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### Summary record of the 23rd meeting

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*Chair:* Mr. Gunnarsson ..... (Iceland)

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1. **Ms. Ní Aoláin** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism), introducing the report of the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism, said that the various terrorist attacks and resulting casualties, costs and damages sustained in different countries in 2017 alone represented only a fraction of the harm of global terrorism. However, damage could be done to political and legal systems not only by terrorism, but also by counter-terrorism measures that violated basic human rights norms.

2. States were obliged to conform to international law as they undertook counter-terrorism efforts. Human rights protections were not secondary or irrelevant; they were integral to the long-term success of those efforts. One challenge in that regard was the proliferation of permanent states of emergency, which invariably infringed on human rights and freedoms and which resulted in a trend of normalization of otherwise exceptional national security powers. Resorting to entrenched legal exceptionality spread far beyond the fight against terrorism and impeded the protection of

human rights, particularly those of minorities and vulnerable groups.

3. The second concern was the rapid growth of legal norms relating to terrorism. They had responded to new patterns of financing, targeting and technology, but States had difficulty keeping pace with their breadth and depth. One of the goals of her mandate was to systematically identify conflicts and inconsistencies in law as they affected the full enjoyment of human rights. The “blur” of norms must be sharpened so that States knew what was expected of them in complex situations of counter-terrorism interventions in society. The effectiveness of the law, whether international or domestic, depended on clarity with regard to the obligations binding each party; similarly, citizens also relied on that clarity when identifying breaches by States and pursuing reparations.

4. Third, a healthy civil society gave a voice to the marginalized and vulnerable, including victims of terrorism, and played a critical role in activism, education, research, oversight and partnership with Governments in the context of counter-terrorism activities. Unfortunately the civil society space was shrinking and human rights defenders were being targeted by both State and non-State actors. Though they performed the necessary work of ensuring accountability and transparency, civil society groups and activists were often targeted by national security laws and administrative procedures. The harassment, suppression, detention and killing of activists, lawyers and human rights defenders were unacceptable and could not be legitimized by a reliance on national security doctrines or excuses. It was important to listen carefully to those who knew what terrorism meant for ordinary people, but also to learn what harm State responses to terrorism could inflict.

5. Finally, it was important to recognize the important work of the Security Council Committee established pursuant to resolution [1373 \(2001\)](#) concerning counter-terrorism and the Counter-Terrorism Committee Executive Directorate, as well as the content of the relevant resolutions of the Security Council. Mainstreaming gender perspectives into counter-terrorism norms and activities necessitated an assessment of its impact on the dignity and equality of women and girls and an acknowledgement of their particular vulnerabilities in conflict and violent settings. The implementation of the mandate would also involve more complex understandings of male vulnerability, validation of male status, and drivers of violence and extremism.

6. **Ms. Mortaji** (Morocco) said that her delegation would welcome more information about the impact of terrorism on the rights of victims and their families and the societies where such acts were committed, and how the mandate of the Special Rapporteur would address that issue.

7. **Ms. Vertichel** (Belgium) said that as an integral part of collective and individual security, human rights and their protection should be incorporated into the counter-terrorism initiatives of the international community. It was important to remain faithful to the commitments made in the context of the United Nations Global Counter-Terrorism Strategy. Effective counter-terrorism measures and the protection of human rights were not conflicting objectives, but rather, mutually reinforcing ones. A vibrant, diverse and open society that offered space for dialogue and public participation was crucial for the prevention of terrorism.

8. Under the Belgian chairmanship of the Committee of Ministers of the Council of Europe, the Council had adopted specific measures to address the phenomenon of foreign terrorist fighters and violent extremism and radicalization leading to terrorism, while ensuring respect for human rights, the rule of law and democracy. Several other initiatives, including on gender dimensions, terrorists acting alone and terrorism and women, were being discussed; her delegation believed that consultations and exchanges between the Council and the Special Rapporteur would be very useful.

9. It would be helpful if the Special Rapporteur could elaborate on how she planned to engage with civil society with regard to undue restrictions in the name of security and counter-terrorism.

10. **Mr. Ríos Sánchez** (Mexico) said that his delegation would be interested to know what States could do to strengthen the participation of women and civil society in counter-terrorism efforts.

11. **Mr. Forax** (Observer for the European Union) said that given the declared importance of integrating a gender perspective into the work of the Special Rapporteur, further information about the role of women, and the ideas of male identity and power as a basis for recruitment to terrorist organizations would be welcomed.

12. The fight against terrorism and violent extremism remained top priorities for the European Union, which would address the threats vigorously but in full compliance with international human rights and humanitarian law. States had the responsibility to protect the individuals within their jurisdiction, but also to respect human rights at all times. His delegation

reiterated its full support for the United Nations Global Counter-Terrorism Strategy and the Secretary-General's Plan of Action to Prevent Violent Extremism as excellent tools for further work in the field of counter-terrorism.

13. **Ms. Al-Emadi** (Qatar) said that the Special Rapporteur was most welcome to visit her country, which believed strongly that it was essential to uphold human rights while combating terrorism. The Qatari Government had amended the country's legislation, implemented capacity-building initiatives and was strengthening its partnerships with international stakeholders with a view to countering terrorism and addressing its root causes, while striving at all times to uphold the rule of law, human rights and fundamental freedoms. She underscored that the selective targeting of countries or groups within society on political grounds did not further efforts to combat terrorism, and called on all relevant stakeholders to comply fully with the United Nations Global Counter-Terrorism Strategy and all other relevant international instruments.

14. **Mr. Claycomb** (United States of America) said that effective counter-terrorism work required a foundation in the rule of law, accountability from security forces, respect for human rights and community engagement. National action plans to prevent violent extremism must be consistent with international human rights obligations. Abuses of human rights increased local support for terrorism and violent extremism, while open and inclusive societies were the most powerful bulwark against them. Societies were safer and more resilient when men, women and youth exercised their rights and were able to organize, speak out against violence and stand up as leaders in fostering peace.

15. His delegation would welcome further information on the best practices States should take into account in their counter-terrorism work, and examples demonstrating the important role of civil society in fostering resilience when faced with violent extremism.

16. **Mr. Kamau** (Kenya) said that while human rights were crucially important, there was also a need to consider the threat faced by States. Poor countries needed help to embed human rights practices. With regard to the gender dimension, he noted that women were also perpetrators of terrorism. Samantha Lewthwaite, a British citizen known as the "white widow", had been behind the attack on the Westgate shopping mall in Nairobi.

17. It was important not to forget about the human rights of victims of terrorism. States should not attempt to create moral equivalence between the fight against terrorism, which was upending many countries, and the

delicate task of managing individuals who usurped human rights spaces to perpetrate acts of terror. In that regard, he asked what Member States could do to stop terrorist elements and extremists from abusing public freedoms to carry out violent acts.

18. **Ms. Sukacheva** (Russian Federation) said that all States must be prepared to sacrifice their own opportunistic and geopolitical interests in order to achieve a common approach to the human rights dimension of counter-terrorism. Collaboration should be based on respect for international law; condemnation of terrorism in all its forms; a strong legal framework for combating terrorism; practical liability for terrorists, their sponsors and their abettors; effective prevention of terrorist funding; and the countering of terrorist ideology. Terrorist activities could not be justified on any human rights grounds, such as freedom of speech or the categorization of terrorists as good and bad or “us and them”. All counter-terrorism efforts should strike a reasonable balance between the interests of society and the rights of the individual. By the same token, United Nations bodies must not prioritize protection of the rights of perpetrators and suspects of terrorism over those of victims.

19. **Ms. Frechin** (Switzerland) said that her delegation would be interested to learn more about the concerns of the Special Rapporteur with regard to the effect on human rights of an extended interpretation of international humanitarian law, and would like to know the place of human rights in the context of the fight against terrorism, bearing in mind the establishment of the United Nations Office of Counter-Terrorism.

20. Her Government welcomed the integration of gender perspectives into counter-terrorism work and was working to advance that cause in its capacity as Co-Chair of the Criminal Justice and Rule of Law Working Group of the Global Counterterrorism Forum.

21. A lack of clarity or misconceptions concerning the intersection of various legal systems and how they related to the fight against terrorism and international human rights, humanitarian and criminal law were often used to restrict civil society space and excessively regulate the activities of non-governmental organizations. It would be important to have further clarification regarding that intersection and the related issues to which it might lead.

22. Her delegation was also concerned at the impact of counter-terrorism measures on humanitarian actions and medical missions. The international community had the responsibility to ensure that such international or national measures did not impede efforts benefiting the

victims of armed conflict or other activities undertaken in conformity with international humanitarian law.

23. **Mr. Torbergson** (Norway) said that his delegation would welcome further elaboration of the important role of civil society in preventing radicalization and violent extremism.

24. The global phenomenon of terrorism and violent extremism was highly adaptable and posed a challenge that could not be met by military means and criminal proceedings alone. All forms of violent extremism needed to be addressed through various preventive and long-term measures at the international, national and local levels. Such measures also needed to conform to international human rights standards and the rule of law. Human rights and counter-terrorism measures were complementary and mutually reinforcing. Norway and Jordan had established the Group of Friends of preventing violent extremism, which would seek the balanced implementation of the four pillars of the United Nations Global Counter-Terrorism Strategy.

25. **Mr. Rodríguez Hernández** (Cuba) said that his delegation had taken note of the need to adopt an integrated human rights framework to combat terrorism. In that connection, he asked the Special Rapporteur to expand on the reasoning behind the framework and its expected reach, given that the United Nations already had a complex institutional architecture for human rights and terrorism. While much progress had been made, the protection of human rights in the fight against terrorism remained a concern. In the past, serious violations of human rights and international law had been committed in the name of the fight against terrorism, which must not be allowed to happen again.

26. **Mr. Hassan** (Maldives) said that his delegation welcomed the efforts of the Special Rapporteur to integrate gender perspectives into the broader discussion of counter-terrorism. His Government had already adopted policies, supported by a comprehensive legal regime, to condemn terrorism in all its forms, restrict extraordinary procedures and arbitrary decisions, promote the protection of human rights and fundamental freedoms, and explicitly prohibit all acts of torture.

27. With regard to gender mainstreaming in the efforts to prevent violent extremism and terrorism, the approach of the Maldives was to encourage close cooperation between the Ministry of Gender and Family and the National Counter Terrorism Centre as well as with community and civil society organizations so as to empower women to become leaders and agents of change.

28. **Mr. Ishaya Odisho** (Iraq) said that huge numbers of Iraqis had lost their lives in his country's war against terrorism. The Iraqi armed forces, supported by the international coalition, continued to liberate territory held by the terrorist group Islamic State in Iraq and the Levant (ISIL). Iraq's highly-trained counter-terrorism forces made every effort to minimize civilian casualties during their military operations, which often involved street-to-street combat in urban areas. The Iraqi armed forces also established safe corridors for the evacuation of civilians from combat zones and took all possible steps to rescue civilians used as human shields by terrorist gangs. Iraq stood ready to share with other States its counter-terrorism strategies and key lessons it had learned in that regard.

29. ISIL had perpetrated the most brutal crimes against civilians belonging to the country's Yazidi, Christian, Turkmen and Shabak minorities, and particularly against women from those minorities, who had been subjected to serious physical and psychological abuse, with many women suffering rape, torture and enslavement at the hands of ISIL members. In that regard, the adoption of Security Council resolution [2379 \(2017\)](#) on threats to international peace and security should be seen as a milestone in terms of the international community's efforts to bring the perpetrators of those crimes to justice.

30. **Mr. Kelly** (Ireland) said that his delegation would welcome the views of the Special Rapporteur concerning how States could ensure that respect for freedom of opinion and expression was integrated into legislation, policies and programmes relating to counter-terrorism.

31. His Government had consistently held the view that there was no conflict between the fight against terrorism and respect for human rights, and shared the concerns regarding new and sophisticated techniques of intimidation used to discourage or impede human rights work. His delegation was also deeply concerned that civil society space was increasingly being targeted under the guise of the fight against terrorism, particularly through the misuse of national security and counter-terrorism legislation to curb the activities of civil society and human rights defenders, and therefore welcomed the intention of the Special Rapporteur to examine that issue in her work. He called on all States to ensure that plans of action to prevent violent extremism and anti-terrorism laws were consistent with international human rights obligations.

32. **Ms. Jones** (United Kingdom of Great Britain and Northern Ireland) said that all States should cooperate fully with the requests of the special procedures of the

Human Rights Council. Respect for human rights and fundamental freedoms and the rule of law must be at the heart of all activities to fight terrorism and extremism around the world, otherwise public trust could be undermined and communities alienated, thus exacerbating the issue. Her delegation welcomed the intention expressed by the Special Rapporteur to integrate gender perspectives in discharging her mandate, and would be grateful for her elaboration on the role that civil society could play in the fight against terrorism and extremism. It would also be helpful to learn what States could do to support her work on that subject.

33. **Ms. Charrier** (France) said that her delegation would welcome the recommendations of the Special Rapporteur with regard to the issue of possible arbitrary or discriminatory application of the law, particularly in States which continued to use the death penalty for violations linked to terrorism.

34. Terrorism should be fought, first and foremost, with the power of law, and states of emergency should be of limited duration. The French parliament was preparing to adopt a law to reinforce domestic security and counter-terrorism under the control of a judge and in line with French international engagements. Her country was equipping itself with permanent instruments to prevent and combat terrorism, while reserving the tools of a state of emergency for use in exceptional situations. Respect for human rights and international humanitarian law must be ensured in the fight against terrorism, which should not serve as a pretext for violations of human rights and fundamental freedoms.

35. **Mr. van der Pluijm** (Netherlands) said that his delegation would like to hear the views of the Special Rapporteur regarding the most acute challenge to civil society, what her role in addressing that challenge would be, and what were the most important steps the United Nations and its Member States could take to address it.

36. As co-Chairs of the Global Counter-Terrorism Forum, his Government and the Government of Morocco would work towards a similar objective in implementing the Global Counter-Terrorism Strategy, including its human rights components. He also stressed the importance of measures to combat violent extremism, which, along with measures to combat terrorism, must be undertaken in full compliance with applicable international law, including international human rights law.

37. **Mr. AlKadi** (Saudi Arabia) said that his country was committed to combating all forms of terrorism, as well as depriving terrorist groups of their sources of

funding. He asked the Special Rapporteur what she believed was an appropriate punishment for the perpetrators of terrorist acts and other crimes, such as drug trafficking, that inflicted great suffering on innocent civilians and on society in general, and whether the death penalty was not a suitable punishment for those crimes.

38. **Ms. Ní Aoláin** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that victims of terrorism were often members of groups that were a vibrant part of civil society. When a Government cracked down on civil society, it often cracked down on the very victims who were seeking dialogue with a State about their experiences and needs. It was important for Governments to listen to those victims. Unfortunately, it was easy to commodify them and give sanctimonious and instant responses to the horror of any particular incident, but then fail to follow through regarding the rights of, and obligations to, those victims.

39. Any victim of a human rights violation, including terrorism, was entitled to communication and a thorough investigation. That principle was affirmed by treaty law and strong and consistent jurisprudence from regional courts. Reparations must be made available to victims of terrorism, especially migrants, refugees and asylum seekers, who were often actively seeking to escape. Victims were often the strongest voice in articulating the harm of terrorism. They played a critical role in countering violent extremism, and should be fully integrated into dialogues on the issues. Memorialization of the victims of terrorism was also an important obligation to those who had been lost.

40. Civil society organizations were an integral aspect of the fight against terrorism, but were facing growing challenges from laws regulating their establishment and operation. Funding for them also imposed a practical restriction on their work. Limitations to the freedom of assembly and expression were an impediment to the capacity of those organizations to state their views, which, though often uncomfortable or difficult for States to accept, constituted an important part of their work and demonstrated the role of a vibrant, tolerant and engaged civil society. The de-legitimization of such organizations through critique, stigma or criminalization further limited their ability to function. Civil society was an integral component in the prevention of violent extremism, and its support was necessary.

41. As described in her report, many violent acts directed at women, including rape, were not identified

or defined as terrorism in many States, though they should be. On the issue of returning female fighters, she agreed with the representative of Kenya that women should not be seen simply as victims in such a context. Mobilization and radicalization involved women in addition to men, and there was an increasingly serious problem of female perpetrators in terrorist organizations. However, it was all the more important for the responses to violent extremism and the role States played in countering it to be gender-sensitive. After all, if men were the sole target audience of counter-terrorism initiatives, half of the population would be missed.

42. On the questions of the role of the mandate of the Special Rapporteur in pending institutional and architectural revisions, she said that a single mandate-holder serving as the only focal point on human rights and counter-terrorism was inadequate under any circumstances. States were obligated to go beyond the expertise of a Special Rapporteur and structurally enable human rights protections within such revisions, so as to ensure the centrality of such protections in the work of countering terrorism and violent extremism.

43. **Mr. García-Sayán** (Special Rapporteur on the independence of judges and lawyers) said that the mandate had been established in 1994 with a view to examining allegations of interference and attacks on the independence of the judiciary, identifying and recording such attacks and progress achieved, and studying important questions of principle in order to protect and enhance the independence of judges, lawyers, prosecutors and court officials. While much progress had been made, attempts to curtail judicial independence continued. He would be carrying out official visits to Poland in October 2017 and to Morocco in January 2018, as well as to Algeria, Guatemala and Honduras in due course.

44. Introducing his report (A/72/140), which focused on the impact of organized crime on the judicial system, he said that judicial corruption was a growing issue throughout the world. Noting the need for international cooperation and coordinated efforts to combat organized crime, he said that Member States, judges, lawyers and prosecutors must work together at the national, regional and international levels to implement the provisions of the United Nations Convention against Corruption. In addition, the United Nations system should coordinate its efforts to put in place appropriate follow-up mechanisms. In that connection, he highlighted the global programme on promoting a culture of lawfulness launched by the United Nations Office on Drugs and Crime in 2016, which had included the establishment of a global judicial integrity network to exchange best

practices and lessons learned on priority challenges and emerging issues.

45. The report outlined measures to enhance the integrity and independence of the judiciary, such as legislation and public policies, and measures to prevent opportunities for corruption among members of the judiciary, such as disciplinary procedures and access to effective remedies and reparation for victims. The main conclusion of the report was the importance of strengthening the democratic State, ensuring the optimal functioning of the justice system and promoting international cooperation. The report concluded with a number of specific recommendations for States, such as the need to undertake studies on the causes and consequences of corruption, to ensure that the judicial system was properly funded and to provide training sessions for personnel on issues such as ethics and combating corruption.

46. **Ms. Mejía Vélez** (Colombia) said that Governments in Latin America recognized the need to redouble their efforts to strengthen the rule of law and democracy. Under the Comprehensive System of Truth, Justice, Reparation and Non-Repetition established by the final peace agreement between her Government and the Revolutionary Armed Forces of Colombia, 51 judges had been selected to sit on the Special Jurisdiction for Peace. The judges had been chosen by a selection committee composed of Colombian and international legal experts, including Mr. García-Sayán. The Special Rapporteur, who had been designated by the Secretary-General to serve on the committee, had visited Colombia in that capacity. The judges selected came from a wide range of professional backgrounds; over half were women and 20 per cent were of indigenous or Afro-Colombian origin. Her Government hoped that the diversity of the Special Jurisdiction for Peace would have a positive impact.

47. **Ms. Sukacheva** (Russian Federation) said that the eradication of corruption was a crucial factor in a country's successful development. Every two years, the Russian Government adopted an anti-corruption plan setting out significant trends, challenges and measures for preventing corruption, while its law enforcement bodies and judiciary regularly carried out anti-corruption drives. Russia was also an active participant in international discussions on a broad range of anti-corruption issues and was prepared to share its experience with other Member States in that regard.

48. The scale and cross-border nature of corruption meant that States could only tackle it effectively by pooling their efforts. International initiatives to fight corruption needed to be governed by precise standards,

although experience had shown that such standards could be harmful if imposed on countries which were ill-prepared or ill-suited for them. Member States should cooperate on the basis of mutual respect for each other's legal systems, without politicizing the agenda or exerting pressure on other sovereign States. It was vital for the United Nations to be the main international platform in anti-corruption efforts; other international and regional forums and mechanisms should complement and not usurp the United Nations format. All anti-corruption efforts should be guided by the United Nations Convention against Corruption, which was the sole international legal instrument in that field.

49. **Mr. Kamau** (Kenya) said that his delegation strongly objected to the manner in which the interactive dialogue was being managed. It was impossible to have a serious discussion while under such strict time restrictions. Member States only had time to make trite statements instead of engaging in a proper dialogue. That was not the way in which the United Nations should function.

50. While his delegation welcomed the report of the Special Rapporteur, his Government deeply regretted the deplorable statements made by the Special Rapporteur and several other special procedures mandate holders regarding the Kenyan elections and the judiciary. Given the time restrictions, he was unable to go into detail, but his delegation had communicated its concerns to all Member States and hoped to be able to discuss the matter with the Special Rapporteur.

51. **The Chair** said that he had taken note of the concerns of the representative of Kenya regarding the format of the interactive dialogue. He was striving to run the process in an orderly and equitable manner to enable the Committee to complete its work within the allotted time.

52. **Ms. Mohamed Didi** (Maldives) said that while it was important to strengthen the State and law enforcement agencies in order to drive out crime syndicates, which threatened the independence of the judiciary, States must not lose sight of the need to uphold their constitutions and ensure that laws and regulations were introduced through democratic processes. Intergovernmental agencies must be careful not to compromise the supremacy of constitutions and, by extension, the legitimacy of national laws, rules and regulations.

53. In Maldives, the Constitution, the Judicature Act, the rules on contempt of court and the regulations governing the legal profession were part of a comprehensive legal system that guaranteed the independence of the judiciary and the legal profession.



Her Government was formulating a legal professions bill that would contribute to the establishment of an independent bar. The Supreme Court had established an academy to provide continuous judicial education and legal training through short-term courses and programmes. In addition, the judicial sector action plan was intended to boost confidence in the judiciary, improve public understanding of the judicial process and enhance the performance of judges and other legal practitioners.

54. **Mr. Al-Mansouri** (Qatar) said that his country had been ranked as one of the world's least corrupt countries in the Transparency International Corruption Perceptions Index – an achievement that had been possible because of his Government's strenuous efforts to combat all forms of corruption. At the international level, Qatar had launched the Sheikh Tamim Bin Hamad Al Thani International Anti-Corruption Excellence Award, which was awarded annually on International Anti-Corruption Day to honour individuals and institutions that had dedicated themselves to combating corruption and to encourage implementation of the United Nations Convention against Corruption. Qatar would continue to safeguard the independence and transparency of the judiciary with a view to upholding the rule of law and would continue to cooperate fully with the Special Rapporteur in the fulfilment of his mandate. He asked how States could further strengthen their cooperation with a view to implementing the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, which had been adopted in 2015 at the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice.

55. **Mr. Forax** (Observer for the European Union) said that corruption and organized crime undermined democracy and the rule of law and endangered States' ability to protect human rights. Corruption posed a threat to the right to a fair trial and deprived societies of resources. The report noted the need to promote monitoring and transparency mechanisms and increased accountability for judges, without undermining their judicial independence. He would be grateful if the Special Rapporteur could elaborate on how that could be achieved and give examples of best practices. The report also noted the need for preventive measures, such as anti-corruption education programmes for judges and lawyers. What could such programmes look like? With regard to the Special Rapporteur's call for States to develop a comprehensive response that addressed the

problems raised in his report in an integrated manner, taking into account cultural and social variables, he asked how that could be supported at the international level.

56. **Mr. Claycomb** (United States of America) said that an executive order signed in February 2017 was intended to impede transnational criminal organizations by enhancing cooperation with other States, increasing information-sharing and strengthening national capabilities. The Foreign Corrupt Practices Act was also a critical part of his Government's anti-corruption arsenal. The United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime provided a comprehensive, flexible and effective legal framework. The United States had used the conventions over 500 times to investigate and prosecute transnational organized crimes and corruption cases.

57. His delegation was pleased that Guatemala would preside over the seventh session of the Conference of the States Parties to the United Nations Convention against Corruption, which would take place in November 2017. He commended the Constitutional Court of Guatemala for blocking the expulsion of Commissioner Iván Velásquez, the head of the International Commission against Impunity in Guatemala, which had been ordered by President Morales. In that connection, he would be interested to hear the Rapporteur's recommendations on how to further strengthen judicial institutions in Guatemala and how to combat corruption, which was undermining the security and prosperity of the country.

58. **Mr. Rodríguez Hernández** (Cuba) said that the Special Rapporteur should approach the issues identified in his report in a comprehensive and impartial manner, in accordance with the provisions of international human rights instruments. At the same time, he must also bear in mind the relevant instruments on corruption and organized crime. He urged the Special Rapporteur to work with the bodies responsible for monitoring those instruments and other international commitments. National and regional particularities and historical, cultural and religious heritage, which had a bearing on national legal systems, should also be considered.

59. **Mr. Molina Linares** (Guatemala) said that the rule of law was essential in order to eliminate poverty, reduce inequalities, foster gender equality, protect the environment, create fair, inclusive and strong institutions, guarantee access to justice and combat corruption and impunity. Guatemala still faced challenges with regard to access to justice and the fight



against impunity. His delegation valued the support provided by the United Nations Office on Drugs and Crime, the United Nations Development Programme, the United Nations High Commissioner for Human Rights and the International Commission against Impunity in Guatemala, which had improved the Government's capacity to investigate and prosecute human rights violations and eliminate entrenched corruption. Noting his country's long-standing willingness to cooperate with the special procedures mandate holders, he said that his Government was currently planning the Special Rapporteur's forthcoming visit.

60. **Mr. García-Sayán** (Special Rapporteur on the independence of judges and lawyers) said that judges and prosecutors were a target for organized criminal gangs, which was paradoxical because the main tool that civil society had at its disposal to tackle organized crime was the judiciary. He agreed that there was more than one way to address corruption. Equally, there was no single model national human rights framework or judicial system. States had developed various types of judicial systems, all of which had their own weaknesses. However, there was one overarching criterion, which was the independence of the judiciary. An independent judiciary was the best tool for combating corruption and organized crime.

61. With regard to the efforts of Colombia to put in place a transitional justice system, he noted that civil society had participated extensively in the process of selecting the judges. It had been a transparent process: members of civil society had been able to make comments and ask questions, and the candidates had been interviewed publicly. While he was not suggesting that all judicial systems should recruit their personnel in the same manner, he did note that civil society participation could be extremely useful.

62. Turning to the comments on the importance of the United Nations Convention against Corruption, he said that it contained specific provisions on extradition and cooperation among judges and prosecutors. However, at the national level there was a lack of awareness of those provisions. All Member States must strengthen their capacity to work with judges and prosecutors in other countries. Some States were already working together on criminal cases and exchanging information, an approach which was bearing fruit. The United Nations system had a key role to play by refining global strategies on human rights, organized crime and international cooperation.

63. With regard to the comment made by the representative of Kenya concerning the Special

Rapporteur's statement on the Kenyan elections, he said that there was always room for dialogue and debate. The information collected could be contradicted by more solid information.

64. Efforts to tackle organized crime and corruption would only be successful if there were sufficient budgetary resources. In addition, judges and prosecutors must be properly trained and made aware of all recent international instruments. Most important of all was the need for an independent judiciary. There was no single model to be followed by all Member States, but the independence of the judiciary was absolutely key.

65. **Mr. Jazairy** (Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights), introducing his report ([A/72/370](#)), said that in its resolution [71/193](#), the General Assembly had requested more information on the process regarding the discussions of his proposals at the Human Rights Council. The proposals concerned the establishment of a United Nations register of unilateral coercive measures likely to have a human rights impact; the adoption by the General Assembly of a declaration on unilateral coercive measures and the rule of law; and the establishment of an ad hoc compensation commission under the United Nations to ensure accountability and the availability of redress for victims of unilateral coercive measures. The proposals had been reviewed and fine-tuned on the basis of input received from Security Council specialists and academics at an expert meeting convened in Geneva in 2017 and had been elaborated on in detail in his recent report to the Human Rights Council ([A/HRC/36/44](#)). He noted with satisfaction that the latest resolution on human rights and unilateral coercive measures adopted by the Human Rights Council at its thirty-sixth session in September 2017 welcomed the work of the Special Rapporteur on thematic and country issues.

66. With regard to extraterritoriality in relation to unilateral sanctions, most United Nations bodies, regional organizations and States generally agreed that only sanctions adopted by the Security Council under Chapter VII of the Charter of the United Nations were applicable under international law, whereas domestic sanctions were unlawful. In terms of the accountability of targeting States for human rights impacts caused abroad by their sanctions, not only the targeted State was under obligation to protect populations to the best of its ability, but also the targeting State. On account of that obligation, the targeting State could be held legally accountable, including for adverse human rights consequences of sanctions which businesses from third States were obliged to implement.

67. He warmly praised the United States and Sudanese authorities for their positive responses to his recommendations regarding the unilateral regimes imposed on Sudan. At its thirty-sixth session, the Human Rights Council had welcomed advances in the cessation of hostilities, the national dialogue and follow-up to over its more than 900 recommendations. Although some Member States had pointed out that certain human rights issues remained unresolved, he believed that the process had gained sufficient momentum to dispense with the remaining sanctions, provided that negotiations continued. He had launched an appeal to all parties to make 11 October the last day of the sanctions, which was positively received by the United States administration. On 6 October, the United States took the decision to lift all remaining economic and trade sanctions on Sudan as of 12 October 2017.

68. The significant expansion of the scope and applicability of new sanctions against the Russian Federation could have an indirect adverse impact on human rights, especially of the most vulnerable groups. Experience had shown that without simultaneous negotiations, the result of unilateral coercive measures would be that everyone was worse off. In June 2017, he had addressed the European Parliament Subcommittee on Human Rights, suggesting that additional steps should be taken by the competent European Union authorities to ensure the observance of human rights in the context of their sanctions policy. Lastly, he expressed gratitude for the support expressed in the European Parliament for his position and recommendations regarding Yemen.

69. **Mr. Suárez Moreno** (Bolivarian Republic of Venezuela), speaking on behalf of the Non-Aligned Movement, said that his delegation wished to reaffirm the position agreed on by the Heads of State and Government at the seventeenth Summit of the Non-Aligned Movement, held in the Bolivarian Republic of Venezuela in 2016. The Non-Aligned Movement was opposed to the use of unilateral coercive measures, including economic, financial and trade measures, which were not in accordance with international law, the Charter of the United Nations and the norms and principles governing peaceful relations among States.

70. Such measures could lead to the erosion and violation of the Charter, international law and human rights. They were used to achieve national policy objectives and to put political, economic and financial pressure on States, in particular developing countries. The Non-Aligned Movement was concerned by the continued imposition of such measures, which hindered the well-being of civilians and the full realization of human rights. The Non-Aligned Movement had

reaffirmed its position in September 2017 with the adoption of the Political Declaration of New York. Underlining the importance of sovereign equality, he said that unilateral coercive measures were arbitrary and undermined the development of a truly democratic international order.

71. **Mr. Mohamed** (Sudan) said that his delegation was satisfied with the consistent emphasis in the Special Rapporteur's report on the negative impact of unilateral coercive measures, especially on vulnerable groups; it also welcomed the Special Rapporteur's systematic and objective cooperation with his country and his proposal to adopt a declaration on unilateral coercive measures and the rule of law. He commended the decision by the United States administration to relax unilateral coercive measures against his country. Hopefully that step would lead to the eventual removal of all sanctions against Sudan and set a good example for other countries subject to unilateral coercive measures.

72. **Ms. Sukacheva** (Russian Federation) said that sanctions were one of the most powerful instruments available to the international community for settling crisis situations and only the Security Council should have the prerogative to impose them. Some Member States, however, were wont to bypass the Security Council and imposed unilateral coercive measures on specious grounds, thereby undermining international relations and diplomatic efforts to resolve crisis situations. Sanctions should not be permitted as a mechanism of collective punishment against targeted countries.

73. Throughout its history, the Russian Federation had been subject to sanctions imposed on political grounds by the United States and a number of European and other countries. Since March 2014, some countries had once again imposed unlawful restrictions on Russia as punishment for its protection of the legitimate right of the people of Crimea to self-determination and freedom of expression. During his visit to the Russian Federation in April 2017, the Special Rapporteur had been able to gain a comprehensive understanding of the negative attitude felt by the Russian public to unlawful actions committed by certain Member States. The Russian Federation was grateful to the Special Rapporteur for his objective reporting and balanced recommendations and intended to continue its constructive collaboration with his office.

74. **Mr. Claycomb** (United States of America) said that the United States categorically rejected the entire premise underlying the mandate of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights. Targeted

sanctions did not violate human rights; on the contrary, they were a powerful tool for promoting human rights and fundamental freedoms and holding accountable those responsible for abuses. Many of the world's worst human rights offenders blamed sanctions as a way of justifying their continued violations, diverting attention away from their own failure to protect human rights and preserving their illegitimate rule. His delegation hoped that the Special Rapporteur would in future condemn abuses by such countries as the Russian Federation, the Democratic People's Republic of Korea and Venezuela, rather than seek to defend their actions.

75. The United States had applied sanctions only with specific objectives in mind, including to promote the rule of law, democracy and human rights, end armed conflict or encourage improved resource governance. Sanctions were an appropriate, effective and legitimate alternative to the use of force and all sanctions imposed by the United States were fully compliant with international law and the Charter of the United Nations.

76. **Mr. Castillo Santana** (Cuba) said that, having suffered from the economic and commercial blockade imposed by the United States of America for over 55 years, his country was aware of the damages caused by unilateral coercive measures and continued to oppose them, including measures used to impose economic or political pressure on countries, particularly developing ones. States should refrain from adopting unilateral coercive measures in violation of international law and the Charter of the United Nations. He asked what the impact of a declaration on unilateral coercive measures would be and what steps the General Assembly and Human Rights Council could take towards developing one.

77. **Ms. Matlhako** (South Africa) said that her delegation strongly agreed with the observations in the report that unilateral sanctions were increasingly used as foreign policy tools by certain countries and that the underlying idea behind sanctions should be that States could not do abroad what they were prohibited from doing at home. It also appreciated the Special Rapporteur's focus on economic, social and cultural rights in the report, since that reaffirmed the justiciability of those rights. Given the issue of extraterritoriality in relation to the use of unilateral sanctions, she asked what role businesses could play. She also wondered how best to proceed with the proposal to establish a United Nations register of unilateral coercive measures likely to have a human rights impact.

78. **Mr. AlKadi** (Saudi Arabia) reaffirmed his country's strong condemnation of the Israeli occupation

of Palestine and called on the international community to condemn all forms of occupation and deliver on its pledge to guarantee the security and safety of the Palestinian people and compel Israel to lift the illegitimate blockade it had imposed on Palestinians.

79. His Government fully supported all sanctions and other measures imposed with a view to countering hostile actions and interventions by Iran in the countries in the Middle East region, and underscored the importance of preventing the spread of weapons of mass destruction in the region and beyond. He asked the Special Rapporteur whether attention should not be drawn, first and foremost, to Iran's misuse of financial resources to finance acts of terrorism abroad, which undermined human rights in affected countries, rather than to the impact of unilateral sanctions on the enjoyment of human rights in Iran.

80. As had been affirmed by the Special Rapporteur, the measures imposed on Qatar did not constitute a blockade, in that they did not prevent that country from engaging in economic relations with third parties. He underscored, moreover that those measures had been imposed in accordance with international law.

81. Saudi Arabia welcomed recent steps taken by the United States of America with a view to lifting economic sanctions imposed on Sudan, and trusted that the removal of those sanctions would foster development and deliver prosperity. He reaffirmed his country's steadfast support for Sudan and its people.

82. Saudi Arabia supported the proposal put forward by the Special Envoy for Yemen regarding the port of Hudaydah, which provided for the lifting of the blockade imposed on the port by the Iranian-backed Houthi militias, measures to ensure that the port was not used to smuggle arms to those criminal militias, and the formation of committees to oversee operations at the port, collect port revenue and transfer that revenue to the Government of Yemen.

83. **Ms. Shaheen** (United Arab Emirates) said that her delegation supported the statement made by the representative of Saudi Arabia and the conclusion in the Special Rapporteur's report that the measures enforced against Qatar did not constitute a blockade. Nevertheless, the report remained an outdated and speculative statement on the unilateral coercive measures adopted against Qatar as it failed to account for the broad range of humanitarian measures implemented to minimize the disruption to the lives of Qatari citizens. Her delegation would be glad to answer any questions on the purpose, nature and scope of the measures which it had adopted against Qatar in response to the latter's funding and support of terrorism.

84. **Mr. Hassani Nejad Pirkouhi** (Islamic Republic of Iran) said that the statement by the representative of Saudi Arabia, a country which was engaged in violations of human rights throughout the Persian Gulf region, was not worthy of a response. All unilateral coercive measures were an assertion of jurisdiction beyond national borders and therefore violated international law. The question was not about the legality of such measures, but how to stop victimizing civilians and to provide victims with compensation. His delegation therefore welcomed the recommendations in the report to reaffirm accountability and the rights of victims to an effective remedy, including appropriate and effective financial compensation.

85. As a country which had been targeted by sanctions for many years, the Islamic Republic of Iran remained deeply concerned about the impact of unilateral coercive measures on many human rights. Such atrocities must be stopped and the instigators held accountable. His delegation repudiated the argument that unilateral coercive measures were a better foreign policy option than war, since suffocating an entire population was reprehensible under any pretext. He asked what role the General Assembly would play in addressing illegal measures of that kind.

86. **Mr. Benarbia** (Algeria) asked how to ensure that States were acting in compliance with their international obligations to protect and promote human rights when they adopted unilateral coercive measures.

87. **Ms. Al-Temimi** (Qatar) said that, in addition to the unilateral illegal measures imposed on her country, which had impeded economic activity and resulted in an unjustified de-facto land, sea and air blockade, a campaign of disinformation was being waged against Qatar to sully its reputation. She urged the Special Rapporteur to study the negative repercussions of those measures, which were undermining the human rights of Qatari citizens, foreign workers within the country and the citizens of other States whose livelihoods depended on trade with Qatar.

88. The Government of Qatar was taking all necessary steps to ensure that basic needs of Qatari nationals and foreign workers living and working in the country were met. Qatar believed strongly in the peaceful settlement of disputes through dialogue. The unilateral coercive measures imposed on Qatar should be revoked at the earliest opportunity and serious efforts made to reach a negotiated settlement involving all concerned parties.

89. **Mr. Ri Song Chol** (Democratic People's Republic of Korea) said that unilateral coercive measures had a negative impact on human rights. His Government opposed the use of economic sanctions and blockades.

The imposition of coercive measures against sovereign States was a clear violation of the Charter of the United Nations, the Universal Declaration of Human Rights and numerous resolutions of the General Assembly and the Human Rights Council.

90. The United States had been imposing unilateral economic sanctions on the Democratic People's Republic of Korea for 70 years. The sanctions seriously infringed its sovereignty and its people's right to development. They had caused enormous damage to the national economy and peoples' lives and were hampering the achievement of the Sustainable Development Goals. The current economic and financial sanctions imposed by the United States and other hostile forces were despicable and hindered the efforts of the United Nations and other humanitarian organizations to help vulnerable groups, such as children, women and persons with disabilities.

91. Meanwhile, the sanctions imposed by the Security Council, which were politically motivated and based on double standards, were suffocating the Democratic People's Republic of Korea. Both unilateral and United Nations sanctions violated human rights and constituted an act of genocide, given their indiscriminate implementation. Sanctions were a means for hostile forces to overthrow the political and social system chosen by the people of the Democratic People's Republic of Korea. His Government urged the Committee to suspend sanctions and coercive measures, which were inhuman and immoral.

92. **Mr. Qassem Agha** (Syrian Arab Republic) said that Syria categorically rejected the use of unilateral coercive measures to exert economic pressure on States and interfere politically in their internal affairs, as those measures seriously undermined the human rights of those States' populations, and especially the rights of women, children, older persons and other vulnerable groups in their societies. Syria called for the lifting of the blockade on the Yemeni port of Hudaydah, whose destruction by the Saudi-led coalition had severely impeded the delivery of humanitarian assistance, thereby creating a major humanitarian crisis and causing widespread hunger. Furthermore, the brutal war being waged against the Yemeni people had killed almost 1500 children.

93. It was ironic that the Saudi regime had imposed unilateral coercive measures on Qatar, causing the deaths of Qatari nationals, despite the fact that Qatar and Saudi Arabia were working together to perpetrate acts of terrorism and cause bloodshed throughout the region, and particularly in Syria. It was also ironic that the European Parliament had called for the lifting of the

blockade imposed on Yemen, while European States continued to impose unilateral coercive measures against Syria and other countries. Syria continued to hope that the European Union would call for the lifting of the blockade imposed on the Palestinian people in the Gaza Strip. He asked whether any progress had been made towards the lifting of the unilateral coercive measures imposed on countries such as Cuba, the Democratic People's Republic of Korea, Syria, and Venezuela.

94. **Ms. Matar** (Bahrain) said that, as affirmed by the Special Rapporteur, the measures taken against Qatar did not constitute a blockade because they did not prevent Qatar from engaging in economic relations with third parties. To safeguard its stability and security, Bahrain had exercised its sovereign right under international law to sever its relations with Qatar, which continued to sponsor terrorism and violent extremism. She emphasized, however, that Qataris comprised an integral part of the population of the Gulf and the Arab world, and that her Government was making every effort to address the needs of families whose members lived in both Qatar and Bahrain, in line with humanitarian principles.

95. **Mr. Moussa** (Egypt) said that the Special Rapporteur had clearly stated in paragraph 18 of his report that the measures enforced against Qatar did not constitute a blockade as they did not affect exchanges of third parties.

96. **Mr. Jazairy** (Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights) said that many representatives had asked what the General Assembly could do to promote the proposals he had presented in his report. In their draft resolution on the subject to be submitted to the General Assembly, Member States might wish to welcome the establishment of a register of unilateral coercive measures and express interest in a declaration on unilateral coercive measures. Such a declaration would also be beneficial for Member States which claimed that such measures did not violate the rule of law as it would spell out the details in no uncertain terms. The declaration would spur the Human Rights Council on to review the proposals contained in his report and to submit specific proposals at the next session of the General Assembly.

97. In response to the rejection of his mandate by the representative of the United States, he said that his role as Special Rapporteur was particularly sensitive. He had no political responsibilities and had not sought to defend any specific Member State in his report. With regard to Crimea, he had been guided by General Assembly

resolution 68/262. As far as Sudan was concerned, he had tried to reconcile the positions of both parties; the resulting sanctions agreed between the United States and Sudan were a great achievement. His remit was to seek a diplomatic solution while reducing the adverse impact on the most vulnerable population groups. He hoped that crises in other countries could also be resolved by sensitively accommodating different points of view through quiet diplomacy.

98. The international community was currently at a crossroads, as various countries were considering expanding unilateral coercive measures or reciprocating. The pursuit of such a self-interested policy globally would be disastrous for all: recent sanctions imposed by the European Union on the Russian Federation and vice-versa had resulted in a \$55 billion loss for Russia over three years and a \$100 billion loss for the European Union. The solution reached in Sudan, by contrast, was a good example of how to move forward by mutual accommodation. Disagreements would always occur, but if sanctions were imposed, it was important that the negotiation process continued.

*The meeting rose at 1.05 p.m.*