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

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The meeting was called to order at 3.10 p.m.

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

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (continued) (A/68/56, A/68/176,

A/68/177, A/68/185, A/68/207, A/68/208, A/68/209, A/68/210, A/68/210/Add.1, A/68/211, A/68/224, A/68/225, A/68/256, A/68/261, A/68/262, A/68/268, A/68/277, A/68/279, A/68/283, A/68/284, A/68/285, A/68/287, A/68/288, A/68/289, A/68/290, A/68/292, A/68/293, A/68/294, A/68/296, A/68/297, A/68/298, A/68/299, A/68/301, A/68/304, A/68/323, A/68/345, A/68/362, A/68/382, A/68/389, A/68/390, and A/68/496; A/67/931)

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

(A/68/276, A/68/319, A/68/331; A/68/376, A/68/377, A/68/392, A/68/397 and A/68/503; A/C.3/68/3 and A/C.3/68/4)

1. **Ms. Kunanayakam** (Chair of the Working Group on the Right to Development) said that the Vienna Declaration and Programme of Action, adopted unanimously in 1993, expressed the universal recognition of the right to development, as established under the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights and also reaffirmed the principle of the universality, indivisibility, interdependence and interrelatedness of human rights. The Working Group on the Right to Development, established in 1998 to monitor and review progress made in the promotion and implementation of the Declaration, had held its fourteenth session in Geneva in May 2013, and its report (A/HRC/24/37) had been adopted by the Human Rights Council in September.

2. The Working Group had continued to consider, revise and refine the draft right to development criteria and operational subcriteria developed by the high-level task force on the implementation of the right to development, contained in document A/HRC/15/WG.2/TF/2/Add.2. It had completed a first reading of 39 draft operational subcriteria, considered the new operational subcriteria for the draft criteria proposed at the thirteenth session and recommended to the Human Rights Council that it

pursue consideration of the draft operational subcriteria with the first reading of the remaining operational subcriteria. Twenty-nine draft operational subcriteria remained to be considered before the Group completed its first reading of the draft criteria and operational subcriteria.

3. In its resolution on the right to development (A/HRC/RES/24/4) adopted on 26 September 2013, the Human Rights Council had endorsed the Working Group's recommendations. The Council had decided to convene a two-day informal intersessional intergovernmental meeting of the Working Group to improve its effectiveness. The Working Group was guided by the decisions of the Human Rights Council to ensure that its agenda promoted and advanced sustainable development and the achievement of the Millennium Development Goals (MDGs), with a view to raising the right to development to the same level as other human rights. The Working Group was also guided by General Assembly resolution 67/171. At its previous session, the Working Group had considered operational subcriteria concerning maintenance of stable national and global economic and financial systems; policy strategies in support of the right to development; an economic regulatory and oversight system to manage risk and encourage competition; an equitable, rule-based, predictable and non-discriminatory international trading system; access to adequate financial resources; and access to the benefits of science and technology.

4. She had held informal consultations with representatives of United Nations bodies and international financial and multilateral trading institutions to engage them more actively in the Working Group's activities, in particular with regard to the draft criteria and operational sub criteria. She regretted the low level of participation by those stakeholders in the Working Group's activities, probably due to a lack of clarity as to their role in the absence of a specific human rights mandate from their governing bodies.

5. The question of whether or not to address indicators had continued to influence the Working Group's consideration of the draft criteria and operational subcriteria. One view was that the proposed draft operational subcriteria were not operational and that, consistent with development practice and results-based approaches, indicators must be considered alongside them. Another view was that indicators served to judge the performance of

developing countries, did not contribute to the elaboration of a comprehensive and coherent set of standards, and fell outside the Working Group's mandate. The debate reflected different visions of development, and the balance of forces between them would determine the outcome. She had begun informal consultations with regional and political groups in New York and would report on the outcome at the following Working Group session in May 2014. She encouraged all stakeholders to engage constructively in the review process.

6. The global economic crisis had dramatically increased inequality within and between States, violating human rights and threatening ecosystems. Global problems could be solved only through collective action, based on international cooperation and solidarity, which in turn required political will. If any progress was to be made in realizing the right to development, social justice and equality, national justice and international justice must take an equal place with political freedoms and civil rights. Implementation of the Declaration on the Right to Development was an important step towards bridging the gap between development and human rights.

7. **Mr. Jahromi** (Islamic Republic of Iran), speaking on behalf of the Non-Aligned Movement, said that the Movement attached great importance to the promotion and protection of the right to development and the advancement of its implementation in the United Nations system. Every year it submitted a draft resolution on the issue in the Third Committee and the Human Rights Council. The Non-Aligned Movement welcomed the process of reviewing the criteria and operational subcriteria on the implementation of the right to development. The process would help to ensure the operationalization of the right to development and should lead to the establishment of an international legally binding document. He asked the Chair of the Working Group to describe the main obstacles faced in the fulfilment of its mandate and indicate what could be done to improve its work.

8. **Ms. Chen Can** (China) said that the road to development was a long one, in particular for the developing countries, which had been adversely affected by the global financial crisis, climate change and various conflicts. China called on the international community to implement the Declaration on the Right to Development and incorporate it further in the work of the United Nations. She asked the Chairperson of

the Working Group to outline the specific measures that the United Nations could take to implement the right to development.

9. **Ms. Msindo** (South Africa) said that the Declaration on the Right to Development underlined the universal, unalienable right to the fulfilment of economic, social and cultural rights. In keeping with the Declaration, all States must cooperate to promote development and remove all obstacles to its achievement. The international community should move beyond the challenges outlined in the report with regard to the establishment of an international legally binding document. She asked how the international community could best make progress towards achievement of the MDGs before the 2015 deadline.

10. **Ms. Pérez Álvarez** (Cuba) said that all States must take steps to implement the right to development, inter alia meeting their overseas development aid obligations in order to establish equitable economic relations. The United Nations system should ensure that the right to development was given an equal place among other human rights and make its operationalization a priority. States should agree on an international legally binding document. Her delegation urged the Working Group to pursue its efforts to increase the visibility of the right to development and ensure its implementation. She asked what additional support the Working Group required from the United Nations system in order to make further progress towards that goal.

11. **Ms. Gae Luna** (Indonesia) said that, despite the progress made towards implementation of the Declaration on the Right to Development, it was critical for the international community to explore ways of achieving that objective. Noting the importance of discussing the criteria and operational subcriteria, her delegation wished to stress the need for capacity-building and technical assistance. Indonesia encouraged the international community to demonstrate political will in its commitment to making the right to development a reality for all. The Office of the High Commissioner for Human Rights (OHCHR) should continue promoting that right.

12. **Ms. Kunanayakam** (Chair of the Working Group on the Right to Development) said that the main obstacle to implementation of the right to development was the existence of different interpretations of development and its relation with human rights. The

fact that States interpreted the right to development on the basis of different realities, ideologies and experiences would make it more difficult to reach a consensus in the next stage of the process with regard to the implementation criteria and operational subcriteria. Success in the long-term implementation of the right to development was a matter of political will rather than technicalities. She believed, however, that the global economic and financial crisis would lead to common ground because it was in the interest of all States to overcome it.

13. The main problem with regard to the implementation of the right to development and advancement of the MDGs had been the adoption of policies that produced, increased or failed to address inequalities, a trend demonstrated in a number of United Nations studies and reports. Attention should therefore be paid to the policies that had increased inequalities and those that would help to reduce them. Turning to the post-2015 development agenda, she called on Member States to ensure that the experience and knowledge of experts throughout the United Nations system contributed to the Working Group's discussions in that regard.

14. **Ms. Sekaggya** (Special Rapporteur on the situation of human rights defenders) said that she had endeavoured to make the work of human rights defenders visible and contribute to their empowerment and protection. Defenders continued to face danger, and there was a worrying trend of using legislation to clamp down on them and restrict their operations. They were often branded enemies of the State, harassed, stigmatized and criminalized for doing their work. Women defenders and those working on access to land and environment faced heightened risks. Non-State actors also violated defenders' rights, sometimes in collusion with State authorities. Defenders trying to report on human rights situations to human rights mechanisms or international bodies often faced intimidation and reprisals.

15. Although important progress had been made in establishing and consolidating safe and enabling environments for defenders to carry out their activities in some parts of the world, serious challenges persisted. Her report to the General Assembly ([A/68/262](#)) focused on the relationship between large-scale development projects and the activities of human rights defenders. They were often accused of obstruction when they opposed the implementation of

development plans with a direct impact on natural resources, land and the environment. The rights of land defenders had been violated by private corporations and businesses, and some defenders had been exposed to physical attack. In response, she called for a rights-based approach to large-scale development projects, based on the normative framework of international human rights standards. That approach aimed to redress discriminatory practices and the unfair distribution of power and resources, the obstacle to sustainable development. It could help to establish mechanisms and conditions enabling those affected by development projects safely and effectively to claim their rights while ensuring that States met their international obligations and were held accountable.

16. The necessary components of such an approach in the context of large-scale development projects were: equality and non-discrimination, which implied that the human rights of communities affected by such projects should not be adversely affected at any stage of the process; participation, which meant the active involvement and empowerment of affected communities and human rights defenders; the protection of defenders from serious risks, including death threats; transparency and access to information, enabling rights holders to understand how their rights would be affected, claim those rights and hold duty bearers to account; accountability mechanisms and redress, based on the notion that all stakeholders were responsible in accordance with their obligations under the standards and laws governing their work, and that rights holders must have mechanisms enabling them to communicate their grievances and obtain effective redress without fear of intimidation. All non-judicial grievance mechanisms should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and based on dialogue and engagement.

17. Emphasizing the crucial role played by communities and rights defenders in shaping development policies and projects, she said that defenders could ensure that dialogue reinforced social cohesion and pre-empted conflict. All those responsible for large-scale development projects must engage in good faith with the affected communities and those defending their rights. Defenders could participate in human rights impact assessments, acting as independent watchdogs monitoring project implementation. The important role played by

defenders in advancing development was especially relevant in the context of the post-2015 development agenda.

18. **Ms. Mollestad** (Norway) said that her delegation was submitting a draft resolution aimed at protecting women human rights defenders and based on the Special Rapporteur's reporting, and she invited all States to support it. The Special Rapporteur would be providing an assessment of the situation of human rights defenders to the Human Rights Council in March 2014, but it would be useful if she shared some of her observations on past trends and developments and views on the future with the Third Committee. The risks, attacks and intimidation faced by defenders in some parts of the world, highlighted in the report, clearly constituted an unacceptable violation of international human rights law. She asked the Special Rapporteur to elaborate on States' obligation to ensure that defenders enjoyed a safe and enabling environment, in particular in relation to large-scale development projects.

19. **Ms. Tschampa** (Observer for the European Union) said that, since the protection of human rights defenders was a main priority of the European Union, it was concerned that they were being harassed, stigmatized and criminalized around the world. The European Union was endeavouring to enhance their protection, inter alia, by means of its Guidelines on Human Rights Defenders. The Special Rapporteur had highlighted their meaningful role in terms of development, in particular in relation to large-scale development projects. A positive message in her report was that a human rights-based approach could protect human rights defenders who opposed such projects on environmental grounds.

20. It would therefore be interesting to have examples of the best practices of that approach. In view of the increased vulnerability of human rights defenders in such cases, she called on the Special Rapporteur to remind States of their obligations to protect them and to suggest specific ways in which they could do so. Since the Special Rapporteur was nearing the end of her mandate, it would be useful if she would share her general reflections on the obstacles that she had faced in her task and the main challenges facing the mandate in the future.

21. **Ms. Anh Thu Duong** (Switzerland) said that her country shared the Special Rapporteur's concerns over

the situation facing human rights defenders, in particular those representing indigenous peoples, minorities and persons living in poverty. Her delegation would like to learn the Special Rapporteur's views on how a human rights approach could systematically be integrated into decision-making involving large-scale development projects. It was important that indigenous peoples should be able to give their free, prior and informed consent to all administrative and legislative decisions affecting them. She asked how the effective participation in decision-making processes by groups who were traditionally excluded and marginalized could be ensured. Lastly, the Special Rapporteur should remind States of their responsibility to ensure that businesses protected the rights of human rights defenders.

22. **Mr. Waheed** (Maldives) said that his country protected human rights defenders under its Constitution, through legislative measures and cooperation between the Government and the independent human rights commission. The Maldives recognized that defenders made an important contribution to equitable development, respect for all human rights and environmental protection. When civil society had identified threats to the environment in his country their action had led to conservation measures. In view of the inherent connection between business and large-scale development projects, he asked the Special Rapporteur for her views on State funding for civil society organizations and what the criteria for that funding should be. Since civil society activists were sometimes involved in political activities, he wondered if she could help make a distinction between human rights activism and political involvement.

23. **Ms. Torres** (United States of America) said that her Government welcomed the Special Rapporteur's focus on women human rights defenders and the defence of the rights of disadvantaged and vulnerable groups in connection with large-scale development projects. The United States agreed, in particular, with her recommendation on the freedom of expression, association and peaceful assembly, according to which States must allow human rights defenders to express themselves. Law enforcement officers should be properly trained to respect human rights in dealing with protesters. Moreover, the role of civil society was essential for the protection of human rights.

24. The United States was concerned at the treatment of human rights defenders around the world, including

attempts to silence them and prevent them from being heard at the United Nations. She asked the Special Rapporteur to provide recommendations on the training of stakeholders, as well as human rights defenders, in order to empower the most vulnerable, and indicate where it was best to hold training for defenders, in view of the suppression to which they were subjected in some States.

25. **Ms. Walker** (United Kingdom) said that her Government shared the Special Rapporteur's concerns about human rights violations of human rights defenders, who often ensured that large-scale development projects were sustainable and environment-friendly. Defenders needed a safe environment in which to operate, including respect for the right to freedom of expression and access to information. She requested recommendations for ways of holding enterprises to account for violations of defenders' rights. In her report, the Special Rapporteur called on States to enshrine a human rights-based approach in their legislation and administrative regulations. Her delegation wished to know what exact form such an approach should take, how it could be applied to the protection of human rights defenders and what examples of best practices could be given. The human rights-based approach outlined in the report reflected the United Nations Guiding Principles on Business and Human Rights. She asked if there were plans to coordinate the work of the Special Rapporteur with that of the Working Group on the issue of human rights and transnational corporations and other business enterprises.

26. **Ms. Skácelová** (Czech Republic) said that her Government shared the Special Rapporteur's concerns at the increasing threats to human rights defenders. She asked her how the international community could effectively support human rights defenders in the context of development projects and whether there were plans to cooperate with the Working Group on the issue of human rights and transnational corporations and other business enterprises. In view of the crucial role that human rights defenders could play as watchdogs for large-scale development projects, she asked how defenders from different countries could cooperate in that regard, in particular in the case of transborder development projects.

27. **Ms. McElwaine** (Ireland) said that her country was particularly concerned at the lack of a safe and enabling environment for human rights defenders

around the world. The restrictions on that environment in many countries had been highlighted at the seventh Front Line Defenders Platform for Human Rights Defenders at Risk, held in Dublin in October 2013. The Irish Government had been engaged with the Front Line Defenders since the movement's foundation in 2001. Noting the mention in the report of the specific risks faced by those who defended the rights of communities affected by large-scale development projects, she expressed her delegation's agreement with the Special Rapporteur that defenders positively contributed to sustainable development by challenging projects that harmed the environment. She asked the Special Rapporteur for examples of best practices of the human rights-based approach outlined in her report.

28. **Ms. Chen Can** (China) said that her Government believed that sustainable development went hand in hand with the protection and promotion of human rights and that the Government was responsible for enhancing social and economic development while safeguarding citizens' rights. China had successfully promoted human rights in a way that had impressed the rest of the world. Institutional and legislative measures had been taken to protect all legitimate rights with regard to large-scale development projects. The judicial authorities had authorized investigations into allegations of unlawful practices, leading to redress and compensation in cases where they were proven. Numerous individuals and organizations defended human rights with Government encouragement, support and protection. However, those defenders must also abide by all requirements of the country's legislation, in accordance with the fundamental principle of the rule of law. It was normal for States to punish those who participated in unlawful activities under the pretext of human rights advocacy.

29. **Ms. Gae Luna** (Indonesia) said that her Government supported the role of human rights defenders, including in development, provided they behaved responsibly and accountably. States should, in turn, afford them adequate protection while the international community should take a balanced and objective stance. She asked the Special Rapporteur for her view of the role of the international community, including the United Nations, in preventing human rights violations by building State capacity through international cooperation and technical assistance.

30. **Ms. Sekaggya** (Special Rapporteur on the situation of human rights defenders) said that, although

human rights defenders had gained visibility and many States had made very positive inputs regarding their treatment in discussions in the Human Rights Council and the General Assembly, many challenges remained. For example, many States had not invited her to make country visits, which were crucial to her work. Few States followed up on the recommendations made after such visits, and they should be required to do so. The Declaration on Human Rights Defenders must be disseminated, enshrined in domestic law and implemented in Member States. Reprisals continued to be taken against those who cooperated with the United Nations, although some countries had taken her recommendations seriously and adopted laws specifically to protect human rights defenders and open dialogue with civil society.

31. The creation of an environment enabling defenders to carry out their activities safely was a State obligation. Communities must be able to participate in every stage of large-scale development projects, from their design and planning to implementation, monitoring and evaluation, whereas established practice involved them too late, if at all. It was also crucial urgently and impartially to address impunity and bringing perpetrators of human rights violations to justice. With respect to best practices, she cited the examples of Australia, which had established social safeguards for vulnerable groups with regard to mining activities, and Colombia's national hydrocarbons agency, which was required by law to specify the methodology used to assess the impact of a project on affected communities. She also held up the Extractive Industries Transparency Initiative, a voluntary multi-stakeholder mechanism, as an example.

32. In reply to the question about ensuring the participation of marginalized communities, she referred to the many examples in her report. Turning to allegations of civil society engaged in political activities, she said that the tendency for the work of human rights defenders to be politicized, criminalized and stigmatized was one of the biggest challenges facing them. States should refrain from labelling defenders in order to pursue their own agendas, and a distinction needed to be made between defenders and political operatives.

33. Training should be provided to all stakeholders involved in large-scale development projects, including private security personnel and State employees, as well as defenders themselves. The latter, in particular,

should fully understand their rights under the Declaration and other mechanisms in order to be able to submit their complaints. On the question of cooperation with the Working Group on the issue of human rights and transnational corporations and other business enterprises, she said that such collaboration already existed and a joint panel discussion on the issue of human rights defenders was due to take place in the near future.

34. **Mr. Sulyandziga** (Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises) said that his report (A/68/279) highlighted the impact of business operations on the rights of indigenous peoples, demonstrating the value of the United Nations Guiding Principles on Business and Human Rights in that context. The Working Group had noted the overall social and economic marginalization of indigenous peoples, which limited their ability to assert their rights and excluded them from negotiations and consultations. It had been alerted to numerous business-related impacts on the rights of indigenous peoples, highlighting their deeply rooted spiritual and cultural relationship with lands, territories and resources. His report therefore focused on how the Guiding Principles could clarify the roles and responsibilities of States, business enterprises and indigenous peoples when addressing those impacts.

35. While States were not directly responsible for the abuse of indigenous peoples' rights by private actors, they had a duty to protect where such abuse could be attributed to them or where they failed to take appropriate steps to prevent or address it. The most significant international instruments in that regard were the United Nations Declaration on the Rights of Indigenous Peoples and International Labour Organization (ILO) Convention No. 169. Free, prior and informed consent was a fundamental element of the rights of indigenous peoples, upon which their ability to exercise and enjoy a number of other rights depended. The Declaration tied the enjoyment of many rights to the requirement to seek such consent. Good faith consultation and participation were crucial, in particular in respect of business decisions likely to have a substantial impact on the rights of indigenous peoples, such as mining, agribusiness and infrastructure projects.

36. States often signed free trade agreements and bilateral investment agreements with a significant

impact on indigenous peoples without properly consulting them. In that context, the Guiding Principles provided that States should meet their obligations when pursuing investment treaties and contracts, taking into account the specific needs and vulnerabilities of indigenous peoples. Additional measures may be required to ensure non-discrimination against indigenous peoples in the judicial sphere, which may require States to recognize in judicial proceedings their customary laws, traditions and practices, and their customary ownership of lands and natural resources. Many business-related impacts on the rights of indigenous peoples were linked to the activities of transnational corporations. While States were not generally required under international human rights law to regulate the extraterritorial activities of businesses domiciled in their territory, the Guiding Principles affirmed strong policy reasons for them to do so. Indigenous women were subjected to discrimination based on gender in addition to their ethnicity.

37. The Working Group's recommendations required the active support of Member States to protect indigenous peoples from business-related human rights abuses and guarantee corporate responsibility to respect human rights. All stakeholders should conduct further studies into the effectiveness of remedy mechanisms available to indigenous peoples. The Working Group welcomed the decision to hold the World Conference on Indigenous Peoples in 2014 and looked forward to engaging with all stakeholders to determine how the Guiding Principles could be further utilized to ensure that the rights of indigenous peoples and all affected communities were protected against adverse business-related human rights abuses.

38. **Ms. Msindo** (South Africa) said that her country was concerned at the excessive reliance by the United Nations on voluntary mechanisms with regard to business and human rights, which failed both to close the protection gap with regard to international human rights and humanitarian law and to ensure that transnational corporations responsible for human rights violations were held accountable. South Africa promoted equal rights for all without discrimination, was a State party to the United Nations Declaration on the Rights of Indigenous Peoples and supported the "Protect, Respect and Remedy" framework. However, it favoured the establishment of a legally binding international document to hold transnational

corporations accountable for the adverse impact of projects on human rights. She sought clarity about the Working Group's call for mainstreaming the gender perspective in the issue of human rights and transnational corporations and other business enterprises. Her delegation also wished to know more about the proposal for reinforcing capacity-building for judges, prosecutors and lawyers and what financial mechanisms might be established in that regard.

39. **Ms. Tschampa** (Observer for the European Union) said that the report highlighted the deeply rooted spiritual and cultural relationships that indigenous peoples had with lands, territories and resources, as a result of which they were among the groups most severely affected by business operations. The European Union wished to know what tools and policies could be used to ensure that the impact of business activities did not marginalize indigenous communities, especially with regard to mining, agribusiness and infrastructure projects, and what could be done to increase the effectiveness of the remedy mechanism. The report noted the gap between advances in legislation and State practice, and she wished to know how that gap could be filled in practical terms.

40. **Ms. Mollestad** (Norway) said that her country agreed with the emphasis laid in the report on the need to protect the rights of indigenous women and the recommendation that States and enterprises should mainstream gender-sensitivity into their actions and operations. Norway believed that enterprises must consult and engage with men and women in indigenous communities affected by their operations. In view of the need to speed up implementation of the Guiding Principles on Business and Human Rights, she asked the Chair of the Working Group to suggest what should be the main priority to that end over the coming year for the United Nations as a whole and, more specifically, for agencies working on the protection of the rights of indigenous peoples.

41. **Ms. Walker** (United Kingdom) said that, on 4 September 2013, her Government had launched its action plan on business and human rights, becoming the first country to set out guidance to companies on integrating human rights into their operations explicitly in accordance with the Guiding Principles on Business and Human Rights. The United Kingdom urged all Member States to give effect to the Guiding Principles, which set a global standard. Since many stakeholders

around the world remained unaware of their existence or content, she wished to know how best to disseminate the Guiding Principles and information about them and what the objectives were of the Forum on Business and Human Rights to be held in December 2013.

42. **Ms. Schneeberger** (Switzerland) said that indigenous peoples should not be subjected to reprisals or violence when they opposed business operations, in particular those in the extractive sector. Switzerland was developing a national strategy on implementation of the Guiding Principles on Business and Human Rights, and her Government had urged the mining industry fully to respect human rights, in particular those of human rights defenders. The Voluntary Principles on Security and Human Rights contributed to the protection of human rights and the prevention of conflicts in connection with the extractive industry, ensuring that States and enterprises respected human rights.

43. The dialogue between States, enterprises and civil society ensured better representation of indigenous communities and enabled their views to be taken into account. Switzerland played a leading role in the implementation of the Voluntary Principles and, since March 2013, had chaired the steering committee. She called on all Member States to adhere to the Principles and agreed with the report that States hosting extractive sector projects should establish procedures that offered compensation to the indigenous communities adversely affected by projects. In that regard, she requested specific examples of non-judicial mechanisms that could play that role.

44. **Ms. Sukacheva** (Russian Federation) said that her country had been a pioneer in promoting socially responsible business and a leading sponsor of the resolutions establishing the mandates of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, the Working Group and the Forum on Business and Human Rights. The Guiding Principles on Business and Human Rights should be disseminated among businesses and civil society. In addition to referring to the obligation of States to protect the rights of citizens from harmful business activities, the Guiding Principles also clearly defined the responsibility of non-State actors. The Russian Federation, as one of the world's largest multi-ethnic States, was very actively involved in United Nations work on indigenous issues. Its legislation enshrined the

special status of small indigenous peoples, and the protection of the rights and interests of indigenous peoples was a Government priority.

45. **Mr. Sulyandziga** (Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises) said that strengthening capacity-building for judges, prosecutors and other legal personnel was an aspect of the implementation of the Guiding Principles on Business and Human Rights that States must address. Although Member States had voted to adopt the Guiding Principles, many Governments and corporations knew little about them. The Working Group was responsible for promoting and disseminating the Principles, and the Forum on Business and Human Rights, to be held in Geneva in December 2013, was one of the tools for discharging that mandate. Several informal meetings for States, businesses and civil society would be held before the Forum, including one dedicated to indigenous peoples.

46. With regard to indigenous peoples' spiritual link to their land, research was ongoing within the Permanent Forum on Indigenous Issues, the Special Rapporteur on the rights of indigenous peoples was investigating the subject, and several enterprises had already taken it into account when developing projects. The Working Group had also considered the issue at the Forum on Business and Human Rights. Several multinational development banks had incorporated the rights of indigenous people into their policy guidelines requiring transnational corporations to be in compliance before they could obtain loans for development projects, and many private banks had been working on the same principle. The United Nations Global Compact had released a second exposure draft of the Business Reference Guide on the Declaration on the Rights of Indigenous Peoples and the final Guide would be released at the Forum on Business and Human Rights in December.

47. Regarding non-judicial mechanisms for compensating indigenous communities adversely affected by projects, he said that the Working Group was conducting research into ways of settling disputes between corporations and indigenous communities by means of the application of customary law. The issue of gender equality would also continue to be a priority of the Working Group. Welcoming the adoption by the United Kingdom of an action plan for implementation of the Guiding Principles, he called on other countries

to follow suit. In the context of disseminating the Principles worldwide, the Working Group had held a Regional Forum on Business and Human Rights for Latin America and the Caribbean, in Medellín, Colombia, in August 2013 and planned to hold another regional meeting in Africa in 2014.

48. **Mr. Haraszi** (Special Rapporteur on the situation of human rights in Belarus) said that he had found little if any progress in Belarus in the implementation of the recommendations made by the United Nations High Commissioner for Human Rights in her report (A/HRC/20/8) to the Human Rights Council in 2012. Causes for grave concern included arbitrary arrests and detentions, harassment of imprisoned political opponents and human rights defenders, conditions in detention facilities, the use of torture and other cruel, inhuman or degrading treatment, unresolved cases of enforced disappearances, the continued use of the death penalty and violations of the rights to the freedom of expression, association and assembly.

49. His second report (A/68/276) focused on concerns over electoral processes in Belarus. Requesting an invitation for a visit to Belarus, he said that his primary source of information had been meetings with local experts and victims of human rights violations, in addition to consultations with civil society. Systematic and deliberate violations of human rights in that country had undermined free and fair elections. In the parliamentary elections held on 23 September 2012, no opposition candidate had won any of the 110 seats being contested. Belarus was the only European State with an opposition-free parliament, which had invariably been the case since 2004, regardless of whether or not the opposition boycotted elections. Of the four presidential, five parliamentary and five local elections held since 1991, none had been considered free and fair by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE). There had been a severe deterioration in the human rights situation after the 2010 presidential elections, leading to the creation of the Special Rapporteur's mandate.

50. Human rights violations recorded over the years included curtailment of the right to freedom of opinion and expression, including that of independent media, the lack of freedom of association and public assembly, raising the issue of participation deficiencies in

electoral processes, and infringements on the independence of judges and lawyers, and on the rights to due process and a fair trial. He welcomed a recent visit to Minsk by an OSCE delegation upon the invitation of the Government, against a background of reforms of electoral law. It appeared, however, that the ongoing election code drafting process took into account neither the requests made by civil society nor the OSCE recommendations. The amendments to electoral legislation had not been made public, although they had been examined by parliament. It was critical to ensure transparent and inclusive electoral legislative reform, in line with international norms and standards, and through consultations with a wide range of stakeholders.

51. **Mr. Lazarev** (Belarus) said that his delegation recognized neither the Special Rapporteur's mandate nor his reports. The aim of the mandate was only to pressurize and punish Belarus for implementing its own development model, and the Special Rapporteur's accusations were unfounded. His country supported active cooperation with the Human Rights Council and the human rights mechanisms. Earlier in 2013, Belarus and the Office of the High Commissioner for Human Rights (OHCHR) had conducted joint activities relating to human trafficking and racial discrimination. His country had successfully completed its first universal periodic review cycle in 2010, implementing most of the recommendations, and was actively preparing to start the second cycle, involving Government officials and civil society. Belarus was ranked fiftieth on the latest human development index, scarcely lower than Hungary, the country of which the Special Rapporteur was a citizen, and in five years it had risen 14 places on the index.

52. The Special Rapporteur's independence and objectivity were questionable, in view of the fact that he was the citizen of a European Union member State. His mandate had been established by a minority vote and was a product of the manipulation of human rights issues by the European Union. There were gross and systematic violations of human rights across the Europe Union, including repressive measures to limit the freedom of journalists and violations of migrants' and refugees' rights, along with racial discrimination, neo-fascism, anti-Semitism, religious intolerance, the flouting of religious and moral values and the use of torture. His country would be publishing a second

report on such violations in countries that preoccupied themselves with the human rights situation in Belarus.

53. The quality of the Special Rapporteur's costly report was more than dismal, and 90 per cent of it focused on the history of elections in Belarus since 2001 rather than on human rights issues as a whole. Despite the fact that those elections had always been found to be fair and democratic by observers from the Commonwealth of Independent States (CIS), the Special Rapporteur assumed the role of supreme judge, concluding that the positive assessment of the elections by CIS had led to a total violation of human rights in Belarus. The establishment of the post of the Special Rapporteur had not created any conditions for dialogue with the Government, and his mandate was a temporary phenomenon based on a misunderstanding of the facts. The Government's priorities focused on cooperating with the impartial human rights mechanisms of the United Nations, complying with the universal periodic review and its recommendations and improving Belarusian human rights legislation.

54. **Ms. Tschampa** (Observer for the European Union) said that the European Union deeply regretted the lack of cooperation by the authorities of Belarus with the Special Rapporteur and the failure to implement the recommendations made by the United Nations High Commissioner for Human Rights in her report (A/HRC/20/8) to the Human Rights Council in 2012. It was concerned at reports of harassment of political opponents and human rights defenders and called on the authorities to release and rehabilitate all political prisoners. Belarus should apply a moratorium on the death penalty as the first step towards its abolition.

55. The Special Rapporteur should indicate how the international community could best ensure respect for human rights in Belarus, in particular with regard to human rights defenders, and whether there had been any change with regard to the place of civil society in Belarus since his first report. She wished to know how Belarus could be encouraged to effect changes in the electoral process in keeping with the recommendations made in the High Commissioner's report and the Special Rapporteur's two reports. It would be interesting to hear the Special Rapporteur's observations on the possibility of abolishing the death penalty in Belarus.

56. **Ms. Schneeberger** (Switzerland) said that it was essential for all concerned to cooperate with the special procedures and called on Belarus to engage constructively with the Special Rapporteur, *inter alia* by allowing him to visit the country. Switzerland was concerned at the systematic violation of human rights in Belarus in connection with the electoral process. She asked what means could be used to ensure that fundamental freedoms were respected before and during the 2015 elections and what measures could remedy enforced media self-censorship in Belarus. Her delegation repeated calls for Belarus to declare a moratorium on capital punishment with a view to its abolition.

57. **Mr. Jahromi** (Islamic Republic of Iran), speaking on behalf of the Non-Aligned Movement, said that, at the sixteenth Summit of the Non-Aligned Movement, held in Tehran in 2012, the heads of State and Government had reaffirmed the need for greater coherence between the Third Committee of the General Assembly and the Human Rights Council and avoidance of unnecessary duplication of their activities. The universal periodic review was the main intergovernmental mechanism for reviewing human rights situations at the national level without distinction. The Summit had rejected tools that led to politicization, double standards and selectivity when dealing with human rights.

58. Speaking in his national capacity, he added that his country was opposed to the creation and use of country-specific human rights mechanisms and resolutions. Given that human rights standards could not be imposed from the outside, such mandates were confrontational and counterproductive. The universal periodic review was the most appropriate way of addressing human rights situations in different countries with a view to the promotion and protection of human rights nationally and internationally. As elsewhere, the situation of human rights in Belarus should be addressed through dialogue and not a country-specific mandate.

59. **Ms. Chen Can** (China) said that her delegation was opposed to the creation and use of country-specific human rights mechanisms and resolutions, which undermined international cooperation. The international community should instead engage the Government of Belarus in constructive dialogue.

60. **Mr. Rakhmetullin** (Kazakhstan) said that his country had noted the efforts by the Government of Belarus to transform the country while ensuring respect for human rights and fundamental freedoms. Kazakhstan welcomed the readiness of Belarus to cooperate with the human rights mechanisms of the United Nations, in particular the Human Rights Council. He called on the Special Rapporteur to do more to engage in dialogue and cooperation with the country's authorities. Impartiality was critical in the exercise of all mandates under special procedures.

61. **Ms. Walker** (United Kingdom) said that, despite the release of political prisoners in 2013, her Government remained concerned at the plight of the remaining prisoners, who were held in difficult conditions, and called for their immediate release and rehabilitation. She joined other delegations in calling for a moratorium on the death penalty with a view to its abolition and called on the Government to inform family members of those executed of the whereabouts of their remains. She asked the Special Rapporteur if he believed that a moratorium was likely and whether the political leadership in Belarus was likely to form public opinion in that regard.

62. **Ms. Alsaleh** (Syrian Arab Republic) said that her country believed that the human rights situations in Member States should be examined through consensus-based mechanisms, such as the universal periodic review. Her delegation was opposed to the selective use of human rights issues to interfere in countries' internal affairs under the pretext of humanitarian concerns. It was a violation of the Charter of the United Nations under which the sovereignty of all countries was equal.

63. **Ms. Torres** (United States of America) said that her country agreed with the Special Rapporteur's focus in his report on the connection between human rights and electoral processes in Belarus. It was particularly concerned at the oppression of independent associations and the prevention of participation in elections by opposition parties. Belarus should carry out a transparent reform of the electoral process. She asked the Special Rapporteur for further thoughts on ways of ensuring that the Government did not interfere with the media.

64. **Mr. Zieliński** (Poland) said that his Government was concerned at the continued violation of human rights in Belarus, in particular the ill-treatment of

human rights defenders, journalists and political opponents. In view of the references in the report to the situation facing political prisoners in the country, he wished to know what measures the international community could take in that regard and the Special Rapporteur's views on respect for labour rights and the situation of trade unions in Belarus. According to his reports, the Special Rapporteur had faced a number of challenges, including the lack of access to Belarus. It would be useful to know how the international community could provide him with support.

65. **Ms. Mollestad** (Norway) said that her country was concerned at the lack of improvement in the human rights situation in Belarus. The report was of particular relevance in view of the forthcoming local elections. Norway deplored the systematic breaches of basic human rights in relation to elections, the lack of freedoms of expression, association and assembly, and the continued use of capital punishment. She urged the Government of Belarus to comply with OSCE commitments and international standards, establish a basis for true democratic elections and put an immediate end to the use of capital punishment. Her delegation regretted the lack of cooperation with the Special Rapporteur and asked him how that could be remedied.

66. **Mr. Pirmkulov** (Uzbekistan) said that the report had not been unanimously supported by the Human Rights Council and gave only a negative assessment of the human rights situation in Belarus, without taking into account the Government's achievements, in particular with regard to social, economic and cultural rights. It was unacceptable to call on a State to free prisoners without properly taking into account the reasons for their imprisonment. Belarus had displayed openness in its cooperation with the universal periodic review, which should not be replaced with selective mechanisms that were only counterproductive. Uzbekistan opposed attempts to politicize the human rights situation in any given country and called for fair, impartial and objective assessments within the United Nations system.

67. **Ms. Khvan** (Russian Federation) said that her country had consistently opposed the establishment of the Special Rapporteur's mandate and his second unobjective report vindicated that position. One-sided, it failed to reflect the reality in Belarus, where a positive transformation had taken place in its legislative and law-enforcement practice. It was

regrettable that the Special Rapporteur had relied on a limited number of non-governmental organizations as sources of information and had not consulted official sources. As a result, most of the information provided in the report did not correspond to reality.

68. The universal periodic review was the basis for assessing the human rights situation in all countries without exception. Belarus had demonstrated full responsibility in its cooperation with the universal periodic review process and had implemented most of the recommendations made in the first cycle, demonstrating its openness to dialogue and its desire to protect human rights. The Special Rapporteur unjustifiably focused on the human rights situation in Belarus as opposed to the blatant human rights violations in so-called democratic countries, demonstrating the high level of politicization of country subjects in the Human Rights Council and the use of double standards in their consideration.

69. **Mr. Rohland** (Germany) said that the lack of a parliamentary opposition in Belarus was only one alarming aspect of the human rights situation in the country. Germany was particularly concerned at the continued use of the death penalty and called for a moratorium. His delegation urged the Government to cooperate constructively with the Special Rapporteur, inter alia by granting him access to its territory. The Special Rapporteur referred in his report to signs of openness in connection with the electoral reforms under way. He requested information on the current situation in that regard and also the situation facing political prisoners in Belarus.

70. **Ms. Skácelová** (Czech Republic) said that her Government, which maintained bilateral relations with the Government of Belarus and was in contact with civil society in the country, had noted the sharp deterioration in the human rights situation in Belarus, in particular with regard to electoral rights. Her delegation called on its Government to ensure that the 2015 presidential elections complied with international standards. She would also like to hear the Special Rapporteur's assessment of the state of mind of civil society organizations in Belarus and asked whether it could best be described as resignation and frustration or elation and enthusiasm.

71. **Ms. Calcinari Van Der Velde** (Bolivarian Republic of Venezuela) said that her delegation rejected any selective assessment of human rights

situations in a given country as an exercise in double standards, the rejection of which had led to the establishment of the Human Rights Council. Valuable mechanisms for assessing human rights around the world must be based on objectivity and genuine cooperation without politicization and in full respect for national sovereignty.

72. **Ms. Solórzano-Arriagada** (Nicaragua) said that certain countries had appointed Special Rapporteurs for their own political ends. Her Government rejected the biased practice of reporting on the human rights situations of specific countries as it was selective and politicized. The appropriate body for conducting such assessments was the Human Rights Council, through the universal periodic review, based on the principles of universality, objectivity and non-selectivity, in which all Member States were considered on an equal footing.

73. **Mr. Khammoungkhoun** (Lao People's Democratic Republic) said that the human rights situations of Member States should be assessed on a basis of mutual understanding, respect and cooperation rather than double standards, selectivity and politicization. The Human Rights Council was the appropriate forum for examining the human rights situation in sovereign States through the universal periodic review and for finding solutions to any problems in that regard.

74. **Ms. Ntaba** (Zimbabwe) said that any assessment of human rights must be even-handed, impartial and respectful of the right of States to protect the rights of their own citizens. It should be based on cooperation and mutual assistance, while taking into account the efforts made by Member States and the constraints that they faced. Country-specific mandates were tantamount to interference in the internal affairs of sovereign States, a practice the Human Rights Council had been set up to prevent. The justification of the Special Rapporteur's mandate by many delegations for political ends merely discredited them. No country had a perfect human rights record, and it was wrong to single out States for chastisement. Zimbabwe called for all rights, including economic and social rights, to be taken into account and, above all, for the right to development to be treated on the same level as all other rights within the United Nations, in keeping with the principle of the universality, indivisibility, interdependence and interrelatedness.

75. **Mr. Eyeberdiyev** (Turkmenistan) said that his delegation was grateful to Belarus for supplying additional information on the progress made in the field of human rights protection in that country. Belarus had successfully cooperated with the universal periodic review, an important instrument for the objective assessment of human rights situations, and had accepted most of the recommendations in that regard. It was working to improve its legislation and law enforcement and had shown willingness to engage in dialogue with the United Nations human rights mechanisms. Turkmenistan had long held that all initiatives should be coordinated with the country concerned and conducted in a cooperative spirit and that country-specific mandates did not help the situation on the ground.

76. **Ms. Pérez Álvarez** (Cuba) said, in English, that her delegation objected to the practice of abandoning interpretation out of the six official languages of the United Nations and requiring delegations to speak English even when it was not their preferred language. Continuing in Spanish, she said that her country had always opposed selective mandates and resolutions targeting the countries of the South for purely political motives and the instigation of assessments of human rights situations in given countries without the active consent of the States concerned. Cuba believed that powerful States enjoyed impunity while committing gross violations of human rights, and her Government refused to allow the countries of the South to be singled out in violation of the principle of cooperation and dialogue. Concluding in English, she said, in summary, that Cuba opposed the country-specific mandate relating to Belarus and believed that the Human Rights Council and the universal periodic review were the appropriate forum and instrument, respectively, for assessing the human rights situations of all Member States on an equal footing.

77. **Mr. Nasirli** (Azerbaijan) said that the Special Rapporteur's report did not appear to be as impartial as it should be. His Government appreciated the efforts by the authorities in Belarus to make progress in the field of human rights. He called for the different views expressed by all delegations at the meeting to be taken into account by the Special Rapporteur.

78. **Mr. Haraszti** (Special Rapporteur on the situation of human rights in Belarus) said that the Supreme Court of Belarus had just ordered the retrial of a death penalty case on procedural grounds, a unique

development in the country's sad history of capital punishment. However, it remained to be seen whether that could be considered a moratorium on the death penalty. The political leadership could play a catalytic role in leading Belarus out of its inertia over capital punishment. Every country had to struggle with the dilemma of acknowledging public support for the death penalty or respecting internationally recognized human rights.

79. On the fate of political prisoners, he reported that there had been no recent long-term imprisonment on political grounds, which was a possible sign of improvement in comparison with the aftermath of the 2010 presidential election. However, there had been no moves to release and rehabilitate prisoners convicted on unfounded charges, which depended on the political will of the country's leadership. He hoped that the electoral reforms in Belarus and other legislative progress would be ready in time for the presidential elections in 2015 and that there would not be a repeat of the deterioration in the human rights situation that had occurred before, during and after previous elections. With regard to the freedom of expression, he especially regretted the lack of privately owned broadcasting media in Belarus and qualified the absence of pluralism in broadcasting media as alarming.

80. Lastly, he refuted the accusations that his mandate politicized the question of human rights in Belarus. He was ready to visit Belarus and engage in dialogue with the Government, in order to discuss the negative and positive aspects of human rights issues acknowledged by the international community. He hoped that, in turn, the international community would not abandon the role of civil society in the promotion and protection of human rights at the national and international levels. He insisted that the victims of human rights violations in any country should be publicly named as they represented the universality of human rights.

The meeting rose at 6.30 p.m.