challenge when drones were used both in and outside situations of armed conflict. The recommendations in the report merited further discussion.

34. **Mr. Patriota** (Brazil) said that, in view of the fact that the issue of the use of drones and its implications for the application of international human rights and humanitarian law was being debated for the first time in the General Assembly, his delegation was surprised and concerned at some of the statements made by the Special Rapporteurs in their reports and presentations. In particular, the categorical statement made by the Special Rapporteur on extrajudicial, summary or arbitrary executions that the use of drones was not illegal was not only a sweeping generalization but also pre-empted the discussions. In any case, his delegation contested that assertion, because drones were being used extraterritorially and unilaterally, often in blatant contradiction of the recommendation made in the report that States should ensure full accountability for their deployment.

35. The Special Rapporteurs seemed to be showing excessive leniency in conceding that States might

justifiably use armed drones outside defined areas of conflict, especially when there seemed to be no attempt to define areas of armed conflict when deploying such weaponry. Another worrying aspect was the suggestion that civilians who appeared to support certain activities would not be regarded as civilians for the purpose of deploying drones, which could mean that even sympathizers with a cause might be regarded as legitimate targets. His delegation would also appreciate a definition of the term “asymmetrical conflict”, given that it was the unilateral use of drones and the advanced technology involved that made conflicts asymmetrical. Since the debate concerned respect for humanitarian law, he requested further explanation of the assertion that the use of drones could reduce the number of civilian casualties.

36. The implications of surveillance, invasion of privacy and violations of national sovereignty were relevant to the issue of drones. As it embarked on an analysis of international law with regard to the use of drones, the international community should clarify the ethical, moral and legal framework to be applied to the deployment of advanced military technology, in view of the likelihood that drones would continue to be used and the technology would only become more threatening.

37. **Ms. Fontara** (Switzerland) said that her delegation agreed that the use of drones was not illegal, but must respect international law. Moreover, it was important to avoid action that might radicalize civilian populations. She asked the Special Rapporteur on extrajudicial, summary or arbitrary executions exactly how States might realistically meet their human rights obligations in armed conflicts. Could the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism indicate how an international consensus on the correct interpretation of the legal principles concerning drone technology might be reached?

38. **Mr. Holtz** (United Kingdom) said that his delegation agreed with the Special Rapporteur on extrajudicial, summary or arbitrary executions that the established legal framework was adequate to cover the use of drones. All States that operated such systems must comply with international law. His delegation welcomed the distinction made by the Special Rapporteur in his report between drones and lethal autonomous robots. Armed drones deployed by the United Kingdom in Afghanistan were not autonomous,

they were controlled by trained military pilots. His Government had no intention of using fully automated systems and when its armed forces used drones, they applied clearly defined rules of engagement under international humanitarian law that were the same as for conventional military aircraft.

39. **Ms. Sukacheva** (Russian Federation) said that the use of drones had long posed a number of legal, moral and ethical questions, but it was essential that it should be transparent. Her delegation agreed with the Special Rapporteur on extrajudicial, summary or arbitrary executions that unpiloted aerial vehicles must be used strictly in accordance with international humanitarian and human rights law and respect the right to life. Regardless of whether drones were used in situations of armed conflict or to combat terrorism in peacetime, humanitarian and human rights law must be respected.

40. **Ms. Bentes** (United States of America) said that her Government supported the work of the Special Rapporteur on extrajudicial, summary or arbitrary executions. All States must effectively prevent such executions and punish all perpetrators. Her delegation hoped that the Special Rapporteur would launch an investigation into the deaths of Cuban pro-democracy leaders Oswaldo Payá and Harold Cepero in 2012, reportedly in a car crash. She asked for his reaction to extrajudicial killings carried out in the Syrian Arab Republic, where the human rights situation was deteriorating.

41. With regard to the work of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, she recalled that the United States Government, and the President in particular, had set out clearly the legal and other aspects of its approach to combating terrorism, in particular the activities of Al-Qaida and associated forces. The President had explained specifically why the use of drones was necessary, lawful and just. The Government was studying the Special Rapporteur’s report and looked forward to the next stage of his investigation.

42. **Mr. Zhang** Guixuan (China) said that the international legal vacuum with regard to the use of drones was subject to abuse. Certain States had used armed drones as part of their counter-terrorism activities. While his Government supported action to combat terrorism, it insisted that human rights and



national sovereignty should not be violated. The adoption of counter-terrorism measures must always respect international law, national independence and territorial integrity.

43. **Mr. Barriga** (Liechtenstein) said that it was high time that the General Assembly discussed the issue of drones. He hoped that the limited number of conclusions reached by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism would be increased. His delegation was concerned at reports from Amnesty International and Human Rights Watch suggesting that the right balance of interests was not being struck in the use of drones. He agreed with the representative of Brazil that the use of drones was asymmetrical and hoped that in the debate on that issue in the United Nations, more emphasis would be placed on the human dimension, taking into account the impact on remote operators of drones and, above all, on civilian populations subjected to the permanent presence of drones overhead. He agreed with the Special Rapporteur's assessment that there was probably no widespread desire for a specific international instrument or an amendment to the Geneva Conventions on the use of drones and asked what judicial or quasi-judicial arenas might be used instead to make progress on the issue

44. **Mr. Jahromi** (Islamic Republic of Iran) said that his Government was profoundly concerned at recent reports of the use of armed drones against civilian populations, especially women and children. He asked the Special Rapporteurs what practical measures should be taken to ensure that States took legal responsibility for the use of armed drones and what international norms under international law could be applied to stop them being used with impunity.

45. **Ms. Pérez Álvarez** (Cuba) said that her Government rejected the use of drones resulting in civilian casualties as a clear violation of human rights and international humanitarian law. She asked the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism how the international community could support his mandate and his assessment of the situation. It would be useful to have information on specific cases of civilian deaths in countries whose sovereignty and territorial integrity had been violated by the use of armed drones by the United States of America and other foreign occupying powers. Human

rights must be respected fully even in the fight against terrorism.

46. For many years, the international human rights bodies and non-governmental organizations had paid close attention to the issue of human rights violations and alleged torture at the Guantanamo Bay detention centre. Her delegation wished to know whether the issue came under the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and whether he had documented the situation at the centre. Did he have up-to-date information as to whether or not the centre would finally be closed?

47. **Mr. Nasirli** (Azerbaijan) said that his Government shared the concerns expressed at the lack of transparency in the use of armed drones by a number of States. It condemned the unauthorized use of drones as a violation of countries' sovereignty and territorial integrity and the killing of innocent civilians, even in the context of counter-terrorism operations, as a contravention of human rights, including the right to life.

48. **Mr. Moreno Zapata** (Bolivarian Republic of Venezuela) said that the use of drones was illegal, in that it violated the principles of sovereignty, territorial integrity and human rights law. Targeting humans was also a flagrant example of extrajudicial execution. Neither international law nor Security Council resolutions on combating terrorism provided for the use of extrajudicial methods, such as using drones. The United States of America was therefore guilty of illegal activities. Some 1,800 people had been killed by drones, only 10 per cent of whom had actually been targeted, proving that the use of drones was not only illegal but also ineffective. He asked the Special Rapporteurs for their opinion on the collateral damage caused by the use of drones.

49. **Mr. Heys** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that protection of the right to life customarily had two components, prevention and accountability. The latter was closely related to transparency, since it would be difficult to hold someone accountable without transparency with regard to violations. To ensure accountability for violations of the right to life resulting from the use of drones, one effective measure would be to engage in discussions with States that already had drones and States that were developing them. If States claimed to

be using drones in self-defence, they could be held accountable for drone attacks. However, if the scope of a conflict changed, the issue should be brought before the Security Council. The principle of accountability must also apply to States that allowed the use of drones, but that principle was compromised whenever drones were used without prior notification.

50. It was difficult to argue that the use of drones was inherently unlawful, given that they could be controlled remotely. Nevertheless, the speed at which drones could be operated, their ability to cross borders easily and the fact that they could be deployed secretly posed specific challenges. With regard to the important distinction between drones and lethal autonomous robots, he said that there were strong arguments for ruling that the latter were illegal. He welcomed the ongoing discussion of the issue at the United Nations.

51. He welcomed action to eliminate chemical weapons in the Syrian Arab Republic, but expressed doubts about the usefulness of unilateral humanitarian intervention in the country. The International Criminal Court might have a role to play in bringing criminals to justice in that regard. Concerning the need for specific mechanisms to ensure that the use of drones remained within the law, he said that the primary means of achieving that were accountability and transparency. However, it was equally important for the international community to continue monitoring respect for international humanitarian law and human rights law. He remained concerned at the proliferation of drones, especially when they were used secretly and in response to an alleged imminent threat.

52. **Mr. Emmerson** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that the section of his report on Afghanistan included an example of transparent investigations carried out into a drone attack resulting in civilian casualties following the release of declassified information and additional explanations provided by United States forces. In other words, transparency in the use of drones could be achieved in the appropriate circumstances, but the difficulty lay in holding accountable agents who neither confirmed nor denied their actions. With regard to cooperation, he and his colleagues had engaged in direct dialogue with European and United Nations bodies and were working towards the adoption of a common position on the issue of drone use.

53. Turning to specific cases in which there seemed to be evidence of significant civilian casualties, he said that while such casualties raised issues of accountability and transparency, he would warn against concluding that international law had been violated, especially if the State responsible had yet to reply to requests for information. With regard to the assertion that the use of drones resulted in fewer civilian casualties than strikes from other airborne platforms in recognized armed conflicts, he could cite United Nations reports confirming that that was the case. It was the use of drones outside a recognized armed conflict that was problematic.

54. Having heard the international community's views on the issue, he would report back to the Human Rights Council, where the next stage of the process would be decided. That would probably entail an attempt to reach a consensus on how to interpret the existing international legal framework, rather than to develop a new instrument governing the use of drones.

55. Responding to the question about the closure of the Guantanamo Bay detention centre, he confirmed that the detention of terrorist suspects came under his mandate and assured the Committee of his continuing engagement on the issue. The current United States Government had indicated clearly its interest in closing the centre, but there were well-known internal political obstacles to its closure.

56. **Ms. Rolnik** (Special Rapporteur on adequate housing as a component of the right to an adequate standard of living) said that her final report as Special Rapporteur ([A/68/289](#)) focused on two crucial but often neglected housing policies, namely, rental and collective housing. Such housing could play a central role in the realization of the right to adequate housing for those living in poverty. She repeated her call for a paradigm shift from using policies that viewed housing mainly as a financial asset to a human rights-based approach that emphasized its social dimension, enabling individuals and households to live in security and dignity.

57. Realization of the right to adequate housing on a non-discriminatory basis required a combination of effective planning and housing policies and State intervention, both in direct investment and in regulation. A mixture of tenure solutions, including private and public rental and collective tenure, was essential for ensuring access to adequate housing for

all, and especially for shielding individuals and households from economic and financial shocks.

58. The urban poor could be protected by a combination of tenure arrangements that included a well-functioning and effectively regulated rental sector, with both private and social renting. States should encourage the construction and maintenance of a private rental sector, including by offering incentives for small-scale landlords, while putting in place measures to support low-income households, such as rent allowances, a housing benefit system and guaranteed funds to cover the costs arising from rent arrears and service payments. Standardized rental contracts could have a far-reaching positive effect, as could the effective use of empty housing stock. Cooperative, collective and communal forms of tenure deserved more attention, particularly in order to enhance mechanisms for the promotion of housing for the urban poor. Such mechanisms allowed for joint-resource allocation and risk-sharing and could greatly enhance the situation of households and communities. States should devote greater efforts to designing and investing in collective forms of tenure, ensuring legal recognition and protection of cooperative and collective ownership of land and housing in urban areas and supporting housing policy and financial mechanisms, such as access to credit and State subsidies and tax benefits for collective and cooperative institutions. States should provide technical assistance and make well-located urban land available for collective housing organizations. The right to adequate housing could not be left to market forces.

59. In addition to the other activities under her mandate, she had made official visits in 2013 to Indonesia and the United Kingdom. She would be reporting to the Human Rights Council in March 2014 and called on all States to continue to cooperate with her and her successor.

60. **Mr. Patriota** (Brazil) said that his delegation appreciated the Special Rapporteur's emphasis on social inclusion and the need to prioritize those in greatest need with regard to the right to housing. His Government would continue to cooperate with her, including in the Human Rights Council.

61. **Mr. von Haff** (Angola) said that his Government attached great importance to the right to adequate housing and had taken a number of measures to

promote the construction of new housing and infrastructure. The long civil war in Angola had resulted in a lack of urban planning, but the Government had implemented national programmes and established funds with the aim of improving living conditions, particularly for people living in poverty. A number of housing projects had been implemented around the country, including the construction of 80,000 apartments in Kilamba Kiaxi.

62. With regard to security of tenure, his Government had enacted land tenure legislation, including guidelines for preventing forced eviction, through consultations with the communities concerned. He encouraged the Special Rapporteur to continue her exploration of the issue and to include her findings in her final report.

63. His Government agreed with the Special Rapporteur that States should adopt measures in support of the private rental sector, offer incentives for small-scale landlords and set up mechanisms to support low-income households. He repeated its invitation for the Special Rapporteur to pay an official visit to Angola in 2014 to witness the progress made and make recommendations on how to promote the right to adequate housing. He asked the Special Rapporteur how support might be given to the informal rental sector in the context of informal urban settlements, particularly in Africa.

64. **Ms. Tschampa** (Observer for the European Union) said that the European Union took note of the Special Rapporteur's recommendation to formulate housing policies aimed at the full realization of the right to adequate housing for low-income households and her call for a paradigm shift in housing policies. She asked the Special Rapporteur whether she believed that the trend whereby Governments increasingly relied on non-profit organizations to provide housing for the poor was sustainable. Could she offer examples of good practice?

65. The European Union would like to know the Special Rapporteur's opinion of social schemes under which older persons moved into smaller independent housing units. The Special Rapporteur had emphasized the benefits of collective tenure, including community land trusts. Could she offer an explanation as to why such trusts had not expanded significantly outside the United States of America?

66. **Mr. Sareer** (Maldives) said that since his country was small and vulnerable to the effects of climate change, his Government had made the improvement of public services, particularly housing, a political priority. Traditionally, land had been privately owned and the subdivision of inherited properties had led to insalubrious housing conditions. Topographical factors had contributed to unaffordable housing prices, especially in the capital city. The Government was continuing to build social housing, giving priority to disadvantaged and marginalized social groups to ensure that they enjoyed the right to adequate housing. It had also worked with the private sector, offering incentives and other support to develop the housing market. Considerable progress had been made since the Special Rapporteur's visit in 2009. His Government reiterated its invitation for her or her successor to return to the Maldives to witness the progress made and recommend ways of making further improvements.

67. **Ms. Bentes** (United States of America) expressed appreciation for the Special Rapporteur's recommendations on policies to facilitate access to adequate housing for people living in poverty and her case studies of successful policies at the national and local level, including the affordable housing programmes of the government of New York City. Her delegation wished to point out, however, that the Special Rapporteur's recommendations on ways of regulating States' financial markets exceeded her mandate and that of the Third Committee.

68. Her Government agreed that civil society played an important role in the development and maintenance of housing and it encouraged the private sector and non-governmental organizations to share their expertise in order to make housing more affordable. It strongly supported the principle of non-discrimination, but did not entirely agree with the Special Rapporteur's interpretation of it. The focus of non-discrimination should be on vulnerable minority groups, as defined by international human rights instruments, but poverty eradication was a national policy issue that must be left to each State. She asked what practical measures States could adopt through their housing policies to comply with their non-discrimination obligations under international law, in particular to help low-income individuals. Could the Special Rapporteur give examples of effective housing needs assessments conducted by States that had taken social, geographical and economic factors into account?

69. **Ms. Hosking** (South Africa) said that her Government had increased public spending aimed at achieving economic, social and cultural rights, bringing dignity to disadvantaged citizens and enabling them to enjoy the right to adequate housing. Government policy had moved towards a more integrated notion of sustainable human settlements and quality housing, recognizing that the housing backlog was the responsibility not only of Government but also of other social partners. In view of the importance of international cooperation to promote effective global partnerships in the context of the Millennium Development Goals, South Africa was an active participant in the MDG Acceleration Framework. Her Government was mindful of the urgent need to improve the living conditions of urban slum dwellers and continued to play a constructive role in the context of the World Urban Forum, under the auspices of the United Nations Human Settlements Programme (UN-HABITAT). In partnership with UN-HABITAT, it would be hosting the Leading Change in the City conference in 2014, which would focus on the role of women and the challenges they faced in the context of sustainable urban livelihoods.

70. **Mr. Rohland** (Germany) noted the Special Rapporteur's statement that one way of addressing the global housing crisis, which affected the poor disproportionately, was through cooperative and collective tenure and private rental arrangements involving small landlords. Such arrangements were often discouraged, however, by restrictive planning regulations. Could the Special Rapporteur suggest how regulations might be eased to encourage such rental arrangements without compromising safety? Programmes to upgrade slums often ignored the interests of tenants. According to the Special Rapporteur, the best practices in connection with such programmes included direct subsidies and low-interest loans for extension and repair work. He would like to know what other measures could be taken to ensure that occupants' rights were adequately protected and promoted. With regard to cooperative and collective tenure arrangements, he asked how States could ensure that their actions benefited poor and low-income households in particular.

71. **Ms. Gae Luna** (Indonesia) expressed appreciation for the Special Rapporteur's visit to her country in June 2013, during which she had engaged with Government officials and civil society representatives. Her

delegation looked forward to the report on the visit to be submitted to the Human Rights Council in 2014.

72. **Ms. Rolnik** (Special Rapporteur on adequate housing as a component of the right to an adequate standard of living) said that she would respond to some of the delegations' questions and comments at the 2014 session of the Human Rights Council. With regard to informal settlements, she emphasized the importance of involving all stakeholders, the State and communities when formulating planning regulations. Clear basic rules must be established and implemented to ensure tenant safety and protection. There had been examples of such cooperation in Brazil, Colombia, Indonesia and Thailand, where successful housing upgrades had been carried out on a participatory basis.

73. Initiatives involving social landlords, including tenant cooperatives, had been very successful in promoting social housing and maintaining the housing stock in France, the Netherlands and the United Kingdom. The State was not to be considered a social landlord, however, even though State financing was a precondition for such housing. Social landlords were responsible not only for the planning and establishment of social housing but also for maintenance and management. Ultimately, housing could be managed by cooperatives, but not without sizeable State subsidies. Although long established in the United Kingdom, community land trusts were not widespread outside the United States. They were on the increase elsewhere, however, alongside new alternative trends such as co-housing. The regulation of finance and credit was a major factor, but the issue of financial market regulation did exceed her mandate. State regulation was needed urgently in the housing sector, as financial institutions tended not to fund it. It was important not to address the issue of State housing policy in terms of supply and demand, as if housing were a good like any other. Lastly, housing needs assessments must take into account not only the quantity and quality of houses built, but also the whole urban infrastructure.

*The meeting rose at 1.15 p.m.*