



# General Assembly

Seventieth session

## Official Records

Distr.: General  
21 November 2015

Original: English

---

### Third Committee

#### Summary record of the 27th meeting

Held at Headquarters, New York, on Monday, 26 October 2015, at 10 a.m.

*Chair:* Mr. Hilale ..... (Morocco)

### Contents

Agenda item 72: Promotion and protection of human rights (*continued*)

- (b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)
- (c) Human rights situations and reports of special rapporteurs and representatives (*continued*)

---

This record is subject to correction.

Corrections should be sent as soon as possible, under the signature of a member of the delegation concerned, to the Chief of the Documents Control Unit ([srcorrections@un.org](mailto:srcorrections@un.org)), and incorporated in a copy of the record.

Corrected records will be reissued electronically on the Official Document System of the United Nations (<http://documents.un.org/>).

15-18627 (E)



Please recycle A small graphic of a recycling symbol, consisting of three chasing arrows forming a triangle.



*The meeting was called to order at 10.05 a.m.*

**Agenda item 72: Promotion and protection of human rights** (*continued*) ([A/70/40](#))

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) ([A/70/56](#), [A/70/111](#),

[A/70/154](#), [A/70/166](#), [A/70/167](#), [A/70/203](#), [A/70/212](#), [A/70/213](#), [A/70/216](#), [A/70/217](#), [A/70/255](#), [A/70/257](#), [A/70/258](#), [A/70/259](#), [A/70/260](#), [A/70/261](#), [A/70/263](#), [A/70/266](#), [A/70/270](#), [A/70/271](#), [A/70/274](#), [A/70/275](#), [A/70/279](#), [A/70/279/Corr.1](#), [A/70/285](#), [A/70/286](#), [A/70/287](#), [A/70/290](#), [A/70/297](#), [A/70/303](#), [A/70/304](#), [A/70/306](#), [A/70/310](#), [A/70/316](#), [A/70/334](#), [A/70/342](#), [A/70/345](#), [A/70/347](#), [A/70/361](#), [A/70/371](#), [A/70/405](#), [A/70/414](#), [A/70/415](#) and [A/70/438](#))

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

([A/70/313](#), [A/70/332](#), [A/70/352](#), [A/70/362](#), [A/70/392](#), [A/70/393](#), [A/70/411](#), [A/70/412](#), [A/C.3/70/2](#), [A/C.3/70/4](#) and [A/C.3/70/5](#))

1. **Mr. de Zayas** (Independent Expert on the promotion of a democratic and equitable international order), introducing his report ([A/70/285](#)), said that, along with his report to the Human Rights Council ([A/HRC/30/44](#)), the report explored systemic problems associated with the international investment regime which had too often impeded development and hindered States in the fulfilment of their human rights treaty obligations. The report highlighted the negative effects of the investor-State dispute settlement (ISDS) mechanism that accompanied most free trade and investment agreements and showed how the implementation of Government policies had often resulted in frivolous lawsuits by investors in a situation where investors could sue Governments, but not vice versa.

2. There was no justification for the existence of a privatized dispute settlement system that was not transparent or accountable and often ended with inconsistent, unpredictable and arbitrary awards, which courts worldwide should refuse to implement as being contrary to national and international public order. Rather than attempting to privatize the rule of law, domestic and regional public court systems should be

strengthened by ensuring their adequate funding and an international investment court should be established.

3. Over the past 25 years the ISDS mechanism had undermined fundamental principles of the United Nations such as State sovereignty, democracy and the rule of law, and had resulted in growing inequality among States and within them. The mechanism could not be reformed; it must be abolished. He called on the General Assembly to convene a world conference with a view to phasing out existing ISDS mechanisms and preventing the adoption of any new ones. The conference could be organized under the auspices of the United Nations Conference on Trade and Development, which bore a certain responsibility for the proliferation of investment agreements and the harm caused to many developing States that had followed its advice to adhere to toxic agreements.

4. Abuse of rights by investors and unconscionable ISDS arbitral awards had deterred States from adopting necessary regulations on, for example, waste disposal or tobacco control for fear of being sued before ISDS tribunals. General principles of law, including the prohibition of contracts or treaties that were *contra bonos mores* and abuse of rights, must be used by national and international courts to challenge the egregious abuses that had accompanied ISDS mechanisms.

5. It was paradoxical that States entered into bilateral and multilateral free trade and investment agreements that hindered their compliance with their human rights treaty obligations. To solve that dilemma, a treaty on corporate social responsibility should be adopted and ratified expeditiously. He thus urged States to engage in the ongoing negotiations in the Human Rights Council Working Group on the issue of human rights and transnational corporations and other business enterprises.

6. He urged the General Assembly to request an advisory opinion of the International Court of Justice on a number of issues, including the legal consequences of the primacy of the Charter of the United Nations over all other treaties, in particular with regard to international investment agreements and ISDS awards, and the priority of the international human rights regime over conflicting obligations under trade and investment agreements.

7. **Mr. Rabi** (Morocco) asked whether the Independent Expert had consulted members of the

Working Group on the issue of human rights and transnational corporations and other business enterprises when writing his report. He also asked the Independent Expert to elaborate further on his call to the General Assembly to consider establishing a commission to monitor the impact of arbitral awards on the paramount obligation of States to promote and protect human rights.

8. **Mr. Poveda Brito** (Bolivarian Republic of Venezuela) said that his country had long supported many of the concepts in the report, especially international solidarity and the impact of investment regimes on human rights. He asked the Independent Expert whether, in preparing his report, he had received any kind of feedback from private or transnational corporations on ISDS mechanisms and on their responsibilities. He also asked the Independent Expert to elaborate on his proposal for a convention on corporate social responsibilities, specifically on what that concept would entail.

9. **Ms. Moreno Guerra** (Cuba) said that her delegation supported the proposal that the General Assembly should request from the International Court of Justice an advisory opinion on the priority of the Charter of the United Nations and other human rights conventions over other treaties. She asked the Independent Expert what his expectations were concerning his recommendation on requesting an advisory opinion, where it could be applied and what follow-up could be carried out within the United Nations system, especially at the World Trade Organization (WTO), when settling investment disputes. She also asked how an advisory opinion would guarantee economic rights, especially for developing countries, and what the major challenges were to the possibility of adopting a legally binding convention concerning the private sector and its responsibilities.

10. **Ms. Mansouri** (Algeria) said that States should adopt a participatory approach that included parliaments and national human rights institutions in negotiations on the adoption and application of trade and investment agreements. Her Government encouraged the Independent Expert to explore further the paths identified in his report.

11. **Ms. Anichina** (Russian Federation) said that her delegation agreed that when concluding investment agreements, the human rights implications should be taken into account; however, it should be borne in

mind that investment played an important role in the realization of economic and social human rights and the right to development. A declared focus on human rights should in no case be allowed to become a tool for unfair competition. The Russian Federation would like the Independent Expert in his future reports to take up important issues such as the extraterritorial application by States of their national law at the expense of human rights and State sovereignty, as well as investments and financial activities that were contrary to the Charter of the United Nations and universally recognized human rights norms.

12. **Mr. de Zayas** (Independent Expert on the promotion of a democratic and equitable international order) said that he had read all the reports prepared by his colleagues, consulted actively with many of them, including members of the Working Group on the issue of human rights and transnational corporations and other business enterprises, and informed them regularly about his work. There was no question of duplication of activities between them; rather, they offered different perspectives. He had drawn up a plan of action, contained in his report to the Human Rights Council (A/HRC/30/44), which he had shared with many colleagues and with the United Nations Conference on Trade and Development. He had also had consultations with experts, economists, law professors and other special rapporteurs in which they had discussed aspects of his report.

13. One of the key points of his report was the recognition that human rights should take precedence over other treaties and obligations. He had made a number of recommendations to the General Assembly, above all in relation to the application of Article 103 of the Charter of the United Nations. It was clear that when there was conflict with trade rights, it was the duty of the International Court of Justice to issue a clear advisory opinion; such an opinion would have the advantage of including follow-up mechanisms.

14. He had had a great deal of contact with transnational corporations and no one had tried to intimidate or influence him. He had received a very positive response from civil society since the publication of his first report in March 2015. Notwithstanding Ruggie's guiding principle that States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives, the report cited many examples of unacceptable interference in the

sovereignty of States, for example in their ability to establish a budget, protect health and provide access to medicine. All courts, both national and international, had competence to reject cases where there was a clear abuse of rights.

15. A convention on corporate social responsibility was necessary because corporations were not interested in self-regulating; they paid lip service to human rights but their paradigm remained short-term profit. The Universal Declaration of Human Rights was merely a declaration; although the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and many other legally binding treaties had eventually resulted from that Declaration, the guiding principles themselves were not binding. The State had a duty to protect the rights of all the people under its jurisdiction, including their right to health and food. While the concept of free trade was laudable, regulation was necessary so that trade and development could progress in tandem. That objective was fully achievable, but there was a lack of good faith.

16. Proactive participation and awareness on the part of civil society was essential. It had only recently awoken to the dangers of arbitral tribunals. Information on the issue was not well disseminated, and it was vital for people to realize that their rights were in danger. ISDS mechanisms were an assault on the ontology and sovereignty of the State, as well as on democracy.

17. In 2003, the Subcommission on the Promotion and Protection of Human Rights had produced a comprehensive report condemning ISDS abuses and proposing a series of implementable recommendations. As with the many other reports on the issue, nothing had resulted from it. It would require a declaration from the highest level, the International Court of Justice, for States to have the power to defend themselves against such abuses. The International Labour Organization could also request an advisory opinion; many of its 200 conventions would be impossible to implement if States feared being subjected to lawsuits and losing millions of dollars in attorney's fees alone. Developing countries in particular could not afford costly lawsuits. An advisory opinion would give all States a basis to block the enforcement of arbitral awards that were manifestly unjust. There had been egregious cases of lack of independence on the part of arbitrators, but States had not been able to annul the awards made because the system was not well developed.

18. The rule of law was being subverted and attacked through the ISDS system, which was taking precedence over national courts. It was truly incredible that three arbitrators could ignore national legislation and issue rulings contrary to those made by the highest courts of the States concerned, disregarding the principles of international law requiring domestic remedies to be exhausted before turning to international means.

19. Lack of cooperation was a significant challenge to concluding a legally binding convention on corporate social responsibility. In July 2015, a number of States had boycotted the meetings of the working group to draft a convention. It was the responsibility of every State to accept that there was a problem with the ISDS system that needed to be resolved, and it was better to have a binding treaty than to persist in the illusion that a self-regulated system would achieve results.

20. In order to adopt treaties, whether on free trade or transatlantic partnerships, parliament must be proactive and consult with and inform citizens. It had the power and duty to oppose abuse of agreements. Trade agreements should respect human rights and not permit abuses.

21. States should not apply their laws extraterritorially in cases of, for instance, embargoes and sanctions, since such actions raised major questions of State sovereignty and compatibility with the United Nations Charter, in particular Articles 1 and 2. That issue could be taken up by the International Court of Justice in an advisory opinion. He encouraged States to work to ensure that trade furthered human rights and did not impede them.

22. **Mr. Bohoslavsky** (Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights), introducing his report ([A/70/275](#)), welcomed the adoption of General Assembly resolution 69/319, which was a positive step towards clarifying which existing rules and principles of international law applied to sovereign debt issues and provided legal guidance on how to deal with vulture credits. Sovereign debt restructuring should be geared towards implementing economic and social policies with a view to achieving growth and development in the countries concerned. The discussion in the General Assembly about the applicable standards to debt restructuring was becoming more comprehensive and public law-oriented, which

gave hope that human rights aspects would be more carefully considered in such contexts in the future.

23. His report focused on the scope of the principle of *pacta sunt servanda* in the context of foreign debt obligations in light of international law, including international human rights law. He advocated a more nuanced view of that principle, grounded in contemporary understandings of sovereignty, legitimacy and human rights. Public and private lenders had certain obligations and responsibilities under international human rights law, including obligations set forth in binding human rights treaties, in line with the United Nations Guiding Principles on Foreign Debt and Human Rights and the United Nations Guiding Principles on Business and Human Rights. Sustainable debt portfolios and debt restructuring agreements should include growth and repayment capacity, but should also take into account their impact on the economic, social and cultural rights of the sovereign debtor's population.

24. In March 2015, he had submitted two thematic reports to the Human Rights Council; in March 2016 he would submit a third thematic report, on the link between inequality, financial crises and human rights, as well as his final study on illicit financial flows, human rights and the post-2015 development agenda, to the Human Rights Council in March 2016.

25. He had received invitations to undertake official visits to a number of countries and had visited Iceland in December 2014 and China in June 2015. He was scheduled to visit Greece in November 2015. During his visit to Iceland in December 2014, he had found that Iceland had implemented adjustment policies in response to the banking crisis in a manner that ensured respect for core social and economic rights, taking into account accountability and citizens' participation. However, while there had been remarkable efforts to hold bankers accountable, a comprehensive attempt to ensure accountability in the public sector appeared to be lacking. He had recommended that the legal and institutional framework of Iceland be further enhanced in order to prevent the recurrence of a similar crisis.

26. In China, he had assessed how its international lending contributed to the realization of human rights abroad, particularly in developing countries. He had welcomed China's leadership role in the establishment of two new multilateral development banks and stressed that a human rights focus would upgrade China's international lending, while underlining the

need to avoid adverse social, environmental and human rights impacts.

27. Problems posed by debt restructuring processes needed to be addressed by an improved legal framework based on well-rooted and tested international principles. Such a framework should be compatible with existing human rights norms and principles, as stressed in Human Rights Council resolution 27/30. He urged all Member States to implement the Basic Principles on Sovereign Debt Restructuring Processes, which reflected general principles of international law and international customary law and, as such, were legally binding.

28. **Mr. Elbahi** (Sudan) asked what efforts were being made by the office of the Independent Expert with regard to sovereign debt, especially for countries that had abided by all the technical standards for relief.

29. **Mr. Marani** (Argentina) said that the international community must comprehensively address the problem of foreign debt. For that reason, Argentina had supported establishing the mandate of the Independent Expert. The burden of foreign debt was unsustainable for developing countries and constituted one of the main obstacles to sustainable human development and the eradication of poverty. His delegation appreciated the Independent Expert's reflections on the principle of *pacta sunt servanda* and its relation to human rights, and the principles of legitimacy and sustainability in the context of sovereign debt obligations. There was a fundamental link between the protection and promotion of human rights and the establishment of a clear set of principles to sustainably manage and resolve financial crises through a consensus on sovereign debt restructuring. Any strategy for debt management should ensure that the enjoyment of human rights was not hindered and that debtor States achieved a sufficient level of growth to meet their social, economic and development needs and satisfy their human rights obligations. The multidimensional nature of debt required a comprehensive solution; Argentina would therefore continue to promote the need for an international, effective and equitable approach. He asked the Independent Expert for his views on the way in which vulture funds increased the negative impact of sovereign debt on the enjoyment of human rights.

30. **Ms. Mouflih** (Morocco) said that in his report the Independent Expert had mentioned the importance of combating illicit financial flows and proposed

dedicating a specific goal to that end in the 2030 Agenda for Sustainable Development. She asked how he viewed the treatment of that recommendation in the 2030 Agenda.

31. **Mr. Poveda Brito** (Bolivarian Republic of Venezuela) said that Venezuela had always attached importance to the issue of foreign debt and its impact on the full enjoyment of human rights, especially economic, social and cultural rights. His Government therefore supported sovereign debt restructuring processes. It believed that, in addition to the economic and legal dimensions of the issue, there was also a political dimension. He asked the Independent Expert whether he had received feedback from regional or international financial institutions, such as the International Monetary Fund (IMF), the World Bank or the Inter-American Development Bank, on the ontology of foreign debt.

32. **Mr. Bohoslavsky** (Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights) said that he was monitoring the situation of countries going through debt relief initiatives. At the International Conference on Financing for Development in Addis Ababa, one of his main points had been that countries that suffered from Ebola should receive special attention from international financial institutions in terms of debt relief initiatives. He was planning a country mission to assess how those initiatives were working on the ground.

33. The most obvious impact that vulture funds had on the enjoyment of human rights was that they eroded the fiscal capacity of debtor States to guarantee economic, social and cultural rights. A more indirect, but not less damaging, impact was the moral hazard that came with repaying vulture funds at 100 per cent of their value when other creditors had made a sacrifice and had accepted debt restructuring. If that principle prevailed, creditors in future debt restructuring processes would not want to accept any cuts.

34. The 2030 Agenda for Sustainable Development had certainly marked a step forward in terms of acknowledging that illicit financial flows were a problem with negative human rights implications. However, the Sustainable Development Goals were not specific enough, particularly in terms of what should be considered as illicit financial flows, and there were

no specific criteria to measure whether illicit financial flows had been reduced.

35. He had received virtually no feedback from IMF and the World Bank. A group of Special Rapporteurs and Independent Experts had recently sent a letter to the World Bank concerning the lack of serious and systematic inclusion in its guidelines of human rights as a relevant factor or indicator when making decisions. On his recent visit to China, he had met with the president of the Asian Infrastructure Investment Bank, which had opened a consultation process for civil society. He was currently working with the Bank to ensure that its new guidelines would be in alignment with international human rights law.

36. **Mr. Jazairy** (Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights), introducing his report ([A/70/345](#)), said that his report to the Human Rights Council ([A/HRC/30/45](#)) had focused on the long history of unilateral coercive measures and on their legal status. He had emphasized the need to distinguish between sanctions, which were multilateral measures taken by the Security Council under Article 41 of the Charter of the United Nations, and unilateral coercive measures, which were applied by individual States or groups of States outside the framework of the United Nations.

37. At the thirtieth session of the Human Rights Council, some developed countries, which were the main source of unilateral coercive measures, had recalled their deep concern about the adoption of Human Rights Council resolution 27/21, because they considered that it dealt with relations between States and not with concrete human rights issues of individuals. On that basis, they felt that the Human Rights Council was not the right forum to address the human rights impact of unilateral coercive measures. The underlying implication was that the multilateral human rights debate called States to account only for the human rights situation of their domestic population. However, it would be inconceivable that actions of States that resulted in human rights violations against populations outside their own jurisdiction would not be prohibited. Both the Human Rights Council and the General Assembly were concerned as to whether people, especially the most vulnerable individuals, were being deprived of their basic rights, regardless of whether that situation resulted from actions of their own Government or those of a foreign State.



38. At that session, developed source country representatives had indicated that it was their policy to ensure that any measures they took against a particular target would only be resorted to in accordance with international law. However, several United Nations instruments treated unilateral coercive measures as antithetical to international law, while others, such as the 1993 Vienna Declaration and Programme of Action, were somewhat ambiguous in that respect. It thus needed to be determined whether unilateral coercive measures were intrinsically a violation of international law, or whether some measures were, and others were not.

39. Many developing country representatives had called for the elimination or gradual phasing-out of unilateral coercive measures on the grounds that such measures were in violation of international law and the Charter of the United Nations. Some representatives felt that any attempt to mitigate the human rights impact of such measures without first apportioning responsibility and reparations would be tantamount to legitimizing those measures. Others opted for a pragmatic approach and favoured engaging in dialogue with a view to mitigating the sufferings of innocent victims, without prejudice to the legal status of unilateral coercive measures. That approach would include the elaboration of guidelines and the promotion of best and next practices, and would be predicated on access to more complete information on the current state of unilateral coercive measures. However, attempts to gain a global view of the situation were currently stymied by the absence of standardized global data on such measures.

40. His report ([A/70/345](#)) was action-oriented and attempted to avoid the political pitfalls of the contentious aspects of unilateral coercive measures. It focused on the human rights impacts of unilateral coercive measures in respect of basic rights, including the right to life, the right of self-determination and the right to development. The right to a fair trial was a particularly topical issue in light of the expanding list of “persons of concern”. Innocent people should not be punished collectively for actions by their leaders that source countries considered to be wrongful. Ultimately, the debate on whether specific unilateral coercive measures were legal or not would be superseded by findings on human rights impacts: unilateral coercive measures that inflicted undue suffering on the population of a targeted State were clearly illegal and source countries should be called to account in such cases.

41. The post-cold-war era had witnessed a significant increase in recourse to unilateral coercive measures; the number of corporate or individual persons of concern ran into the thousands over and above those listed by the Security Council. There was no way to compare data available on the official websites of source countries as reporting standards varied and transparency was lacking.

42. In his report, he made nine recommendations with a view to mitigating the adverse human rights impact of unilateral coercive measures. He appealed to all Member States to engage in a negotiation on unilateral coercive measures with the ultimate objective of reducing the suffering of the most vulnerable segments of the population of targeted countries and to carry the spirit of dialogue and consensus-building that had been shown under the universal periodic review into discussions on unilateral coercive measures for the sake of the poorest and most vulnerable.

43. **Ms. Vadiati** (Islamic Republic of Iran), speaking on behalf of the Non-Aligned Movement, said that the Movement fully supported the mandate of the Special Rapporteur and appreciated his report. It was also pleased that the first biennial panel discussion on unilateral coercive measures and human rights had been convened at the thirtieth session of the Human Rights Council in 2015, and welcomed the issuance of the research-based progress report of the Human Rights Council Advisory Committee containing recommendations on mechanisms to assess the negative impact of unilateral coercive measures on the enjoyment of human rights and to promote accountability. Paragraph 30 of the 2030 Agenda for Sustainable Development stated that States were strongly urged to refrain from promulgating and applying any unilateral economic, financial or trade measures not in accordance with international law and the Charter of the United Nations that impeded the full achievement of economic and social development, particularly in developing countries. The Non-Aligned Movement called on the Special Rapporteur to be guided by that statement in the discharge of his mandate, and looked forward to receiving comprehensive reports from him in the future.

44. **Mr. Jabbar** (Iraq) asked what legal measures a State could apply to provide remedies for and compensate innocent victims when measures imposed on it pursuant to a Security Council resolution as the result of human rights violations by a previous political

regime were discovered to have caused great damage to the people and not impacted the regime.

45. **Ms. Moreno Guerra** (Cuba) said that the first report of the Special Rapporteur represented a step in the United Nations system towards promoting debate and awareness on the issue of unilateral coercive measures. As a country that had suffered for more than 50 years under such measures, which were contrary to international law, Cuba attached special importance to the report and found the recommendations to be very pertinent, especially those calling for a register to be set up within the Secretariat or the Security Council. She asked the Special Rapporteur whether the register would include only measures imposed by the Council or would also cover State-implemented measures as well. She asked what other actions could be taken by the United Nations, its funds, programmes and other agencies on the issue of unilateral coercive measures.

46. **Mr. Elbahi** (Sudan) said that his Government applauded the decision of the Human Rights Council to establish the important mandate of the Special Rapporteur, welcomed his report and hoped that future recommendations would go beyond an analysis of the impact of unilateral coercive measures and call for their total elimination, as those measures did not have any legal or ethical basis under international law or the Charter of the United Nations. The unilateral coercive measures imposed on Sudan since 1997 had severely impacted the enjoyment of all human rights; paralysed all vital development projects, transportation, agricultural projects, textile factories and factories that manufactured medical equipment for children; impacted the provision of fundamental services, particularly in the areas of education and health, which in turn affected mostly children and women; and impeded his Government's efforts to combat terrorism, trafficking in persons and other transnational organized crime. His Government invited the Special Rapporteur to visit Sudan to evaluate the situation and see at first hand the impacts of unilateral coercive measures on the enjoyment of human rights and on other important aspects affecting quality of life.

47. **Ms. Mansouri** (Algeria) said that unilateral coercive measures and their repercussions were contrary to the Declaration on the Right to Development and a number of provisions of international law, and did not respect human rights or fundamental freedoms, especially those of the most vulnerable. Her Government shared the Special

Rapporteur's view that economic sanctions had particularly dramatic impacts on the rights recognized in the International Covenant on Economic, Social and Cultural Rights, as they often caused significant disruption to food distribution, jeopardized access to safe drinking water, severely interfered with the functioning of basic health and education systems and undermined the right to work. Her Government encouraged the Special Rapporteur to give particular attention to the impact of unilateral coercive measures on the right of peoples to self-determination in future reports, and looked forward to hearing his recommendations on ways and means to prevent, minimize and address the adverse impacts of unilateral coercive measures on human rights.

48. **Ms. Velichko** (Belarus) said that unilateral coercive measures were antithetical to source countries' respect for the right to development and crippled national economies because of their negative impact on foreign banks and investors, which led to impediments to national imports and compelled Governments to make significant efforts to minimize the impact of external economic sanctions on the most vulnerable sectors of the population. Political sanctions, which arbitrarily restricted the rights of certain groups of the population, for example parliamentarians and journalists, undermined the universality of human rights such as the freedoms of speech, movement and expression. The adoption of unilateral coercive measures by individual States or groups of States with the objective of bringing into power a favoured political figure or party contravened the principle of non-interference in the internal affairs of sovereign States and were tantamount to waging war through non-military means. Constructive cooperation and mutually respectful dialogue, not political and economic coercive measures, should form the basis of the effective promotion and protection of human rights.

49. She asked the Special Rapporteur whether the application of unilateral coercive measures was legitimate from the point of view of international law. She also asked whether he planned to invite States to the consultations planned for 2016 to discuss the draft guidelines on ways and means to prevent, minimize and redress the adverse impact of unilateral coercive measures on human rights. Finally, she asked for his opinion on the possibility of including the effects of unilateral coercive measures in the recommendations



under the universal periodic review for countries that were targets of such measures.

50. **Ms. Anichina** (Russian Federation) said that unilateral coercive measures were contrary to international law, the principles of sovereign equality and non-interference, and cooperation obligations, and also impaired multilateral efforts to promote human rights and fundamental freedoms. Their main purpose was to force States to change their behaviour and policy, often on issues where they had exclusive jurisdiction by virtue of sovereignty. However, in the majority of cases, unilateral coercive measures did not lead to a major change in the policy of the targeted State but always had extremely negative humanitarian consequences, namely for the most vulnerable sectors of the population.

51. Restrictions imposed on individuals undermined the principles of presumption of innocence and choice of residence, and had a significant effect on the rights to freedom of movement, property and a fair trial. Individuals against whom restrictions were imposed did not have effective ways of protecting their rights and reputation. The Russian Federation thus considered unilateral coercive measures to be an arbitrary political act from the point of view of international law and called on the Special Rapporteur to continue collecting information on their human rights impact.

52. **Mr. Ntonga** (Zimbabwe) said that the mandate of the Special Rapporteur addressed a very important issue that had not received enough attention in human rights discourse. Unilateral coercive measures were tantamount to economic warfare against a sovereign State in that they had catastrophic effects on the general population. His Government hoped that the Special Rapporteur would challenge the legality of those measures and their impact on the enjoyment of human rights by ordinary civilians as he elaborated further on his theme. Zimbabwe had experienced harmful measures that had undermined the fundamental right to life of ordinary citizens. Maternal and infant mortality rates had risen dramatically as a result of restricted access to medical equipment and essential medicines. The recommendations contained in the report, especially the creation of a register, represented a good starting point for promoting more clarity and transparency on the issue. He asked the Special Rapporteur how States could support him in the effective execution of his mandate. He hoped that the Special Rapporteur would look into undeclared

unilateral measures, which influenced the investment decisions of private entities and their engagement with affected countries.

53. **Mr. Qassem Agha** (Syrian Arab Republic) said that the region, and his country in particular, continued to witness terrorism and extremism that rejected moderation and living harmoniously, destroyed childhoods, exploited women, threatened the security and stability of societies and looted natural resources. The region continued to suffer from harsh, unilateral economic measures imposed by certain States to exert political pressure on its Governments and peoples, for example, those imposed on Syria by the United States of America since 2003 and by Europe since 2011. Those measures were ongoing despite repeated international calls to lift them immediately given their disastrous impact on the Syrian economy and on the lives of Syrians. Thousands of Syrians had been forced to leave their country and relief and humanitarian response operations in Syria were also impacted. As mentioned in the report of the Special Rapporteur, his Government had indicated that Syria was the target of more than 58 packages of unilateral coercive measures, each including several subsets of sanctions. He asked the Special Rapporteur to suggest tangible steps or mechanisms to mitigate unilateral coercive measures in the near future.

54. **Ms. Mouflih** (Morocco) said that the adverse effects of unilateral coercive measures on the exercise of human rights were numerous and required a cross-cutting approach. She asked the Special Rapporteur how he intended to work with other institutions and organizations within the framework of his mandate.

55. **Mr. Poveda Brito** (Bolivarian Republic of Venezuela) said that Venezuela rejected the non-objective, selective and politically motivated imposition of unilateral coercive measures by States against other States, which undermined the work of the Human Rights Council and other United Nations bodies and flagrantly violated the human rights of individuals and countries. He asked the Special Rapporteur what Governments could do in support of his mandate, which was of particular interest to Venezuela as it had also been a victim of those types of measures, especially in 2015. He asked the Special Rapporteur to elaborate on some of the methodologies that could be used in setting up a consolidated central register, at the level of the Security Council or in the United Nations Secretariat.

56. **Mr. Jazairy** (Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights) said that he was pleased with the international dialogue on the issue, both at the biennial panel discussion in Geneva and at the General Assembly, and was surprised that it had taken so long to establish his mandate, as about one third of humanity was currently living in countries affected by unilateral coercive measures. The United Nations took two contradictory stances on the issue. The tendency was for resolutions adopted by majority vote to stress that all unilateral coercive measures were illegal and should be abolished, but in resolutions adopted by consensus, the language was more ambiguous and suggested that those measures that were not in compliance with international law should be abolished. The language in the 2030 Agenda for Sustainable Development was evidence of one of those subtle compromises.

57. The European Union, Australia, Canada, the United States and many other countries had numerous targets of unilateral coercive measures, which impacted thousands of people. A standard rule of law practice needed to be established to cover those measures that were not governed by the principles of the United Nations. In some cases, a targeted country was not able to claim that there had been a mistake or ask for measures to be lifted. A register could provide coherence between actions undertaken within and outside the United Nations system and would help to promote consistency and efficiency and thereby gain the support of all delegations irrespective of their positions on the issue. It was also important to consider the human rights impact of unilateral coercive measures once they had been lifted. International firms and investors that had been urged not to do business with countries targeted by restrictive measures remained insecure once the measures had been lifted. A register would make it easier for the public and the business community to determine the status of measures in a country. The Convention on Certain Conventional Weapons served as a precedent for the register, and the same language could be used.

58. Cuba's situation represented a problem of conscience for the United Nations family. Unilateral coercive measures were supposed to be preventive and not punitive and should therefore not be in place for 50 years. Although the issue did not fall under his mandate, he did not understand why Security Council

sanctions imposed in the days of Saddam Hussein were still being applied to Iraq.

59. He suggested that the 2017 high-level panel discussion on human rights mainstreaming of the Human Rights Council should be dedicated to unilateral coercive measures, since they were a cross-cutting issue. He hoped that there would be a future world conference to reach agreement on abolishing unilateral coercive measures. The Helsinki Conference Final Act of 1975 was proof of a global convergence of values on the issue.

60. The humanitarian exemption alone was not sufficient to protect human rights. In peacetime, there were no organizations ensuring that basic needs were met. There were 85,000 new cases of cancer in Iran every year, and those people did not have access to the medication or equipment necessary for treatment because the Government's bank accounts had been frozen and it could not afford to pay for those supplies. The best solution might be a procurement facility at the United Nations agency level, since the United Nations had experience in that area.

61. The right to life was closely related to the right of self-determination. When basic access to food and water was denied, as had been the case in some places like Gaza, there was a serious problem that needed to be addressed.

62. He hoped to engage with source countries as well as target countries. He had asked to visit the United States Office of Foreign Assets Control to see what mechanisms were being implemented to reduce the adverse human rights impact. He also wanted to compare the measures being introduced in the European Union and in the United States. Since the tragedies of Iraq and Haiti, the Security Council had found imaginative ways to introduce reforms and it would be worth exploring how some of those reforms could be applied to unilateral coercive measures to improve the situation of targeted countries. He would also be visiting Sudan before the end of 2015.

63. In order to form an objective opinion after speaking with both source and target countries, he would seek to create some parameters that could be used to evaluate the direct impact of unilateral coercive measures. He hoped to draw from the collective experience of the United Nations Children's Fund, the World Bank, the United Nations Development Programme, the Office of the High Commissioner for

Human Rights and other organizations in order to develop proxy indicators to serve as guidelines.

64. He had asked Member States to report on the status of unilateral coercive measures applied to them and by them but had received very few replies. He repeated his request and emphasized that his purpose in creating the register was not to pit groups of States against one another, but rather to encourage engagement and to facilitate a resource that could ultimately benefit the most disenfranchised, whose voices were not very often heard.

*The meeting rose at 12.35 p.m.*