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Chair: Mr. Saikal (Afghanistan)

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

Agenda item 74: Promotion and protection of human rights

- (a) **Implementation of human rights instruments** (A/73/40, A/73/44, A/73/48, A/73/56, A/73/140, A/73/207, A/73/264, A/73/281, A/73/282, A/73/309) (*continued*)
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- (c) **Human rights situations and reports of special rapporteurs and representatives** (A/73/299, A/73/308, A/73/330, A/73/332, A/73/363, A/73/380, A/73/386, A/73/397, A/73/398, A/73/404, A/73/447) (*continued*)
- (d) **Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action** (A/73/36, A/73/399) (*continued*)

1. **Mr. Boyd** (Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment), introducing the report (A/73/188) that he had prepared jointly with his predecessor, Mr. John Knox, said that when the core human rights instruments had been created, the terms “climate change”, “biodiversity” and “environmental burden of disease” did not even exist. Yet in the present day, the ecological systems, biological diversity and planetary conditions that were the vital foundations of human existence were under unprecedented stress. Furthermore, exposure to environmental hazards had been found to be the cause of nearly one quarter of the global burden of disease, a massive toll of death and illness that was largely preventable through stronger laws and policies.

2. His predecessor, whose first mandate had been established in 2012, had conducted an exhaustive review of the statements of treaty bodies, special procedures mandate holders and other authorities that had applied human rights norms to environmental issues. Virtually

all sources agreed that States had an obligation under human rights law to protect against environmental harm. In response, the previous Special Rapporteur had developed a set of framework principles on human rights and the environment that articulated the human rights obligations related to the enjoyment of a safe, clean, healthy, and sustainable environment. That foundational work had also revealed a glaring gap in the global human rights system: recognition by the United Nations of the fundamental and universal human right to live in a safe, clean, healthy and sustainable environment.

3. In total, more than 150 States had granted some form of legal recognition to the right to a healthy environment, whether in their Constitutions, national legislation or by means of regional human rights treaties. Decades of experience had demonstrated that such recognition of the right to a healthy environment resulted in stronger environmental laws and policies; better implementation and enforcement of such laws; and greater public participation in environmental decision-making. Such recognition also led to environment-related rights being given the same priority as social and economic rights. All of those results had enabled millions of people to breathe cleaner air, gain access to safe drinking water and reduce their exposure to toxic substances. There was also evidence of a positive effect on vulnerable populations, such as women, persons living in poverty and indigenous peoples, thus reducing environmental injustice. He encouraged all States to incorporate the right to a healthy environment into their constitutional, legal and policy frameworks. States in Latin America and the Caribbean should promptly sign and ratify the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

4. There were at least five approaches that the General Assembly could take to facilitate global recognition of the right to a healthy environment. Those included the adoption of a new international treaty, such as the Global Pact for the Environment currently under discussion; the development of a new optional protocol to an existing treaty; the development of a new international covenant on environmental rights; the adoption of a resolution focused on the right to a healthy environment; or the adoption of a declaration setting out that right. Recognition by the General Assembly of the right to a healthy environment would complement, reinforce and amplify regional and national legislation and make protection of that right universal. It would also constitute a profound way to empower and protect courageous human rights defenders who risked death to

protect the environment. In addition to guaranteeing the provision of safe drinking water, protecting biodiversity and preventing the ill effects of exposure to environmental hazards, recognition of the right to a healthy environment could also accelerate the transition to a renewable energy future. The matter must be of the utmost urgency for the General Assembly.

5. **Ms. León Murillo** (Costa Rica) said that the right to a healthy and ecologically balanced environment had been recognized at the constitutional level in Costa Rica for the past 24 years and was a cross-cutting concern across State policy and jurisprudence. In September 2018, the Government had launched an initiative to promote gender equality and human rights in multilateral environmental agreements. The Latin American and Caribbean region was rich in natural resources but also vulnerable to the effects of climate change. Defenders of environmental rights in the region were also subject to violence. In response, in 2018, 15 States in the region had signed the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, the first binding instrument in the region that incorporated the provisions of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development. Her Government concurred that there was an urgent need to recognize the right to a healthy environment by means of a global instrument. She asked for evidence of the benefits of recognizing the right to a healthy environment.

6. **Ms. Sukacheva** (Russian Federation) said that her delegation shared the Special Rapporteur's view that a healthy environment was vitally important to the enjoyment of human rights. Environmental protection measures must provide guarantees of a healthy environment to individuals while also setting out the obligations to protect the environment and natural resources, which were the basis for sustainable development. Such a balanced approach would facilitate policymaking and encourage a long-term approach to social and economic issues while also preserving biodiversity and natural resources.

7. Several of the issues raised in the Special Rapporteur's report were on the agenda of other United Nations entities and organizations, such as the United Nations Environment Programme (UNEP), the United Nations Forum on Forests, the International Union for Conservation of Nature, mechanisms working within the framework of the United Nations Framework Convention on Climate Change and the Kyoto Protocol thereto, and international conventions on desertification, biodiversity and the ozone layer. It

would thus be more effective to focus on those mechanisms rather than seek to replace them. She asked what a legally binding instrument to recognize the right to a healthy environment would provide that was not offered by the various existing instruments mentioned.

8. **Ms. Fontana** (Switzerland), said that Switzerland was part of the group of States that put forward the resolutions relating to the Special Rapporteur's mandate for consideration by the Human Rights Council. Given that the 16 framework principles on human rights and the environment articulated by the previous Special Rapporteur were a reflection of current and emerging international law, they could serve as the basis of a definition of the human right to a clean, healthy and sustainable environment. She encouraged the Special Rapporteur to present an analysis of the content and implementation of national legislation recognizing the right to a healthy environment in order to deepen the debate on the issue. She requested more details concerning ways in which the 2010 General Assembly resolution on the rights to water and sanitation could serve as a model for recognition of the right to a healthy environment.

9. **Ms. Dravec** (Slovenia) said that Slovenia was a member of the core group on human rights and the environment within the Human Rights Council, which promoted dialogue, events, research and the progressive development of laws and policies. Her delegation had taken note of the reference in the Special Rapporteur's report to the work conducted over many years, including the framework principles on human rights and the environment setting out States' obligations. Slovenia firmly supported the global movement of environmental and human rights defenders. She asked how he planned to continue building on the work done within the framework of the Human Rights Council and what his vision was for the future of his mandate, including planned activities.

10. **Mr. Forax** (Observer for the European Union) said that some of the highest environmental standards were contained in the legislation of the European Union and its member States. All States members of the European Union had acceded to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. Environmental damage clearly had a negative impact on the enjoyment of human rights, while the need for greater clarity in respect of States' related obligations had been growing. The European Union stood ready to discuss in a constructive manner the Special Rapporteur's proposals for the global recognition of the right to a healthy environment. However, even without the recognition of an explicit new human right,

environmental damage might directly infringe upon existing human rights, such as the rights to life, health, and property. The short term-added value of embarking on the adoption of a new binding international instrument was therefore not self-evident. He asked which of the options open to the General Assembly identified by the Special Rapporteur was the most realistic and provided the best response to the moral imperative set out in his report.

11. **Mr. Garcia** (France) said that France provided constitutional protection for the right to a healthy environment and supported the Special Rapporteur's call for recognition of that right at the global level. In view of the aggravated threats to the environment and the fragmented state of international environmental law, France had proposed the establishment of the Global Pact for the Environment. In May 2018, the General Assembly had adopted a resolution to initiate negotiations on that process. It was an absolute necessity to give legal standing to international environmental law and update its basic principles by means of an international treaty. Regarding the States that had recognized the right to a healthy environment, he asked whether there were differences in their legislation in terms of the definition of that right and the scope and level of protection provided. He also wondered whether in the view of the Special Rapporteur a legally binding international instrument that guaranteed the right to a healthy environment could offer more effective protection of the environment.

12. **Mr. Boyd** (Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment) said that there were four decades of experience to draw from in order to assess the benefits of recognizing the right to a healthy environment; Portugal had been the first State to include that right in its Constitution in 1976. Peer-reviewed scientific studies had determined there was a positive causal relationship between the recognition of the right and a decrease in greenhouse gas emissions, improvement in air quality and an increase in access to safe drinking water. France had seen a significant strengthening of its environmental laws even in the short period since it had adopted its 2005 charter for the environment. Many States, including Fiji, Jamaica, Morocco and Tunisia, had recently recognized the right to a healthy environment. His own analysis had revealed a clear pattern of better environmental records, reduced air pollution and greater likelihood of participation in multilateral environmental agreements among the more than 100 countries that had granted constitutional recognition of the right to a healthy environment, as compared with countries that had not.

That pattern held true when the comparison was done on a regional basis.

13. Recognizing the right to a healthy environment would strengthen and harmonize the disparate and numerous multilateral agreements on environmental issues. The General Assembly resolution on the French proposal for a Global Pact on the Environment called on the Secretary-General to submit a report identifying the gaps in international environmental law, of which there were many. One such gap was the lack of a human rights perspective in existing environmental multilateral agreements. His proposal held the potential to close gaps in both international environmental law and international human rights law, strengthen legal frameworks and have profound positive impacts on the lives of people around the world.

14. The 2010 General Assembly resolution on the right to clean water and sanitation had incorporated a human rights perspective and had effectively served as a catalyst for States to include the right to clean water and sanitation in their Constitutions and legislation. Regarding the various possible approaches proposed, the Special Rapporteur would support the proposal for the Global Pact on the Environment. In fact, he was one of the legal experts who had helped draft the proposed text, which in its first article recognized the right of everyone to live in a healthy and sustainable environment. He would be working with Member States to advance the Pact. Nevertheless, that did not preclude the adoption of a General Assembly resolution, which would be an effective short-term action. He would support any approach selected that served to protect, respect and realize the human rights of all.

15. His priorities for his mandate were to deepen understanding of the 16 framework principles on human rights and the environment. That included continuing work on procedural environmental rights, such as the rights to access information, participate in decision-making and access justice and remedies. He would also be studying the substantial elements of the right to a healthy environment, such as the rights to clean air, healthy food and a stable climate. His 2019 report to the Human Rights Council would focus on human rights and the global air pollution crisis. The cross-cutting themes of his mandate going forward would be the integration of a gender perspective; the identification of good practices; and the protection of human rights defenders.

16. **Mr. Tuncak** (Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes), introducing his report, said that exposure to toxic substances was a form of exploitation

of workers and was estimated to be the largest source of premature death in the developing world. It was also a public health crisis present in all countries. Beginning even before birth, children were exposed to a range of unquestionably toxic substances, many of which had no safe level of exposure or were later demonstrated to be more toxic than initially assumed, which had led to a widespread pandemic of disease, disability and premature death. Certain States and businesses went to great lengths to deny the impacts of toxic substances on health, set permissible exposure levels harmfully high and even blame victims for the misuse of toxic substances. Given that there were alternatives to prevent or minimize exposure to toxic substances, such exploitation was particularly heinous. In the vast majority of States, efforts to compel businesses to prevent such violation of human rights were grossly inadequate.

17. For example, the sale of untested consumer products in the Republic of Korea had tragically claimed the lives of dozens of babies, pregnant women and older persons. In the city of London alone, 40,000 premature deaths per year could be attributed to air pollution, while in Kosovo, families that had been housed in United Nations camps constructed on toxic wasteland were struggling to receive effective remedy. Indeed, no Member State had contributed to the United Nations trust fund established for that cause a year previously. In Japan, evacuees from the Fukushima nuclear disaster had been compelled to return to unsafe areas and the level of acceptable exposure to radiation had been raised from 1 to 20 millisieverts (mSv) per year, with potentially grave impacts on children. There were many other such examples of similar abuses involving the extractive, chemical production and waste disposal industries, among others.

18. A new global framework for toxic chemicals and wastes, currently at the negotiation stage, was needed to achieve Sustainable Development Goal targets in areas such as health, food and water, which required a reduction in toxic exposures. The proposed framework could also serve as a strong agreement to improve human health by preventing and minimizing toxic exposures globally. Many of the cases brought to the attention of his mandate resulted from the exploitation of countries' differing standards, enabled by a patchwork of global treaties for toxic chemicals, which only banned or restricted the use or emission of less than 0.1 per cent of toxic industrial chemicals and pesticides of concern. Many preventable diseases and disabilities among vulnerable populations were the product of globalized supply chains. In that regard, he urged States to use mandatory human rights due diligence processes

to compel businesses to identify, monitor, prevent and mitigate the risks of toxic exposures in their supply chains.

19. **Mr. Forax** (Observer for the European Union) said that Sustainable Development Goal 8, to promote decent work for all, called for working conditions that met human rights standards. In that regard, the European Union welcomed the Special Rapporteur's proposed key principles for the protection, respect and fulfilment of workers' rights in respect of their exposure to toxic substances. The Special Rapporteur's efforts to initiate a dialogue about the duties and responsibilities of all parties could make an important contribution to the ongoing discussions about business and human rights. Noting that one of the proposed principles referred to workers' right not to be exposed to toxic substances without their prior informed consent, he asked what concrete steps could be taken to inform workers about hazardous work conditions. He also requested examples of best practices to establish mechanisms that facilitated immediate access to remedies for workers and their families when their human rights were violated.

20. **Mr. Nishino** (Japan) said that his delegation strongly objected to inaccurate statements contained in the Special Rapporteur's report and in the related press release of 25 October 2018 on the situation in Fukushima, issued on the website of the Office of the United Nations High Commissioner for Human Rights. In addition, press releases previously issued by the Special Rapporteur had not reflected the responses provided by the Government of Japan and included speculative information regarding the alleged risk of radioactivity still persisting in Fukushima. The Special Rapporteur had stated that the Government had stopped providing housing subsidies for self-evacuees, when in fact Fukushima prefecture continued to provide financial assistance for housing. Whether or not self-evacuees returned to their original homes after the conditions determined by the Government had been met was solely at the discretion of each individual. The Government had not and would not force anyone to return. Concerning the permissible dose of exposure to radiation, the figure of a maximum of 20 mSv per year, a level that had been required before evacuation orders were lifted, was in conformity with the recommendations issued in 2007 by the International Commission on Radiological Protection (ICRP). The designation of that exposure level was also based on the understanding that the Government would continue efforts to reach the long-term target of lowering the individual additional dose of exposure to radiation per year to within 1 mSv.

21. His delegation was concerned that the press release would invite inaccurate media reports both in Japan and abroad. Seven years after the earthquake and subsequent nuclear power plant accident in Fukushima, people in the affected areas were still suffering the effects of an inaccurate and negative reputation. The Government and people of Japan were taking steps to dispel that negative reputation and return to normal life. In that regard, such reports could further aggravate the suffering of the people of Fukushima. The Government of Japan was determined to discharge its responsibility for the reconstruction of Fukushima and to support, to the maximum possible extent, those who wished to return and rebuild their homes, including women and children.

22. **Mr. Tuncak** (Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes) said that his proposed principle on the right of workers not to be exposed to toxic substances without their prior informed consent had been inspired by the Modern Slavery Act of 2015 of the United Kingdom, which described the practice of exploitation by deception. Not only were many workers unaware of their levels of exposure to toxic substances, but the health impacts of many of those substances had not been assessed. The vast majority of industrial chemicals, for example, had not been tested for safe use by workers, including women of reproductive age. The conduct of such assessments would therefore be a tremendous step forward to advance the principle of informed consent. The European Union should be recognized for its efforts in that area.

23. The circumstances under which consent was given were also an important consideration. People in economically vulnerable situations who were forced to choose between their livelihood and toxic exposure could not be said to be giving proper consent. In that regard, applying the hierarchy of hazard controls would drastically reduce or eliminate workers' exposure. Regarding access to remedies, shifting the burden of proof on workers from having to prove their exposure to simply demonstrating that they had worked in an industry where exposure was likely was a positive measure. The case of remedies for asbestos exposure offered a good example of that shift in burden of proof.

24. In response to the delegation of Japan, he noted that the universal periodic review of the Human Rights Council in 2017 had recommended that the level of exposure to radiation be lowered from 20 to 1 millisieverts. In his press release, he had expressed concerns that that recommendation was not being implemented. Noting that the 2007 ICRP

recommendation included a justification principle, he urged the Government of Japan to rigorously apply that principle to radiation exposure levels in Fukushima, particularly in respect of children and women of reproductive age, to ensure there was no unnecessary radiation exposure and accompanying health effects. Lastly, he said that a healthy environment was currently a privilege enjoyed by very few and reiterated the call for global recognition of the right to a healthy, safe, clean and sustainable environment.

25. **Mr. Monterrey** (Chair-Rapporteur of the open-ended intergovernmental working group on a United Nations declaration on the rights of peasants and other people working in rural areas), introducing the report of the working group ([A/HRC/39/67](#)), said that the working group had the mandate to negotiate, finalize and submit to the Human Rights Council a draft declaration on the rights of peasants and other people working in rural areas. During its fifth session, held in April 2018, the working group had negotiated the text of the revised draft declaration, prepared by the Chair and circulated in February 2018. The Deputy High Commissioner for Human Rights had delivered an opening statement, highlighting the urgency of completing the declaration in order to address the protection gap for more than 1 billion people living in rural areas. Experts from various regions took part in a panel discussion. Member States, regional groups, civil society and peasant men and women participated in the subsequent discussion of the text of the draft declaration. The entire session was webcast, facilitating worldwide access to the discussions.

26. In August 2018, the Secretariat circulated the revised draft declaration to all Permanent Missions, and in September 2018, through its resolution [39/12](#), the Human Rights Council adopted the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, and recommended that the General Assembly adopt the Declaration and invite Governments, international organizations and others to promote universal respect thereof. Protecting the rights of persons living and working in rural areas was synonymous with protecting the biodiversity that supported food systems and the livelihoods of millions of families. It was also a step towards promoting environmental sustainability, resilience to climate change, and, most importantly, the equal rights of people living in rural areas. The declaration by the General Assembly of the 2019–2028 Decade of Family Farming demonstrated the global commitment to people living in rural areas. Moreover, the Declaration also had many links to the 2030 Agenda for Sustainable Development, in particular the goals to eliminate hunger, poverty and

discrimination. He called on the Committee and the General Assembly to adopt the Declaration, thereby endorsing its approval by the Human Rights Council.

27. **Mr. León Peñaranda** (Plurinational State of Bolivia) said that the Declaration was the result of years of intense work by Member States, intergovernmental organizations, civil society and human rights institutions to reach consensus. The Declaration was an important step towards recognizing the tangible and intangible contributions to humanity made by people working in rural areas.

28. **Ms. Widyaningsih** (Indonesia) said that the Indonesian Government and civil society had participated in the process of drafting the Declaration, and many of its principles and provisions were in line with Indonesia's national policy and strategies. While her delegation supported the Declaration, it noted that article 33 (3) of the Constitution of Indonesia stated that the country's land, water and natural resources were used by the State for the greatest benefit of the people. That implied that the State represented all people in Indonesia, including peasants and other people working in rural areas, in its use of natural resources. The adoption of the Declaration was an important initial step towards improving the livelihoods of rural people, but some of the definitions and concepts of rights contained therein required further discussion at the national and international levels. In that regard, Indonesia would need to adjust some of the concepts of rights set out in the Declaration to bring them in line with its national laws and commitments undertaken under international agreements. She asked whether there were plans to consult with Member States to reach further consensus concerning definitions and concepts of rights set out in the Declaration.

29. **Mr. Forax** (Observer for the European Union) said that the European Union remained deeply concerned about the pervasive inequalities between rural and urban areas. The full and equal enjoyment of all human rights by persons living and working in rural areas was a priority for the European Union, reflected in its comprehensive social and agricultural policies, which were in line with the 2030 Agenda. The European Union welcomed the adoption by the Commission on the Status of Women at its sixty-second session of its agreed conclusions, which sought to empower women and girls living in rural areas, including with respect to their land rights, access to farming resources and technologies, climate change resilience, food security and nutrition.

30. The European Union had engaged in the deliberations of the working group and recognized the improvements made to the text of the Declaration.

However, some States still found problems with the text, including with regard to the creation of new collective human rights and the inclusion of concepts such as the right to seeds and land and food sovereignty, for which the link to human rights still needed to be clarified. The European Union remained committed to promoting and protecting the human rights of all persons and considered the main challenge in that task to be the implementation of human rights norms rather than the lack of such norms. Given the disproportionate effects of climate change and natural disasters on people living in rural areas, he asked the Chair-Rapporteur to reflect on his consultations with stakeholders and offer the best ways to engage with farmers to build resilience to such threats, improve agricultural productivity and contribute to food security.

31. **Mr. Cepero Aguilar** (Cuba) said that Cuba considered peasants to be critical to food security, the fight against climate change and protection of biodiversity, and had been supportive of the process of drafting the Declaration. An international instrument would help strengthen protection of people living in rural areas, who accounted for 80 per cent of people living in hunger and extreme poverty. Peasants often lost their farms owing to lack of access to the means of production and were ejected from their property or assassinated when they sought to defend their rights. His delegation had co-sponsored the Human Rights Council resolution on the Declaration and welcomed its adoption.

32. **Mr. Machaba** (South Africa) said that his Government had implemented skills development, job creation and food security programmes for peasants and other people working in rural areas, who should be able to enjoy the right to development. Given that land ownership was central to economic and social development, his Government was reviewing its constitutional and legislative framework in respect of the question of land expropriation without compensation. The key objective of that process was to redress the historical injustices experienced by the majority of South Africans, which had led to their economic disempowerment and a lack of access to the means of production. His delegation supported the adoption of the Declaration by the General Assembly.

33. **Mr. Monterrey** (Chair-Rapporteur of the open-ended intergovernmental working group on a United Nations declaration on the rights of peasants and other people working in rural areas) said that the preamble and article 28 of the Declaration gave scope to States to adapt the provisions of the Declaration to national legislation concerning tenure of land and natural resources as well as to international commitments under

treaties and with international institutions. The Declaration was a major step towards addressing the needs of women and girls working in rural areas, who were a particularly vulnerable group within a population already facing hunger and poverty. The drafting and adoption of the Declaration had been an open, transparent and inclusive process. The text was balanced and was not restricted to a single point of view. It was now up to the Third Committee and the General Assembly to send a message of support to the people who fed the world.

The meeting rose at 4.30 p.m.