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

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The meeting was called to order at 3 p.m.

Address by the President of the sixty-eighth session of the General Assembly

1. **Mr. Ashe** (President of the sixty-eighth session of the General Assembly) said that the Third Committee had a simple and forthright mandate, derived from the principles of the Charter of the United Nations: to reaffirm faith in fundamental human rights, the dignity and worth of the human person and the equal rights of men and women and to promote social progress and better standards of life in larger freedom, practise tolerance and live together in peace with one another as good neighbours. In practical terms, that meant a concern for basic values, including the universal nature of human rights. It meant that poverty must not prevent anyone from enjoying his or her basic human rights and must be eradicated; that people must feel secure in their societies, have access to decent jobs and not to go hungry; and that they must feel that they are a part of their society and secure and protected within it. In short, the Committee's orientation was people-centred.

2. The current era was marked by widening disparities between rich and poor, increased civil and sectarian strife, and growing economic hardship, causing massive population movements within and across borders, and growing sensitivity to religious and cultural differences. Consequently, superficial changes to the current international system or arrangements would not suffice: the new post-2015 development paradigm demanded commitment to a more effective, coordinated and inclusive approach to development for all, including the poor and most vulnerable. It also advocated a new relationship between human beings and the planet.

3. The past decade had seen a number of achievements, including *vis-à-vis* gender equality, the empowerment of women in many parts of the world, the halving of the number of people living in extreme poverty, and enhanced access to improved water sources and sanitation facilities. Nevertheless, efforts must be stepped up and focus maintained on the many challenging tasks that remained towards achieving the fast-approaching target date for meeting the Millennium Development Goals (MDGs): putting young people to work; reducing barriers to social and economic advancement; feeding the one in eight people who remained chronically undernourished; saving the lives of women and children still dying from

preventable deaths; ending gender-based violence and discrimination against women, girls and marginalized and vulnerable groups; renewing efforts to eliminate systemic racism, racial discrimination, xenophobia and related intolerance; and addressing the many crises in countries afflicted by conflict and post-conflict situations.

4. Responding to those challenges began first and foremost with the commitments already made. There was a common and shared responsibility to implement the outcomes of major United Nations summits and conferences, many of which addressed issues that were being discussed by the Committee. He highlighted several important areas of consideration which could have a direct bearing on the Committee's work and noted that negotiations aimed at strengthening the United Nations human rights treaty body system were set to resume shortly. That process was necessary to ensure that the system functioned effectively and to uphold international human rights standards and norms. It was important to build on the work from previous negotiation sessions and continue to engage constructively in order to achieve the best possible outcome in a timely way.

5. The upcoming year, which marked the twentieth anniversary of the International Year of the Family; the World Conference on Indigenous Peoples; and the launch of the International Decade for People of African Descent, would be an active one for the Committee. He was counting on the Committee's support in preparations for those events, and on its participation in other forthcoming milestone events such as the commemoration of Human Rights Day on 10 December, and the twentieth anniversary of both the adoption of the Vienna Declaration and Programme of Action and the establishment of the Office of the United Nations High Commissioner for Human Rights.

6. Following on the theme of the sixty-eighth session of the General Assembly, "The Post-2015 Development Agenda: Setting the Stage!", the Committee would be covering issues that would play a very important role in advancing that process and in helping to define sustainable development goals. In that context, the Committee should provide input into the significant events on the contributions of women, the young and civil society to the post-2015 development agenda and human rights and the rule of law, which would take place in the resumed session,

and he encouraged the highest-level possible participation by delegations.

7. The Third Committee did not function in a vacuum — it addressed issues that were interrelated and on the agendas of other committees. Progress made in the Committee should not be held hostage to any set of considerations. The Committee must strive for mutually agreed solutions, bearing in mind that the General Assembly reflected the international community's conscience. The decisions made there had a ripple effect throughout the world, helping to build bridges, decrease intolerance and promote stable and harmonious relations. The Committee should not inadvertently encourage influences that ran counter to principles in the Charter. He appealed for its continued support in ensuring an efficient session of the Assembly, and for constructive discussions. The Committee needed the maximum consensus possible in its deliberations, while maintaining the determined spirit which had long been its hallmark.

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

- (b) **Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/67/931; A/68/176, 177, 185, 207-209, 210 and Add.1, 211, 224, 225, 256, 261, 262, 268, 277, 279, 283-285, 287-290, 292-294, 296-299, 301, 304, 323, 345, 362, 382 and Corr.1, 389, 390, and 496)
- (c) **Human rights situations and reports of special rapporteurs and representatives** (*continued*) (A/68/ 276, 319, 331, 376, 377, 392, 397, and 503; A/C.3/68/3 and 4)

8. **Mr. Niambar** (Special Adviser to the Secretary-General on Myanmar) introduced the report of the Secretary-General on the situation of human rights in Myanmar (A/68/331) and described the latest developments in the situation there, covering the period from August 2012 until the end of July 2013. Myanmar continued to pursue its reform measures vigorously. Since the release of the report, he had travelled to Kachin State twice — once in late August to discuss how to advance implementation of the seven-point agreement that had been signed during peace talks held in May 2013, and again from 8-10 October, as an observer in connection with the

peace talks between the Union Peacemaking Central Committee and the Kachin Independence Organization (KIO) in Myitkyina. That dialogue had led to progress on important issues, including on the establishment of a joint monitoring committee and consultations with the local communities as key components of the peace process.

9. The parties to the conflict in Kachin State had committed to further de-escalation of violence and to moving the peace process forward towards a nationwide ceasefire accord. Also, a decision had been taken to hold a high-level meeting of leaders of all ethnic armed groups to find a joint way forward. While that had further strengthened the hope for a peaceful end to civil war and the start of political dialogue, the latest incidents of violence in Kachin, which had also reportedly affected the civilian population, were cause for concern. It was crucial to avoid confrontational encounters that might undermine the trust being built between the parties in the peace dialogue and to ensure the safety and security of civilian lives.

10. Ensuring access to humanitarian assistance for civilians affected by conflict must be a priority. Positive momentum and trust must be built up on both sides and sustained, and divisive issues must be resolved through dialogue. The resumption in September of United Nations humanitarian convoys to Laiza, for the first time in two years, was a positive development. The United Nations had been urging the authorities to take stronger action to prevent a worsening of tensions. It was crucial that the international community engage constructively in helping the authorities build on the current positive momentum, while remaining mindful of the country's complex political realities.

11. The Government of Myanmar had been undertaking a number of reforms, including through new institutions and laws, and had achieved steady progress in national reconciliation through negotiations with erstwhile ethnic armed groups. Inclusive socio-economic development would be vital for sustaining peace and facilitating political reconciliation. In that regard, the Government must help ensure that all people in Myanmar, including women, benefited from the country's reform process.

12. The Government was also increasingly transforming the economy by opening up to foreign investment and trade, and introducing processes to

ensure greater transparency and combat corruption. Meanwhile, the United Nations had been continuing in its wide-ranging engagement and support to the country, through interactions between the Secretary-General and various political leaders in the country, including President Thein Sein on 11 October in the margins of the summit between the United Nations and the Association of Southeast Asian Nations (ASEAN) that had taken place in Brunei Darussalam.

13. He drew attention to the three-year country programme with the United Nations Development Programme (UNDP), which had been signed in April, and to the establishment of parliamentary subcommittees dealing with the fundamental rights of citizens and the rule of law and tranquillity, noting that one subcommittee was chaired by the leader of the National League for Democracy, Daw Aung San Suu Kyi. In the field of human rights reform, the Government had announced that it would invite the Office of the United Nations High Commissioner for Human Rights (OHCHR) to begin negotiations on establishing a country office in Myanmar. Also, efforts had been made to abolish the Myanmar army's recruitment of child soldiers and to release those still enlisted.

14. The Special Adviser had taken up with the relevant authorities the crucial need to address some of the underlying status and citizenship issues in Myanmar. The authorities had made serious efforts towards resettlement and recovery efforts vis-à-vis displaced communities, and camp conditions had improved. The police and armed forces had been strengthened and instructed to be more proactive in rounding up local troublemakers pre-emptively. Nevertheless, more efforts were needed to ensure the accountability of perpetrators and restitution for those who had suffered, as fears, vulnerabilities and suspicions of the minority community remained.

15. The international community must engage constructively in helping the authorities to build on some of the positive momentum — in addition to inter-faith dialogue efforts at the local, state and regional levels. The Government of Myanmar had undertaken some early warning efforts with a view to preventing further incidents and ensuring the rule of law. The arrest and remand of a large number of persons in the aftermath of the recent disturbances in Thwawdwe had been notable in that regard. Furthermore, the presence during the recent visit by the President to Rakhine of

the Defence Minister and Chief of General Staff of the Army demonstrated the Government's determination to deal effectively with that growing menace in the country.

16. In tandem with preparation for Myanmar's chairmanship of ASEAN in 2014, which would strengthen its international standing, strides had been made in Nay Pyi Taw to engage more actively and constructively with regional partners and other members of the international community, including the Organization of Islamic Cooperation. That was vital and would assuage anxieties about the condition of the minorities within the country and help prevent a spill-over of tensions.

17. A major recent development had been the Government's representation in the Secretary-General's meeting, on 26 September 2013, of the Group of Friends, which had discussed the need to reconfigure its role and functions in order to help Myanmar to address its reforms and challenges as a partnership group for peace, development and democracy in that country. International support for Myanmar must be constructive and coordinated such that it would add value to the reform process. It should engage in a way that helped it to safeguard the essential trajectory of its democratization, reform and national reconciliation process, while taking into account the complex political realities in the country.

18. **Mr. Tin** (Myanmar) said that a peaceful and democratic transformation was well under way in his country, through a number of measures which had significantly changed its political and economic landscape and enhanced the country's international engagements, including through new laws and a mechanism for reconciliation. Efforts were also being made to ensure the release of all prisoners of conscience by the end of 2013. People were enjoying new-found democratic values, such as greater freedom of the media, and of peaceful assembly and association.

19. The State monopoly over newspapers and censorship had ended, and a new political culture of patience and dialogue had emerged. The country had undergone economic reforms, including economic and financial liberalization, and there was a focus, inter alia, on poverty alleviation and job creation. Moreover, Myanmar had acceded to the United Nations Convention against Corruption and was taking steps to

ensure transparency and create a climate of good governance. Major progress had been made in the peace process with all ethnic armed groups to end the six decades of fighting, and a nation-wide ceasefire agreement would soon be signed. Humanitarian access to Kachin State would continue to be granted as the situation permitted.

20. The country could not afford to have its hard-won achievements undermined by the unfortunate outbreaks of communal violence in Rakhine State. The causes of that violence were not a matter of discrimination or targeting of a religious group, as had been wrongly perceived, but were complex and deeply rooted in the long history of the two communities in question. The Government had taken serious steps to end the violence there and to tackle the root causes through short- and long-term plans, including vis-à-vis implementing the recommendations made by an independent inquiry commission, and facilitating access for humanitarian assistance without discrimination. His Government was also encouraging inter-faith dialogue across the country.

21. Low levels of development and education, as well as a lack of employment opportunities in Rakhine State were exacerbating the situation. He appealed for humanitarian and development assistance from the international community, commensurate with needs on the ground in order to help end the conflict and achieve overall development of that State. Constructive engagement from the international community was welcome in that regard.

22. Myanmar's current chairmanship of ASEAN was evidence of its higher international standing, level of engagement with the international community, and friendly relations with its neighbours in the region. It was attracting business, and the donor community, United Nations agencies and international financial institutions had shown a growing interest in assisting Myanmar in its democratic transition process. In that regard, the United Nations must focus more on the country's socioeconomic development, which was essential for the further success of its democratic reform process. The Organization's assistance in the areas of peace and democratization should be rendered at the request or with the consent of the Government.

23. Myanmar was striving to become a model for peace, democracy and prosperity and had become an open society, which was evident through the

Government's cooperation with the United Nations and its human rights bodies and mechanisms such as the universal periodic review, and its welcoming of numerous visits by the Special Advisor and the Special Rapporteur. The country-specific issue of Myanmar and the relevant resolution should not continue to be on the agenda of the General Assembly, which was meant to take up issues of grave violations. Accordingly, his country strongly felt that the mandate of the Special Rapporteur on the situation of human rights in Myanmar should not be renewed.

24. **Ms. Duong** (Switzerland) said that she welcomed the substantial progress made by the Government of Myanmar to release prisoners of conscience and encouraged the commitment by its President to complete that process by the end of 2013, as a necessary step in the democratization process. Her delegation also welcomed the progress made towards peace-building and national reconciliation, especially with a view to signing a ceasefire agreement.

25. It was hoped that the Special Adviser's commendable efforts in addressing the worrying situation of Kachin would be continued and involve other ethnic groups in order to effectively achieve national reconciliation. Her delegation was concerned about the worsening intercommunal situation throughout Myanmar and called for putting an end to that violence, remedying the profound causes of the conflicts and bringing those responsible for human rights violations, especially against the Rohingya population and the Muslim community in general, to justice.

26. She welcomed in particular the report of the Investigation Commission into acts of violence in Rakhine State and urged the Myanmar authorities to enhance cooperation with the Commission and implement its recommendations. It was also hoped that a national human rights office could be established in Myanmar as soon as possible. Lastly, she asked to what extent the signing of a ceasefire agreement would influence the support provided by the Special Adviser, and what the international community could do to support the negotiations and political dialogue in that respect.

27. **Ms. Hassan** (Djibouti), speaking on behalf of the Organization of Islamic Cooperation (OIC), said that OIC was fully committed to finding a durable and peaceful solution to the ongoing intercommunal and

inter-ethnic violence in Myanmar, welcomed the progress made by that country during its transition and ongoing reforms, and looked forward to the forthcoming visit of the OIC Secretary-General and group of Ministers to Myanmar, in order to discuss how OIC could be of assistance to Myanmar and help alleviate the humanitarian situation there and contribute to inter-communal reconciliation efforts.

28. OIC welcomed the recent opening of a peace centre in the country and the Myanmar Government's streamlined efforts to negotiate with ethnic groups and address resettlement and rehabilitation concerns. However, the reconciliation process could be made more open and inclusive, involving all ethnic groups in the country, and should involve an interfaith component. OIC would continue to support the Special Adviser's efforts in that regard. OIC remained concerned about the ongoing grave humanitarian situation in Myanmar and supported the call for the Government to provide unhindered access to areas in urgent need of humanitarian aid. It stood ready to assist the Myanmar authorities in that regard, by providing humanitarian coordination assistance, working with United Nations agencies on the ground and mobilizing OIC and local non-governmental organizations to provide support in the areas of water and sanitation, food, shelter and health.

29. Of serious concern to OIC were the ongoing communal tensions in some of the country's States, including Mekhtila and Thandwe. In that respect, the Government of Myanmar should continue to hold perpetrators accountable for their actions and should also create and encourage interfaith and inter-communal dialogue across States where there was tension and positive opportunities for engagement. OIC would continue to engage all interested parties on the issue of intercommunal violence in Myanmar, with a view to suitable cooperation.

30. An issue of utmost importance to OIC was the ongoing situation of internally displaced persons in Rakhine State, as humanitarian assistance to those in need was being hindered, intercommunal tensions remained, access to health and education in the camps was lacking, and there was a perceived bias towards the Rohingya in the distribution of aid. OIC was committed to finding an appropriate means, with guidance from the Government of Myanmar, to ensure delivery of aid to those in need, without ethnic or religious bias.

31. **Ms. Tan** (Singapore) said that her delegation was heartened by the reform process in Myanmar, encouraged by the ongoing peace talks between that country's Government and the Kachin Independence Organization, and hoped to see a nationwide ceasefire by the end of the year. There were no quick fixes to the complex and difficult transition that Myanmar was undergoing; the international community must show patience and allow the country to determine its own pace of reform. It was regrettable that Myanmar was once again the subject of a country-specific resolution, which sent a discouraging signal to a country that had been working hard to improve the lives of its people. It was hoped that negotiations would be constructive and genuinely consultative, involving all parties. She asked what the Special Adviser's priority focus would be in the next six months.

32. **Mr. Rishchynski** (Canada) said that, despite the improvements related to human rights, media freedoms, democratic development, the opening of the economy and international engagement in Burma, his Government was concerned by the outbreaks of intercommunal violence. Long-term peace and prosperity would require dialogue and cooperation among all groups. He requested further information regarding the steps which the international community could take to ensure continued progress, the prospects for sustainable peace in Kachin State and the country as a whole, given reports of violence since the conclusion of the preliminary ceasefire agreement between the Government and the Kachin Independence Organization, and the ways in which a sustainable resolution to the situation of the Rohingya could be found, in particular with regard to their citizenship.

33. **Ms. Larsen** (Norway) said that her Government welcomed the peace process and continuing release of prisoners of conscience in Myanmar, despite the challenges remaining in Rakhine State. The international community's approach to Myanmar should be constructive during the fragile transition period. Her Government had recently upgraded its embassy office in Rangoon to a fully fledged embassy.

34. **Ms. Taracena Secaira** (Guatemala) asked the Special Adviser what points the Working Group of the Security Council on Children and Armed Conflict should take into account during its visit to Myanmar in November 2013.

35. **Ms. Hewanpola** (Australia) said that the Government of Myanmar should prevent further violence, particularly in Rakhine State, prosecute the perpetrators in line with international standards, facilitate reconciliation between communities and address citizenship problems. She asked what the Government could do in 2014 to ensure that its reforms were long lasting.

36. **Mr. Wibowo** (Indonesia) said that Myanmar had made significant progress in its transition to democracy. The immediate needs of the victims of violence in Myanmar should be given priority through a more sustainable flow of aid. The Government should stimulate economic activity to improve citizens' livelihoods and encourage political dialogue between different faiths and groups. The international community should constructively support the democratic transition; tabling a resolution on Myanmar would not serve that purpose.

37. **Mr. Nambiar** (Special Adviser to the Secretary-General on Myanmar) said that he welcomed the humanitarian assistance offered by OIC; it was for the Government of Myanmar to decide on the ways in which that assistance could best be organized. The visit to Myanmar of the ministerial delegation led by the OIC Secretary-General in November 2013 would clarify the situation on the ground and the way forward. The Government was taking steps to resolve the question of the citizenship of the Rohingya community, taking into account the strong sentiments and polarization within that community. He was confident that progress could be made under the approach described by the Minister of Immigration, which involved addressing the issues under the 1982 Citizenship Act. The matter would be settled in a gradual fashion rather than overnight.

38. His office's priorities in the coming six months would be national reconciliation, the alleviation of intercommunal pressures and the 2014 national census. Although reconciliation called for the resolution of political and constitutional differences through dialogue under strong national ownership, the international community could help with reconstruction, resettlement, the plight of displaced communities and the provision of job opportunities in less privileged regions occupied by ethnic groups, whose many different positions could complicate and lengthen the reconciliation process.

39. To alleviate intercommunal pressures, the Government was focusing on interfaith dialogue, which was increasingly taking place at the national rather than the local level and required effort by community leaders and civil society. There was scope for regional cooperation and exchange of experiences in nation-building and interfaith dialogue through the Association of Southeast Asian Nations (ASEAN), which Myanmar would chair in 2014. Such cooperation would also strengthen the ASEAN Socio-Cultural Community, to be established in 2015.

40. The international community could do much to help the development of civil society and parliamentary institutions while respecting national ownership of such development. Attention should be paid to coordination among the many organizations likely to be involved, in order to avoid confusion and duplication. Such coordination could be overseen through the United Nations or the World Bank, but it was for the Government to decide on the way forward. Lastly, he pointed out that the elimination of child recruitment would require coordination not only with the Myanmar military and other armed groups but also with civil society.

41. **Mr. Kiai** (Special Rapporteur on the rights to freedom of peaceful assembly and of association), introducing his report to the General Assembly (A/68/299), said that the report focused on the rights to freedom of peaceful assembly and of association in the context of elections, which were often characterized by a tense atmosphere and the violation of those rights. He had received many complaints concerning the excessive use of force by law enforcement officials against protestors advocating electoral reform or challenging results. In such incidents, as for example in Guinea and the Islamic Republic of Iran, hundreds of peaceful protestors had been killed and many more injured; while others had been arrested and detained, as had been the case in Azerbaijan and the Bolivarian Republic of Venezuela.

42. States had criminalized participation in peaceful assemblies under various guises such as crimes against the constitutional order or participating in illegal gatherings or mass disorder, as had happened in Ethiopia, Bahrain and the Russian Federation. States employed other strategies to deter demonstrators from organizing or attending peaceful assemblies, including attacks, derogatory comments, stigmatization, sexual assaults on women, undue restrictions on certain

groups and preventive detention. Assemblies which were critical of Governments or advocated for unpopular causes had received unequal treatment. All those constituted violations of the rights of peaceful demonstrators and should not be tolerated. A permit should not be required for the holding of peaceful assemblies; prior notification by the organizers should be sufficient. During elections, the threshold for the introduction of government restrictions on the right to peaceful assembly should be higher than at other times.

43. Political parties were a type of association and should thus be subject to the minimum standards for the regulation of associations contained in his May 2012 report to the Human Rights Council (A/HRC/20/27). He was concerned by the heightened risk of harassment, arbitrary arrest and imprisonment faced by opposition leaders and supporters during elections. In many countries, such as in Belarus and Egypt, those who voiced dissent were subject to harassment, arbitrary arrest and imprisonment. A State decision to forbid the formation of a political party should be based on the standards of proportionality and necessity in a just society. The funding of political parties was essential to the right to freedom of association, but reasonable limitations on such funding could be justifiable to avoid the perversion of democratic governance.

44. Civil society organizations were also vital to the electoral process but were often labelled as “political” by States to suppress criticism of the Government. Preventing human rights defenders, including unregistered associations, from taking part in activities related to the electoral process constituted a breach of their rights. States should encourage participation by unregistered groups, which were often formed by the marginalized and the disempowered, to participate in the electoral process. They should not conduct arbitrary searches of the premises of civil society organizations, as in Zimbabwe; criminalize their leaders for expressing opinions, as in Malaysia; place undue restrictions on foreign funding, as in the Russian Federation; or prohibit international cooperation. Electoral periods were a key period in the life of any nation. Genuine elections could not be achieved if the rights to freedom of peaceful assembly and of association were curtailed.

45. **Ms. Larsen** (Norway) requested further information on whether the rights to freedom of peaceful assembly and of association were sufficiently

taken into consideration in the work of international electoral observation missions.

46. **Ms. Torres** (United States of America) said that human progress was always propelled by civil society. She requested further information on the ways in which States could allow civil society organizations and unregistered non-governmental organizations to play a greater role in electoral processes.

47. **Ms. Tschampa** (Observer for the European Union) requested further information on the distinction drawn in the report between political parties and civil society organizations and their objectives and activities during the election process, and that distinction’s impact on the exercise of the rights to freedom of peaceful assembly and of association. The Special Rapporteur had referred in his report to the tensions often generated by pluralism. She requested further information on the ways in which such tensions could be addressed by States and local authorities and also asked for examples of best practices in combating malpractice and unjustifiable restrictions on the rights to peaceful assembly and association during elections.

48. **Ms. Tsheole** (South Africa) said that her Government believed that elections were the bedrock of democracy and constituted more than the “high-stakes competition” mentioned in the report. It would have appreciated a more comprehensive global picture of the exercise of the rights to freedom of peaceful assembly and of association during elections, taking all regional perspectives into account.

49. Since domestic laws relating to the registration and participation of political parties should be respected, her delegation could not agree with the Special Rapporteur’s assertions that registration regimes were unnecessary. It also disagreed with the statement that no permit should be required for the holding of peaceful assemblies, since doing so brought responsibilities, should not encroach upon the rights of other citizens and was subject to limitation under international human rights law.

50. South African legislation upheld the right to peaceful assembly but held individuals and organizations to account for their actions during such assemblies, in particular in the case of wilful damage to property by trade union members during protests. A more comprehensive and balanced examination of electoral processes, taking regional perspectives into account, would have provided greater insight. The

references in the report to unregistered associations were liable to undermine domestic legal frameworks. Moreover, civil society and non-governmental organizations should not be equated with political parties. Lastly, her delegation would have hoped that the report would propose solutions to the challenges mentioned by the Special Rapporteur.

51. **Ms. Medcalf** (United Kingdom) requested further information regarding: the requirements, other than a minimum number of members, which might be considered to apply to political parties but not to other civil society organizations; the ways in which States could promote the development of civil society, other than by avoiding undue restrictions on civil society organizations; and alternatives to the imposition of restrictions on the Internet and social media access in cases where States felt that security or public order was at risk.

52. **Ms. Duong** (Switzerland) said that States should give peaceful demonstrators access to public space and protect them against all threats and violence. That obligation applied to all demonstrations and counter-demonstrations. She asked whether a detailed analysis of and specific recommendations regarding the links among peaceful demonstrations before and after elections would be useful.

53. **Ms. Sukacheva** (Russian Federation) said that the report was biased against certain States but did not mention violations of the right to freedom of assembly in supposedly democratic countries. That right was enshrined in the Constitution of the Russian Federation. Russian law did not stipulate that authorization should be given for events but required organizers to provide notification of them; failure to do so incurred administrative responsibility. Her delegation disagreed with the assertion that the organizers of public events should not be held accountable for acts of aggression by participants. Her Government's new law on non-commercial organizations did not restrict freedom of expression or assembly or ban such organizations from participating in political activities or receiving funds from abroad; it merely introduced a registration and reporting requirement. Similar measures to streamline the non-political activities of such organizations receiving funds from abroad had been taken even in States which claimed to be leaders in human rights.

54. Her delegation was disappointed by the Special Rapporteur's non-objective assessment of the rallies in the Russian Federation after the Parliamentary and Presidential elections. It encouraged him to draw conclusions based on a comprehensive analysis of the available information and not to neglect official data. Lastly, she asked whether the Special Rapporteur's concept of the duty of States to protect those exercising the right to freedom of assembly from counter-demonstrators and provocateurs was not a violation of the right to freedom of speech.

55. **Mr. Červenka** (Czech Republic) requested further information regarding the relationship between the rights to freedom of peaceful assembly and of association and the conditions for successful electoral processes in accordance with international democratic standards. He asked what type of temporary measures could be said to enhance the ability of marginalized groups to participate in elections without constituting discrimination, and whether Governments were ever justified in restricting the work of international election observers.

56. **Ms. Ali** (Bahrain) said that all freedoms, including the rights to peaceful assembly and association, were guaranteed under the Constitution of Bahrain. Any restrictions were in line with her Government's international obligations, consistent with those imposed elsewhere in the world, and limited to sensitive areas such as hospitals, airports and vital parts of the capital. No permits were required for gatherings or marches, although the authorities must be notified of the time and route. Only when demonstrations were marred by violence or illegal activity threatening public order and infringing on the rights of others was law enforcement necessary. All action taken against the perpetrators of such violations had been within the parameters of the law and was free of political motivation.

57. **Ms. Naeem** (Maldives) said that, since the democratic transition in the Maldives, protests by political parties had become common. Her Government had therefore assumed its responsibility to protect peaceful assembly by supporting mechanisms for dialogue among the parties to disputes and strengthening oversight over the security forces. It had strengthened external oversight bodies such as the Police Integrity Commission and the Human Rights Commission, and had enhanced internal oversight by improving media access, rendering police officers

clearly identifiable through the wearing of badges and ensuring adherence to operational protocols. She asked whether political parties could have equal enjoyment of the rights to expression and assembly in the absence of restrictions on or oversight of non-State domestic electoral campaign funds.

58. **Mr. Awal** (Indonesia) asked whether, at the request of the States concerned, the international community could strengthen national capacities to maintain law and order and ensure the rights to freedom of peaceful assembly and of association during elections.

59. **Mr. Eshragh Jahromi** (Islamic Republic of Iran) said that his delegation had been surprised by the Special Rapporteur's reference to the killing of hundreds of peaceful demonstrators. He requested the Special Rapporteur to cite the sources of such baseless allegations and recommended that he take a balanced approach and rely on credible sources of information when preparing his future reports.

60. **Ms. Calcinari Van Der Velde** (Bolivarian Republic of Venezuela) said that her Government attached great importance to guaranteeing freedom of expression and assembly, rights enshrined in the Constitution. However, persons exercising those rights had responsibilities, in particular the preservation of public order. The reference to the April 2013 incidents in the Special Rapporteur's report lacked reliable, accurate information. She did not know whether the Special Rapporteur was aware that violent groups had been trying to disrupt public constitutional order, killing six people. The detainees were being duly tried, in accordance with human rights standards.

61. With regard to the Special Rapporteur's reference to the law adopted against terrorist activities and organized crime, it was false that the Bolivarian Republic of Venezuela was limiting access to non-governmental organizations. Her country, like any other in the world, simply aimed to obtain information on financial resources in order to ensure that such activities were not financed by terrorist groups or organized crime. She invited the Special Rapporteur to consult official sources in order to obtain balanced information on the aforementioned cases.

62. **Mr. Mahmoud** (Egypt) said that his Government had followed with interest the occurrence of acts of harassment of the founders of certain political movement. His Government fully respected and

fulfilled its international obligation to guarantee the right to freedom of peaceful assembly. Egypt was known for its fully independent judiciary, which allowed any individual to report any violation of legal rights and to pursue those rights in a manner consistent with Egyptian law. Moreover, a national council for human rights had been formed for that purpose. His Government had recently launched a rich debate on the formulation of new legislation to regulate peaceful demonstrations, attesting to the importance attached by Egyptian institutions and the public to freedom of assembly. His delegation stood ready to address any specific queries or information that the Special Rapporteur might have.

63. **Ms. Ntaba** (Zimbabwe) said that his delegation was disappointed by the unfortunate mention of his country in the Special Rapporteur's report and presentation. He urged the Special Rapporteur to adopt an even-handed approach that considered both sides of the story when dealing with such issues. While States did have the responsibility of ensuring freedom of assembly, the persons exercising that right had the responsibility to abide by national laws that governed it. Elections were not an excuse to disregard those laws.

64. **Mr. Alemu** (Ethiopia) expressed dismay at the unfounded accusations against his country in the Special Rapporteur's report. His delegation rejected the allegations, which were not only one-sided but simply devoid of an iota of truth.

65. **Mr. Kiai** (Special Rapporteur on the rights to freedom of peaceful assembly and of association) said that, as anticipated, the issue of elections evoked a great deal of interest and discussion. He took the question of balance very seriously and called on States to help him attain it by extending official invitations to visit and by submitting information if they felt that he did not have all the facts on a given issue, information that he often did not receive from Governments when preparing his reports. A positive response to his office's request for an invitation would thus facilitate dialogue between his mandate and the country.

66. With regard to prior notification from persons soliciting authorization to assemble, his understanding of international law was that notification must be made to the authorities so that they could complete the necessary administrative procedures. His mandate recommended that notification should be made

48 hours in advance. As far as the permits themselves, he called for Governments to treat all applicants equitably, as he had found that protests by pro-Government parties took place without a hitch, while opposition protests generally occurred in tense circumstances.

67. He would like to extend the focus of election observation to cover the entire spectrum of rights, as the current tendency was to focus primarily on the right to vote on the day of the election. The attendant rights were equally important. Furthermore, in an interlinked world, countries from the global South should also have the opportunity to observe elections around the world, in order for observers from all countries to note existing weaknesses and strengthen future elections.

68. Protest organizers must not be held vicariously responsible for the violent acts of criminal elements within the protest; in the event that organizers themselves were violent, they should be held accountable as individuals. International law clearly stipulated that holding a person responsible for the wrongdoing of another was wrongful; domestic law should reflect that and conform to international human rights law.

69. **Mr. Falk** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967), introducing his final report (A/68/376), said that visiting Palestine and speaking face to face with the people with whom his mandate was concerned was of vital importance in understanding the impact of occupation on human rights. In his five years as Special Rapporteur, despite repeated efforts, he had only been able to visit Palestine on one occasion, and then only the Gaza Strip via Egypt. Noting the consistent non-cooperation of the Government of Israel with his mandate, he expressed concern that the efforts of future Special Rapporteurs would be hampered by Israel's continued non-cooperation, which contradicted its obligations to cooperate with the United Nations. He once again appealed to the Organization to address that issue as effectively as possible before his successor assumed the mandate in March 2014. Israel's recent decision to reengage with the Human Rights Council might make it more feasible to exert pressure on Israel to that end.

70. The inalienable right of Palestinians to self-determination had been furthered when the General Assembly had voted to confer on Palestine the status of

non-member observer State in 2012. In light of that development and of the fact that continuing Israeli settlement in Palestinian territory — reflecting a deliberate policy of creeping annexation that had been discernible for some time — was at least partially irreversible, it would be misleading to continue to speak of the Occupied Palestinian Territory as if the belligerent occupation were temporary. Israel's persistent violations of its obligations as an occupying Power under international human rights and humanitarian law had been repeatedly specified in United Nations resolutions. In that regard, the international community and the United Nations in particular bore a heavy responsibility for safeguarding human rights, including the territorial rights of the Palestinian people, by ensuring that Israel fully respected those obligations.

71. In approaching his mandate, he had quickly come to the conclusion that the voice of the United Nations could no longer be taken seriously if not implemented through action as well as expressed in word. In that spirit, his report set forth a model for legal analysis of potential ways of holding accountable international corporations that profited from their dealings with illegal Israeli settlements for contributing to violations of international law, in particular, international criminal law. The analysis was informed by the Guiding Principles on Business and Human Rights and also took note of such self-regulating mechanisms as the United Nations Global Compact. The two case studies cited were presented in the hope that the companies would bring their activities in line with international law and that their examples would prompt other corporations with similar activities in the settlements to review their operations there from the perspective of international law. The report also noted that the duty to protect included an obligation on States to protect against human rights abuses by private actors, such as companies.

72. The first case study related to the Dexia Group, a European banking group, and considered whether such activities as loans benefiting settlements granted by Dexia Israel, as a subsidiary, could be imputed to the Dexia Group. It determined that there was a strong case for doing so, given the relationship between the Group and its subsidiary. The analysis went on to explore the possible international criminal responsibilities of individuals in the Dexia Group for the activities of Dexia Israel. While he acknowledged that Dexia Israel

was not a retail bank, the general analysis stood in respect to the type of banking activities that contributed to illegal settlements, including the granting of loans. The analysis also considered the obligations of France and Belgium, as part-owners of the Dexia Group, to ensure respect for human rights and humanitarian law.

73. The second case study concerned the privately-held Re/Max International, a real estate company based in the United States, with an Israeli franchise. The activities in question were the promotion, advertising and sale of properties in unlawful Israeli settlements. Those activities supported the argument that Re/Max contributed to the transfer of citizens of the occupying Power into the occupied territory, with adverse human rights consequences for Palestinians. While the analysis was intended to offer a preliminary assessment of the legal plausibility of the cases, there were sufficient grounds to conclude that such institutions might be held accountable for their involvement with settlements in occupied Palestine.

74. The report also reiterated his concerns regarding water and sanitation. Owing to Israel's near-exclusive control over all water resources in Palestine, many Gazan families, struggling at or below subsistence levels, were forced to purchase clean water from external sources. The Israeli blockade and the lack of water and sanitation infrastructure, destroyed during Israeli military operations, exacerbated the water scarcity. Furthermore, recent developments in Egypt had complicated an already difficult situation in the Gaza Strip, which was nearing catastrophic proportions. It was the responsibility of the Organization, in its role as the protector of acutely vulnerable people, to take seriously the situation in Gaza before a humanitarian catastrophe of great magnitude unfolded.

75. In the West Bank, the restrictions on access to water for Palestinians had led to a severely disproportionate higher rate of access to water by a far smaller number of Israeli settlers. The ability of the Palestinians to improve the existing water and sanitation infrastructure was controlled by the Joint Water Committee, in which Israel could veto any proposal. The Committee's past record of approvals for wells and wastewater facilities suggested that their decisions were deeply skewed in favour of settlements and deprived Palestinians of their fair share of water and right to develop that infrastructure. It was therefore

crucial that the international community assist with meeting immediate water and sanitation needs and pressure Israel to end discriminatory policies and practices that induced a water and sanitation crisis in occupied Palestine.

76. If current diplomacy failed to resolve the conflict, the General Assembly should request an advisory opinion from the International Court of Justice as to the legal consequences of a prolonged occupation of Palestine, which should be viewed as a de facto annexation. Israel should cease the creation and expansion of settlements, return settlers to the Israeli side of the Green Line and provide reparations to Palestinians affected by settlement-related activities since 1967. Israel should also inform national franchises and subsidiaries of global companies of their corporate responsibilities and potential liability in overseas courts for corporate complicity in violations of international law. Furthermore, all companies with relations to settlements comparable to those used as case studies in his report should review their arrangements to ensure respect for international law and the Guiding Principles on Business and Human Rights. Belgium and France should compensate Palestinians negatively affected by Dexia Israel's involvement with settlements. Lastly, Israel should immediately end its unlawful discriminatory policies with regard to water resources.

77. **Ms. Rasheed** (Observer for the State of Palestine) said that her delegation and the Palestinian people as a whole appreciated the Special Rapporteur's tireless efforts to relay to the international community an accurate account of the myriad of human rights violations in the occupied State of Palestine. Despite being denied entry into Palestine, in violation of Israel's obligation to cooperate with the Organization, he had carried out his mandate in a commendable manner. The Special Rapporteur's reports on the corporate responsibility of companies and States involved in commercial activity with the settlements had placed attention on an issue that had been previously neglected at the United Nations. Moreover, some companies had taken his recommendations and changed their policies, ending their commercial relationships with the settlements, a positive development. Her delegation wondered whether the Special Rapporteur had received any additional feedback or correspondence from any of the companies, beyond that mentioned in the report. She

would also like to know what the Special Rapporteur's successor must do to keep the focus on that topic and how the High Commissioner for Human Rights and the Human Rights Council could exert pressure on the more than 500 companies which currently had commercial relationships with settlements and the Governments which were shareholders in those companies.

78. **Ms. Pérez Álvarez** (Cuba) said that her delegation would welcome more information on additional or new actions that human rights organs and mechanisms could take to persuade the occupying Power to fulfil its obligations under international law, in the light of the Special Rapporteur's dismay that the United Nations had not done more to induce Member States to fulfil those obligations.

79. **Mr. El Hacen** (Mauritania) said that his delegation would welcome more firsthand information from the Special Rapporteur, who had been able to visit Palestine only once because of the Israeli authorities' non-cooperation, on the extent to which the Gaza Strip had become, as was often reported, a large prison as a result of the embargo imposed on it. He also wondered what was preventing the United Nations from implementing its resolutions and thus transforming its words into actions.

80. **Mr. Storaci** (Observer for the European Union) said that his delegation welcomed the resumption of direct negotiations between Israel and Palestine and urged all parties to refrain from actions that could undermine the prospects for peace. The European Union would continue to act in accordance with its well-known principles, international law and international humanitarian law. The construction of settlements and the separation barrier on occupied land, the demolition of homes and evictions were illegal under international law and threatened to make a two-State solution impossible. The way must be found through negotiations to resolve the status of Jerusalem as the future capital of both States. Upholding their commitment to existing European Union legislation and the bilateral arrangements applicable to settlement products, the European Union and its member States did not support calls for a boycott, divestment and sanctions in relation to the businesses studied in the Special Rapporteur's report. As a strong supporter of the Guiding Principles on Business and Human Rights, the European Union believed those guidelines should be applied globally.

81. **Ms. Sukacheva** (Russian Federation) said that her delegation supported efforts to study the human rights situation in Palestine and make effective recommendations to improve it. The Russian Federation condemned the establishment and expansion of Israeli settlements on Palestinian territory. A settlement of the Palestinian-Israeli conflict would only be possible if Israel ceased to commit its acts of provocation. Her delegation agreed with the Special Rapporteur that construction companies carrying out activities on Palestinian territory must comply with the Guiding Principles on Business and Human Rights.

82. **Mr. Meyer** (Norway) said that Israel's settlement policy on the West Bank violated international law and threatened the basis for a two-State solution. His delegation called on Israel to ensure that persons in its custody were fully protected from all forms of inhuman treatment, in accordance with its responsibilities, and that Israeli settlers did not harass and intimidate Palestinians with impunity. The human rights violations in areas controlled by the Palestinian Authority and the de facto authorities were also cause for great concern, with the killing of women in the name of family honour increasing in Palestine in recent years and the Palestinian Authority failing to protect women at risk. Norway condemned the use of the death penalty in Gaza and had raised the issue on several occasions with the de facto authority. His Government called on all parties to respect their human rights obligations and take confidence-building measures in support of the peace process.

83. **Ms. Alsaleh** (Syrian Arab Republic) expressed appreciation for the Special Rapporteur's courageous and committed conduct of his difficult mandate in an era marked by politicization and double standards in human rights-related issues where the agendas of certain States were concerned, particularly when it came to protecting Israel's exemption from human rights law. Her delegation called on those States supporting Israel's flagrant violations of the rights of the Palestinian people and the companies that financed the construction of illegal settlements in Palestine, in particular Belgium, France and the United States, to abide by their obligations under international humanitarian law and to halt the spread of the culture of impunity in Israel, with the Zionist entity continuing to commit crimes tantamount to war crimes and crimes against humanity, according to the reports from the

fact-finding commissions. She enquired about the likelihood, in the Special Rapporteur's view, of the implementation of any of his current recommendations and wondered whether he had ever heard of the United Nations applying a single one of the recommendations contained in earlier reports.

84. **Ms. Al Dosari** (Qatar) said that she welcomed the Special Rapporteur's analysis of the legal and rights-related responsibilities of the private sector in occupied Palestine as a valuable contribution to raising international awareness of the continuing violations of the rights of the Palestinian people. Her delegation would like to know whether the Special Rapporteur had information on the extent of the activities of foreign companies in that area, including the number of companies. Israeli restrictions on Palestinian access to water constituted a violation of a fundamental human right and also endangered the Palestinian people's right to development on its own land, posing a real threat to a sustainable resolution of the Palestinian issue.

85. **Ms. Almeida Watanabe Patriota** (Brazil) said that the findings of the Special Rapporteur on the human rights situation in Gaza, particularly with regard to food security, were alarming. The disproportionate use of force and the destruction of infrastructure were highly objectionable, as was the growing number of persons held under administrative detention by Israel. Several Palestinians continued to resort to hunger strikes as a form of peaceful protest to encourage Israel to engage in dialogue with protesters.

86. Brazil called on Israel to refrain from all settlement activities in the occupied territories in fulfilment of its international legal obligations, not as a concession to be made in negotiations, and to protect the Palestinian population in those territories, particularly in East Jerusalem, from any form of discrimination, including with regard to access to water and other resources. Israel must also accept and comply with the advisory opinion of the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory. She commended the Special Rapporteur for his excellent work.

87. **Ms. Tsheole** (South Africa) said that her delegation concurred on the need for Israel to cease the expansion of settlements and to expedite a return to the 1967 borders, lest it undermine the two-State solution and threaten the viability of a Palestinian State. South

Africa called on the international community to encourage the path of negotiation over that of conflict and remained committed to a just and lasting resolution.

88. **Ms. Abubakar** (Libya) said that her delegation welcomed the report of the Special Rapporteur, which reflected the reality of the humanitarian situation of the Palestinian people in the occupied territories, including Jerusalem. The continued construction and expansion of settlements by Israel, preventing the Palestinian people's exercise of its right of self-determination and of sovereignty over its natural resources, constituted a violation of international law, international humanitarian law and of Israel's obligations as occupying Power. Libya called on the United Nations to assume its responsibilities vis-à-vis the Palestinian people in order to end its suffering and realize its right to self-determination and sovereignty over its territory. Her country welcomed the General Assembly's decision to grant non-member observer State status to the State of Palestine and looked forward to welcoming it as a full-fledged member of the United Nations soon.

89. **Mr. Eshragh Jahromi** (Islamic Republic of Iran) said that his delegation welcomed the Special Rapporteur's impartial and informative report, which attested to the structural violence that continued to be perpetrated against the innocent Palestinian people. The concept of apartheid hardly began to describe the institutionalized aggression faced by the Palestinians. The Israeli regime's settlement campaign had reached a seven-year high in the first half of 2013 alone, underscoring the occupying Power's unwillingness to respect international law. His country fully supported the Special Rapporteur's mandate and appreciated his tireless and honest work throughout his tenure.

90. **Mr. Sareer** (Maldives) said that his Government had great hopes for the recently revived peace process. Unfortunately, abuses on the ground continued. The Special Rapporteur's report highlighted a new facet of international complicity in inflicting abuse upon the people of Palestine through business activities, with many reputable companies in effect facilitating the wilful destruction of Palestinian property. Given the legal difficulty of imposing an embargo, as proposed by the Special Rapporteur, on all business ventures dealing with settlements in the Occupied Palestinian Territory, ranging from foreign investment to the mere sale of a product, he enquired what potential such a strategy had to succeed?

91. **Mr. Awal** (Indonesia) said that his delegation condemned the violation of the human rights of the Palestinian people, including the prolonged detention of thousands of Palestinians, the blockade of the Gaza Strip, which had worsened, and the deplorable humanitarian conditions in which the population lived. Those policies and the continued construction of illegal settlements, despite the recent resumption of direct negotiations with the Palestinians, suggested that Israel had little interest in resolving the conflict or acknowledging the authority of the United Nations and constituted the most formidable obstacle to the prospect of a two-State solution.

92. Indonesia welcomed the Special Rapporteur's conclusion that companies, individuals and groups must also observe international law with regard to their activities in the Occupied Palestinian Territory and that parties that rendered assistance in the construction of settlements were also implicated in violating international law. Israeli occupation interfered with Palestinian national development plans and paralysed efforts to make any significant economic or social changes. His Government fully supported the two-State solution as the means of achieving a just, lasting and comprehensive peace in the Middle East.

93. **Mr. Masood Khan** (Pakistan) said that the courageous voice of the Special Rapporteur must not be hushed or ignored. Pakistan shared his grave concern for the deteriorating human rights situation in the Occupied Palestinian Territory and agreed that all stakeholders risked losing their credibility if they remained unable to match their words with actions in protecting the rights of the Palestinian people. The Palestinian cause, as the longest-standing and most glaring issue on the United Nations agenda, must be addressed before the Committee's concern for the range of human rights discussed at the session could be taken seriously.

94. **Mr. Falk** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) expressed gratitude for the widespread support for the notion that the continued expansion and, indeed, the mere existence of Israeli settlements in occupied Palestine was both an affront to international law and a challenge to the United Nations. As it was the Organization's partition solution that had posed the problem of Palestine in the first place, it had a special responsibility to the people of Palestine, who had been allowed to languish in refugee camps, live under

occupation with no rights and lose their land and resources for decades. That debacle constituted one of the cruellest failures of international law to uphold fundamental rights.

95. The near-catastrophic situation in Gaza must be addressed in a manner that went beyond words. In that context, the emphasis on corporate responsibility in his report was a step towards demonstrating that his mandate took the Palestinian people's suffering seriously and sought to enforce the will of the international community and act in solidarity with civil society, which regarded the situation in Palestine as one of the great injustices of the day. The issue of the protection of the Palestinian people had become a challenge to the responsibility of all Governments, one that they must rise to by affirming international law as a guide that could no longer be ignored. One way of not ignoring it was by implementing it through tangible actions.

The meeting rose at 6.10 p.m.