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## Third Committee

### Summary record of the 40th meeting

Held at Headquarters, New York, on Wednesday, 3 November 2010, at 10 a.m.

Chair: Ms. Ploder (Vice-Chair) ..... (Austria)

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*In the absence of Mr. Tommo Monthe (Cameroon), Ms. Ploder (Austria), Vice-Chairperson, took the Chair.*

*The meeting was called to order at 10.10 a.m.*

**Agenda item 66: Elimination of racism, racial discrimination, xenophobia and related intolerance (continued)**

- (a) **Elimination of racism, racial discrimination, xenophobia and related intolerance (continued)** (A/64/18, [A/65/18], A/65/292, 312 and 323)
- (b) **Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action** (A/65/295 and 377)

**Agenda item 67: Right of peoples to self-determination (continued) (A/65/286 and 325)**

1. **Mr. Al-Maawda** (Qatar) said that principles of non-discrimination and equal rights were fundamental to Qatari society and safeguarded in its Constitution and legislation. Qatar was a party to many international human rights instruments that aimed to combat discrimination, including on the basis of race or gender, and had, *inter alia*, integrated human rights principles into its school curricula with a view to promoting non-discrimination and equality. Qatar had also established institutional mechanisms to promote human rights, including an independent national human rights committee. In collaboration with the Office of the United Nations High Commissioner for Human Rights, Qatar had established the United Nations Human Rights Training and Documentation Centre for South-West Asia and the Arab Region in Doha to promote human rights and eliminate racism.

2. Qatar reaffirmed its commitment to the Durban Declaration and Programme of Action and noted with concern that racism, intolerance and religious intolerance were on the rise. Hatred of a particular religious or ethnic group stemmed, in essence, from ignorance. In that connection, ignorance of Islam and its teachings, which promoted tolerance, had led to an upsurge in Islamophobia. Qatar was striving to promote religious coexistence, had hosted numerous international conferences to enhance dialogue between religions and civilizations and called upon States to adopt legislation to combat religious defamation, which could exacerbate hatred and lead to extremism and acts of terrorism.

3. The inhabitants of the occupied Arab territories continued to suffer under Israeli occupation. Israel was razing inhabitants' homes, building settlements and was attempting to Judaize Jerusalem. It was also building a racist wall that had a devastating economic and social impact on the Palestinian people. In its efforts to combat racial discrimination, the international community must strive to end Palestinians' suffering and must uphold their legitimate rights, including the right to self-determination and the right to establish an independent state with Jerusalem as its capital.

4. **Mr. Berti** (Cuba) said that democracy and the enjoyment of human rights could not coexist with racism and racial discrimination. Nevertheless, in many parts of the world countries were continuing to adopt xenophobic and anti-immigrant programmes, and age-old civilizations and religions were demonized by the centres of power and their information media. Those attempts to identify certain cultures and religions with terrorism and violence were unacceptable. The anti-terrorist and anti-immigrant laws adopted by several industrialized countries reflected the attempts by some to intellectually legitimize manifestations of racism, racial discrimination, xenophobia and intolerance.

5. That cruel reality underscored the need to achieve the full implementation of the Durban Declaration and Programme of Action and adopt new practical measures to eliminate contemporary forms of racism and intolerance. In that regard, he hoped that the promises made by the international community at the 2009 Durban Review Conference, which reflected the renewed will of the Member States, particularly the industrialized countries, would be carried out. Attention must focus not only on legislative measures condemning discrimination but also on combating negative stereotypes and promoting diversity through educational systems.

6. As in previous years, Cuba would submit a draft resolution entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination". Mercenary activities had not only increased, but had assumed new and dangerous forms that threatened the observance of human rights and the full exercise of the right of peoples to self-determination. The draft resolution, which would be sponsored by many other countries, would, *inter alia*, focus attention on the activities of

certain international private security companies, the latest metamorphosis of mercenarism on a global scale.

7. The exercise of the right of peoples to self-determination was a prerequisite for the enjoyment of all human rights. Accordingly, Cuba supported the inalienable right of the Palestinian people to establish its own independent and sovereign State and to freely determine its own political and economic system. In spite of the principles laid down in the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the Charter of the United Nations and other instruments of international law, some States were applying unilateral and illegal measures against other countries.

8. For more than 50 years, Cuba had been subjected to the hardships caused by a brutal, unjust and unilateral economic, commercial and financial embargo, which had been imposed by the United States of America and repeatedly condemned by the international community. The General Assembly had recently again adopted by an overwhelming majority a resolution on the necessity of ending that embargo. The will of the international community could no longer be ignored. The embargo against Cuba must be halted.

9. For more than half a century, the Cuban people had had to face serious actions by the United States against their right to self-determination. The violation of that right by a foreign Government was unjustifiable and unacceptable. Cuba reaffirmed the readiness of its people to safeguard their right to self-determination to the end and defend their complete independence and sovereignty.

10. **Mr. Al-Majed** (Kuwait), recalling that the United Nations had declared 2010 the International Year for the Rapprochement of Cultures, called for the adoption of an international covenant to promote respect for religions, combat prejudice and religious defamation and promote tolerance. Kuwait's Constitution and legislation safeguarded human rights and the principle of non-discrimination and Kuwait was a party to international instruments to eliminate discrimination, prevent torture and promote civil and political rights. Moreover, large numbers of migrants from diverse religious and cultural backgrounds continued to come to the country to take up employment, confident that Kuwait was committed to upholding the rule of law and ensuring that their rights would be respected.

11. Arab citizens of the occupied Palestinian territory and the occupied Syrian Golan continued to suffer discrimination and racism. The United Nations must bring their suffering to an end and the international community must act to safeguard religious sites in the occupied Arab territories, whose Islamic identity Israel was seeking to efface. Kuwait was also deeply concerned by violence by neo-Nazi and extremist groups against specific racial and religious minorities and urged the international community to coordinate its efforts to combat that phenomenon.

12. **Ms. Sabja** (Plurinational State of Bolivia) said that the elimination of racism and racial discrimination was a pillar of her country's domestic policy. The Bolivian Constitution prohibited all forms of discrimination and defended and promoted human rights and economic, social, cultural and environmental rights. Racial discrimination, however, was one of the scourges that continued to afflict the poorest sectors of the country's society. The Bolivian President had recently promulgated a law that established procedures for preventing and punishing acts of racism and all forms of discrimination and consolidated public policies in that regard.

13. The Government had recently established by decree a department to combat racism, which was designed to eliminate patrimonial, patriarchal and racist practices and develop policies to prevent and eliminate racism and cultural intolerance. In addition, the Ministry of Cultures worked to eliminate all forms of discrimination and racism and promote national integration in accordance with the country's social and cultural realities. Her Government had consolidated the implementation of public policies through the Plurinational Human Rights Plan of Action.

14. An agreement had been reached on the part of government and civil society institutions to implement measures aimed at countering racism, racial discrimination, xenophobia and related forms of intolerance. The agreement sought to consolidate the mechanism for dialogue and cooperation in that area on the basis of a broad agenda that included the commitments assumed under the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference. The agenda also incorporated affirmative measures involving indigenous peoples, rural farmers, intercultural and Afro-Bolivian communities, migrants, women, young people, persons

with HIV/AIDS as well as measures against slavery and human trafficking.

15. The Plurinational State of Bolivia, wishing to preserve cultural diversity and promote dialogue between civilizations, reaffirmed its decision to eradicate racial discrimination. In the twenty-first century, peoples and social movements were calling into question the paradigms of capitalism and globalism that had left people in poverty and underdevelopment. One of the alternatives was the new philosophy of “living well” in harmony and dignity, which enabled people to live in solidarity and complementarity and, above all, in respect for Mother Earth. To put an end to racism and discrimination, it was necessary to carry out the international commitments undertaken and public policies in the political and economic fields, particularly in the countries that implemented national policies in that area.

16. **Mr. Ali** (Sudan) said that his country remained fully committed to international instruments to combat all forms of racial discrimination. Further efforts were required to ensure implementation of the commitments made in the Durban Declaration and Plan of Action and the Durban Review Conference. States that had not yet acceded to the Durban Declaration were urged to do so. In the light of widespread attacks against migrants and foreigners, the United Nations must redouble its efforts to ensure that those States which hosted migrants enacted national legislation that was in line with international law and relevant conventions to offer them protection.

17. The Sudan welcomed the Secretary-General’s report on the right of peoples to self-determination. In that connection, the Comprehensive Peace Agreement of 2005 would allow the people of Southern Sudan to exercise their right to self-determination through a referendum in which they could decide to remain within a unified Sudan or secede from it. In preparation for that referendum, the Government had completed the necessary arrangements, including the establishment of a national electoral commission to register eligible voters. The Government of the Sudan was committed to holding that referendum on schedule in January 2011 and the international community was encouraged to offer logistical assistance to help ensure that the vote was free and fair. Moreover, to push forward the peace process, the Sudan was addressing a number of post-referendum issues, including the

demarcation of borders. Regardless of its outcome, the Government of the Sudan would respect the result of that referendum, which must be held in a democratic and transparent atmosphere.

18. The recommendations contained in the Report of the United Nations Fact-Finding Mission on the Gaza Conflict needed to be implemented and the Palestinian people must be allowed to exercise their right to self-determination. In that regard, it was of grave concern that the suffering of the inhabitants of the occupied Arab territories, including women, children and the elderly continued to be met with the indifference and silence of the world community.

19. **Mr. Mamdoohi** (Islamic Republic of Iran), said that depriving the Palestinian people of their inalienable right to self-determination had, *inter alia*, caused regional instability. The Zionist regime continued to perpetrate gross human rights abuses against Palestinians including the killing of innocent civilians, arbitrary detentions and collective punishments. Moreover, the report of the United Nations Fact-Finding Mission on the Gaza Conflict had concluded that war crimes and crimes against humanity had been committed by that regime. Israeli military forces had also carried out a premeditated terrorist attack against civilians in international waters while they were en route to Gaza with humanitarian aid. Iran reiterated its condemnation of that attack and supported the call by the Secretary-General for an investigation into that incident.

20. The latest report by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 had highlighted acts of systematic ethnic cleansing and apartheid. Iran believed that fact-finding missions should identify those individuals in senior positions in the Israeli regime who had perpetrated human rights violations. Those individuals must then be brought to justice. Israel must not be allowed to use those missions to delay justice and divert attention from its crimes. If the United Nations and those States that claimed to advocate human rights had taken swift action in response to crimes perpetrated by the Israeli regime in the past, that regime might have been dissuaded from carrying out its recent attack on foreign nationals.

21. **Mr. Ghanei** (Islamic Republic of Iran) said Muslim communities in Western countries had faced increased hostility since the events of 11 September

2001. Islam was portrayed in a negative light in the media and certain Governments had unjustly targeted Muslims on the pretext of combating terrorism. Muslims were threatened by security and law enforcement forces and by extremist groups. The Independent Expert on minority issues had drawn attention to Canadian Muslims, who faced discrimination, *inter alia*, when seeking employment or when engaging in politics and felt that they were the victims of racism and Islamophobia. The situation of racial minorities in some other Western countries, including the Netherlands, France, the United Kingdom and the United States was equally appalling.

22. Iran was deeply concerned by increasing incidents of defamation of Islam. It was regrettable that that phenomenon was sometimes officially encouraged on the pretext of promoting freedom of expression. Iran called upon all Member States to adopt serious measures to combat Islamophobia, insults against Islamic sanctities, discrimination against Moslems and all other forms of racism, racial discrimination, xenophobia and intolerance, in accordance with their international obligations.

23. It was deplorable that gross and systematic violations of human rights continued to occur in the occupied Palestinian territory as a result of the Zionist regime's racist actions. War crimes and genocide had occurred in Gaza. The international community must fulfil its responsibilities to end the suffering of the Palestinian people and must condemn acts of violence against Palestinians, violations of their human rights and attacks against Muslim symbols and holy sites.

24. **Mr. Popovici** (Republic of Moldova) said that this country abided by the principles of international law designed to promote democracy, the rule of law, respect for human rights and human dignity. One of the core principles was the right to self-determination, which was inseparably bound to such principles as sovereign equality, inviolability of borders, territorial integrity of States, peaceful settlement of disputes, non-intervention in internal affairs, respect for human rights and fundamental freedoms, and fulfilment of obligations under international law. The interdependence of those principles was fundamental to the maintenance of friendly relations and peace among States and to the guarantee of human rights.

25. His country respected the principle of self-determination as an indispensable condition for the

enjoyment of other human rights and fundamental freedoms. That principle should not, however, be interpreted as authorizing or encouraging any action which could in any way undermine the territorial integrity or political unity of sovereign and independent States. The right to self-determination must not be abused for political purposes but must be inseparably linked to the core concept of democracy, where government authority was exercised by the consent of the governed. It should not necessarily be connected to the right of secession. In his country it was being abusively evoked in the matter of Transnistria. Self-determination must instead satisfy the need for security and welfare, including human rights and freedoms and guarantees for control and management of natural resources and the rights of local populations. Nor must it become a reason for foreign military intervention on the pretext of providing security, as in the case of his country.

26. The right to self-determination should apply to groups of human beings with a common historical tradition; with racial or ethnic identity, cultural homogeneity, linguistic unity, religious or ideological affinity, territorial proximity and a common economic life. It must under no circumstances be a pretext for violations of international law and undermining basic freedom.

27. **Ms. Nazarian** (Armenia) said that the universal recognition of the right to self-determination provided the most effective safeguard for human rights and fundamental freedoms. It also constituted a major principle in international law and the foundation on which the community of democratic States and the United Nations system were built. In recent decades, however, there had been blatant attempts to deny that principle by questioning its applicability.

28. Although they had endured a brutal war and attempts to cleanse them from their homeland, the people of Nagorny Karabakh had exercised their right to self-determination and had voted overwhelmingly for freedom. The Minsk Group Co-chairs had reiterated that their proposals for the peaceful settlement of the Nagorny Karabakh issue had been conceived as an integrated package and that any attempt to select some proposals while rejecting others would make it impossible to reach a balanced solution. Armenia shared that vision and would continue to participate in negotiations on that basis in search of a peaceful settlement, fully convinced that constructive dialogue

had, *inter alia*, the potential to promote and protect human rights, defuse tensions and contribute to regional and international peace.

29. **Mr. Tanapal** (Singapore) said that his country was home to a modern multi-ethnic society that necessitated a recognition of and respect for diversity. The visit by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had been an opportunity for Singapore to share its practices and hear about other ways to enhance racial harmony. His Government took proactive steps to promote racial harmony by emphasizing tolerance and respect.

30. Some initiatives, such as the ethnic integration policy for housing, could be seen as artificial and intrusive, but they created common spaces where the different races could interact. Some recent initiatives, such as the Community Engagement Programme, acknowledged that a single crisis could jeopardize Singapore's racial harmony and sought to minimize racial and religious tension following such an event by fostering understanding between different communities. As successful as its policies had been, Singapore needed to remain nimble and vigilant in order to respond to changes that could adversely impact its social cohesion, such as globalization or the influence of new media, in order to maintain a safe and prosperous environment for all of Singapore's people, regardless of race, language or religion.

31. **Ms. Ghosh Dastidar** (India) said that her country had been and would always be fully committed to the right of peoples to self-determination and to the goal of eliminating racism and racial discrimination. India had produced two of the world's great leaders in the struggle against racism: Swami Vivekananda and Mahatma Gandhi. Not surprisingly, given its history, India's Constitution and Penal Code contained safeguards against racism that were implemented by various instruments of governance and buttressed by a committed civil society and a vocal media.

32. Unfortunately, long after the colonial era had come to an end, the world was still prey to racism. Racism should not be linked with other forms of discrimination or intolerance, in particular religious intolerance, nor should the discourse on "multiple discrimination" be allowed to dilute the determination necessary to combat it. Stringent national laws and strict enforcement of them were needed. But the surest

guarantee against racial prejudice, discrimination and xenophobia was the nurturing of multicultural, democratic and pluralistic traditions and the inculcation of tolerance and respect for diversity. India wished to reiterate its firm commitment to implementing the Convention on the Elimination of All Forms of Discrimination against Women and the Durban Declaration and Programme of Action.

33. India's ongoing efforts to secure the right of peoples to self-determination were momentous, and it had played a vital role in the struggle for decolonization. Its support for Palestine had been unwavering. It considered that the solution to the issue of Palestine should be based on the relevant United Nations resolutions, the Arab Peace Initiative and the Quartet Roadmap.

34. Referring to the statement made by the representative of Pakistan, she wished to remind him that the Indian State of Jammu and Kashmir was an integral part of the Union of India and that free and fair elections had been held there time and again.

35. The right to self-determination should not be abused to encourage secession and undermine pluralistic democratic States. Neither should it be seen as the right of an ethnic, religious, racial or similar group. In that connection, it was important not to legitimize ethnic or religious segregation as necessary to prepare the way for acceptance of diversity and multiculturalism, because continued segregation only aided the forces of extreme nationalism.

36. **Mr. Pak Tok Hun** (Democratic People's Republic of Korea) said that racism and racial discrimination were crimes against humanity and could not be tolerated under any circumstances. Racism was an outcome of colonialism, trans-Atlantic slavery and apartheid. It would not be eradicated until the States that had committed those systematic acts had accepted their responsibilities, provided due compensation to States, individuals and communities, and revised their history textbooks accordingly, as had been emphasized at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

37. His people had suffered oppression, humiliation and discrimination during 40 years of vicious Japanese colonial rule in the first part of the twentieth century. During that time, Japan had conscripted and abducted 8.4 million Koreans, massacred 1 million people out of a population of 20 million and forced 200,000 women

and girls to work as military sex slaves. It had prevented Koreans from using the Korean language and had even made them adopt Japanese names. Japan's colonization of Korea was a brutal act of cultural genocide without precedent in colonial history.

38. More than half a century later, Japan had not recognized its crimes against humanity. On the contrary, it was rewriting its middle school textbooks to glorify the Japanese colonialists as heroes, raising concerns that it might repeat its brutal past history. Pervasive discrimination against persons of Korean descent living in Japan had been called into question in the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Human Rights Committee, as well as in the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

39. His Government strongly urged Japan to settle its history of crimes against humanity and to end discrimination against Koreans in Japan, including the General Association of Korean Residents in Japan. It stood ready to join in the efforts of the international community to build a new world free from racism and racial discrimination.

40. **Ms Shiolashvili** (Georgia) said that Georgia was proud of the fact that no case of ethnic or religious discrimination had been recorded in the past 15 centuries. Its legislation guaranteed equality for all its citizens and provided opportunities for ethnic and cultural minorities to develop their own cultures; indeed, the language of instruction in some 400 public schools was that of one of the ethnic minorities. It had recently adopted a National Concept and Action Plan for Tolerance and Civic Integration, the main goal of which was to support the development of a democratic civil society in which diversity was considered a source of strength. No one should be discriminated against because of their racial, ethnic, religious or social background. Yet in 2006, over 5,000 Georgians had been expelled from a neighbouring country. The inhumane policy of ethnic cleansing had been expanded to the occupied Georgian regions of Abkhazia and the Tskhinvali region/south Ossetia.

41. In 2008, Georgia had filed a complaint with the International Court of Justice, accusing Russia of orchestrating ethnic cleansing and depriving internally

displaced persons of their fundamental rights, including the right to return home. The Court had ruled in Georgia's favour. Her Government had recently provided the Court with evidence that, not only had none of the measures ordered by the Court been taken, but that people were being arrested merely for trying to approach their native villages. Further deliberations in the Court were still pending.

42. Her Government was ready to work with the international community to ensure that such things as racial discrimination and xenophobia were no longer tolerated.

43. **Mr. Ndimeni** (South Africa) said that during the recent International Federation of Association Football (FIFA) World Cup held in South Africa, his country had seen the ability of sport to bring different races and cultures together. Nonetheless, there had been minor incidents of violence against migrants and refugees. Those incidents were of extreme concern to the Government, which had outlined a plan to prevent outbreaks of violence.

44. An inter-ministerial committee chaired by the Minister of Police had been set up to respond to threats of violence against foreign nationals. Security agencies had been put on alert to ensure that threats and manifestations of violence were effectively addressed. The Government plan to address violence involved facilitating social dialogue, extending the 2010 FIFA World Cup National Joint Committee, reinforcing civic education in society and the law enforcement agencies and development of a government communication strategy. The Government took threats of violence against foreign nationals seriously and treated the matter as its highest priority. No attacks would be tolerated.

45. Disaggregated data was very important in establishing policy to address imbalances. Several groups, including women, had benefited from such policies.

46. South Africa had a strong position on the self-determination of the Palestinian people and would continue to support all international efforts to help the people of Palestine and Israel find a lasting peace, leading to the establishment of a viable Palestinian State on the basis of the 1967 borders, with East Jerusalem as its capital, in peace and security with Israel.

47. **Ms. Solórzano-Arrigada** (Nicaragua) said that her country wished to reaffirm its commitment to full and effective implementation of the Durban Declaration and Programme of Action and the outcome of the Durban Review Conference. In view of persistent challenges, it was necessary for States to address the root causes of racism, racial discrimination, xenophobia and related intolerance and to adopt preventive and legislative measures to combat them. Intercultural dialogue, education and respect for diversity were also essential. In recognition of those values and of Nicaragua's multi-ethnic, multicultural nature, it had ratified the Convention on the Elimination of All Forms of Racial Discrimination in 1977.

48. On the topic of migrant rights, her delegation wished to stress the importance of international, regional and bilateral cooperation. States had a duty to protect the human rights of all migrants, and any attempt to criminalize migration was reprehensible. The construction of border walls and the adoption of the "Arizona law" were reflections of racist, discriminatory policies.

49. Self-determination was the inalienable right of all peoples living under foreign occupation. Accordingly, Nicaragua supported the Palestinian people in their tireless struggle for self-determination and urged the international community to redouble its efforts to find a just and comprehensive solution to the question of Palestine and achieve lasting peace in the Middle East.

50. **Mr. Musayev** (Azerbaijan) said that in its advisory opinion of 22 July 2010, the International Court of Justice had reaffirmed that the principle of self-determination applied to the peoples of colonially defined territorial units and peoples subjected to alien subjugation, domination and exploitation. However, there were cases of flagrant misinterpretation of the principle, especially when misapplied to justify externally instigated unilateral secessions from independent States.

51. The right to self-determination could not be interpreted to mean that any group could decide for itself its own political status up to and including secession from an already independent State. International law did not provide for a right of unilateral secession from independent States. Realization of the right to self-determination represented a legitimate process carried out in

accordance with international and domestic law within precisely identified limits.

52. Claims of application of self-determination were ruled out when accompanied by violations of international law, including norms which prohibited the threat or use of force, or when such claims were controlled from outside. An entity created on part of the territory of State through the unlawful use of force and violation of other norms of international law was illegal and could not be considered a State.

53. The features described above were in evidence in connection with continued aggression by Armenia against Azerbaijan. All actions aimed at tearing away a part of the territory of Azerbaijan were unlawful. The establishment in the occupied territory of Azerbaijan of an ethnically constructed subordinate separatist entity supported by Armenia and unrecognized by the world was also illegal. The revisionist claims of Armenia as to the application of the principle of self-determination were contrary to and unsustainable in international law.

54. Any steps aimed at undermining the foundation of international law, promoting the dangerous ideas of ethnic differentiation and advocating impunity contributed to further violation of human rights, including with respect to people uprooted from their homes as a result of acts of foreign military aggression.

55. **Ms. Haile** (Eritrea) said that any advocacy of national, racial or religious hatred that constituted incitement to discrimination, hostility or violence should be prohibited by law and agreed with the Special Rapporteur that early-warning signs of potential conflict situations must be identified. Because racism, racial discrimination and the politics of exclusion had regional and international implications for peace, security, stability and good neighbourliness, they should be addressed on an equal footing with other issues at every level of human interaction. In that connection, her delegation welcomed the activities of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards and the Working Group of Experts on People of African Descent and urged universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination.

56. Companies that saw war as a business opportunity could not be relied on to regulate themselves and required oversight. Her delegation therefore noted with great interest the establishment of an intergovernmental working group to elaborate a possible draft convention on regulating private military and security companies. Such a convention should be consistent with relevant international law and should establish the responsibility of States to investigate, prosecute and punish human rights violations and compensate the victims.

57. **Mr. Mustansar Tarar** (Pakistan) said that new forms of intolerance were emerging, and there was a resurgence of older forms. One reason for the resurgence was resistance to multiculturalism. Rejection of diversity had led to a negation of the rights of immigrants, foreigners and minorities. The legitimization of racism and xenophobia in the guise of defending identity or preference was the most serious manifestation of those phenomena. Violations of human rights of minorities had taken on a new political form and legitimacy.

58. Incitement to racial and religious hatred, manifesting itself in negative stereotyping, including defamation of religious and sacred personalities, was one of the worst forms of racism. Defamation of religion had no basis in constructive criticism or debate. It was intended to spread hate against specific religions. Some portrayed the issue as one of a clash between freedom of expression and of religion. While jurisprudence allowed the responsible exercise of freedom of expression, proponents of its unbridled use exercised it selectively and had themselves restricted it. At the same time, they justified its unhindered application with regard to utterances defaming Islam.

59. Pakistan remained actively involved in the promotion of the anti-racism agenda, including the legal fight against the legacy of colonialism at the United Nations, and looked forward to the commemoration of the tenth anniversary of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

60. **Ms. Klein Solomon** (Observer for the International Organization for Migration) said that given the current economic crisis, migrants — the human face of globalization — were sometimes perceived as competing with the local people, particularly for unskilled jobs. While States had every

right to control their borders, they also had a responsibility to safeguard the human rights of migrants — including irregular migrants — under their jurisdiction. They could do so in a variety of ways: by adopting legislation and policies that prevented and punished violence at all stages of the migration process; by providing migrants, irrespective of migration status, with access to legal mechanisms to seek adequate reparation when their rights were violated, particularly relevant in cases involving trafficking and smuggling; or by promoting awareness about diversity and the valuable contribution of migrants. The media could play an important role in that regard.

61. In the current, increasingly diverse world it was crucial to underline the positive impact migration could have on host countries, in terms, *inter alia*, of work force, global poverty reduction and creativity. That was particularly true at a time when public service investments aimed at facilitating integration were being curtailed, for integration policies were a critical component of managing migratory flows.

*Statements made in exercise of the right of reply*

62. **Mr. Mustansar Tarar** (Pakistan) said that the statement made by the representative of Pakistan had been based on comments made by the people of Indian-occupied Kashmir, Indian and international media and non-governmental organizations. The so-called election in Indian-occupied Kashmir was not an alternative to the right of the Kashmiris to self-determination, nor was it what was called for in the relevant resolutions of the Security Council.

63. Jammu and Kashmir were not integral parts of India, but rather internationally recognized disputed territories, according to several Security Council resolutions.

64. **Mr. Kimura** (Japan), responding to the statement made by the representative of the Democratic People's Republic of Korea, said that he had repeatedly explained the position of his delegation in respect of the allegations made against Japan. The Constitution of Japan guaranteed the equality of all people under the law. Accordingly, his Government was striving to eliminate all forms of discrimination in the country.

65. **Ms. Kocharyan** (Armenia) said that her delegation regretted the distorted view the representative of Azerbaijan had presented of the

decade-long struggle for self-determination of the people of Nagorny Karabakh. His statements were intended to mislead the international community by presenting consequences as causes. Two decades ago, the massacre of Armenian people in Azerbaijan had shaken the world with its brutality. The people of Nagorny Karabakh were struggling to exercise their right to self-determination in response to the absence of a democratic Government, arbitrary and extrajudicial acts committed by the authorities and widespread xenophobia in the region. That struggle should not be turned into a question of territorial integrity when the survival of a people was in question. The people of Nagorny Karabakh had voted for their sovereignty using all legal mechanisms available. The parties to the conflict were negotiating a solution under the auspices of the Co-Chairmen of the Organization for Security and Cooperation in Europe (OSCE) Minsk Group. The defamatory statements that had been made were not acceptable as they undermined those efforts towards a peaceful resolution of the conflict.

66. **Mr. Pak Tok Hun** (Democratic People's Republic of Korea) said that the Government of Japan never acknowledged its past wrongdoings, which were historical facts, in the Third Committee. At its 35th session, the Committee on the Rights of the Child had expressed concern about discrimination against Korean children, while at its 58th session, the Committee on the Elimination of Racial Discrimination had expressed concern regarding discrimination against Koreans in Japan in employment and other areas. Those issues were the result of the hostile policies of the Japanese Government against the Democratic People's Republic of Korea.

67. **Mr. Musayev** (Azerbaijan) said that it was curious that the representative of Armenia had lectured on settlement of conflict, given that the Government of Armenia was responsible for a war of aggression against Azerbaijan. The documentary evidence showed that Armenia had attacked and occupied parts of Azerbaijan, carried out ethnic cleansing of non-Armenians and established an ethnically based subordinate entity. What the Armenian Government referred to as a struggle for self-determination by that separatist entity had been unequivocally qualified by the Security Council and the General Assembly as the illegal use of force against the territorial integrity of Azerbaijan. In a judgment issued earlier that year, the European Court of Human Rights had determined that

Armenia's aggression against Azerbaijan amounted to war crimes and crimes against humanity. No State had recognized the separatist entity as independent. The Government of Armenia's current political position was an open challenge to the resolution of conflict and international peace.

68. **Mr. Zheglov** (Russian Federation) said that his Government categorically rejected the charges made by the representative of Georgia with regard to violations of the International Convention on the Elimination of All Forms of Racial Discrimination. The statement by Georgia put pressure on the International Court of Justice, which was currently considering whether it had jurisdiction over the relevant case.

69. The position of the Russian Federation had been set out in a statement by the representative of that country during consideration by the General Assembly of the agenda item entitled "Report of the International Court of Justice".

70. The representative of Georgia had referred to "occupied territories". There were no occupied territories in the region, but rather two new independent States, Abkhazia and South Ossetia. Georgia should cease politicization of the issue and acknowledge the existing reality.

71. **Mr. Kimura** (Japan) reiterated that the Constitution of Japan guaranteed the equality of all peoples and that the Government had been taking measures to ensure fair and objective policies. It was regrettable that instead of addressing the concerns of the international community about the conduct of his own Government, the representative of the Democratic People's Republic of Korea used the right of reply to speak against Japan.

72. **Ms. Kocharyan** (Armenia) said that, contrary to what had been stated, it was the Government of Azerbaijan that had initiated a full-scale war against the people of Nagorny Karabakh. It was also currently in violation of various Security Council resolutions urging the parties to the conflict to negotiate through the OSCE Minsk Group. The refusal of Azerbaijani authorities to negotiate with the elected representatives of Nagorny Karabakh impeded any solution. The representative of Azerbaijan failed to acknowledge that the Government of Armenia had indeed been acting in accordance with those Security Council resolutions by using its good offices to help find a resolution to the conflict.

73. **Ms. Shiolashvili** (Georgia), speaking in response to the representative of the Russian Federation, said that the military aggression, ethnic cleansing and occupation of Georgian territories carried out by the Russian Government had been documented by many international organizations and could not be denied. A report by an international fact-finding mission to the region had indicated that the declaration of independence by Abkhazia and South Ossetia and the Russian Federation's subsequent recognition of their independence was in violation of the Final Act of the Conference on Security and Cooperation in Europe (Helsinki Act) and other international laws. Her earlier statements regarding the case presented by her Government to the International Court of Justice had been intended to provide an update to the proceedings. Her Government respected the rules and procedures of the Court and was awaiting its final decision.

74. **Mr. Musayev** (Azerbaijan) said that the statements of the representative of Armenia had made clear her Government's destructive policies and intentions at annexation. The Government of Armenia was not engaging in an authentic search for peace. However, its goal of dismantling a multinational society was not to be realized. The only alternative to achieving lasting peace was for the Government of Armenia to promptly end its occupation of Azerbaijani territory, renounce its territorial claims on neighbouring States and establish civilized international relations.

**Agenda item 61: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (continued) (A/65/12 and Add.1 and A/65/234)**

75. **Ms. Ojiambo** (Kenya) said that the influx of Somali refugees into her country at a constant rate of about 6,000 persons per month was a major concern. Complying with its international obligations to the refugees had placed an enormous burden on Kenya, and the scramble for meagre resources created conflict between the refugees and the host community. In addition to damaging the very fragile underlying ecosystem, the overcrowded camps were plagued by various diseases, including epidemic cholera and tuberculosis. Furthermore, irregular movements of refugees were easily exploited by criminal elements and had brought an influx of small arms and light

weapons, as well as growing threats of terrorism and piracy. Lastly, ever-increasing numbers of asylum claims were straining the Government's ability to handle them.

76. The Dadaab refugee camp had already exceeded capacity, and the Kakuma camp was expected to do so by 2011. A durable solution to Kenya's refugee problem was urgent, and she exhorted the international community to spare no effort to eliminate the root cause: the 20-year conflict in Somalia.

77. With regard to internally displaced persons, she thanked the Representative of the Secretary-General on the human rights of internally displaced persons, as well as the international community, for their support to Kenya in resettling persons displaced by the 2007-2008 post-election violence and in developing national laws and policies on internal displacement. That assistance had provided an invaluable complement to Kenya's own resettlement efforts.

78. She called on the international community to work even harder to create a peaceful environment in which refugees could exercise their right of return. Kenya concurred with the Secretary-General's recommendation in his report that the international community should support African States in their efforts to develop returnee areas and rehabilitate former hosting areas. Despite the challenges facing it, Kenya reaffirmed its commitment to securing and protecting the rights of refugees, returnees and internally displaced persons. It highly valued its partnership with UNHCR and looked forward to strengthening that relationship. It also appreciated the important roles played by the United Nations Children's Fund (UNICEF), the United Nations Development Fund (UNDP), the World Food Programme, the United Nations Development Fund for Women, the Central Emergency Response Fund, the International Committee of the Red Cross and other partners.

79. **Mr. Chir** (Algeria) said that the number of refugees around the world had not decreased significantly since the preceding year, while the number of internally displaced persons remained alarmingly high. The African continent was home to over half the world's internally displaced persons. All African States were thus encouraged to adhere to the African Union Convention for the Protection and Assistance of Internally Displaced Persons. Humanitarian institutions

and non-governmental organizations must strengthen their partnerships in seeking durable solutions that addressed the root causes of displacement.

80. A large number of its own citizens having been refugees during the national struggle for independence, Algeria felt compelled to respond to requests for humanitarian assistance. At Tindouf, Algeria continued to host refugees from the Non-Self-Governing Territory of Western Sahara, who were awaiting voluntary repatriation once a just and durable solution that recognized their right to self-determination, reaffirmed in relevant United Nations resolutions, was in place.

81. The High Commissioner and representatives of international donors were able to observe, during visits in 2010, the extent of malnutrition and destitution in the camps, where UNHCR assistance only partially covered refugee needs. They also confirmed that the humanitarian aid provided by Algeria exceeded international aid being provided. Algeria welcomed renewed commitment by UNHCR in the form of increased assistance to cover nutrition, health and education needs in the Tindouf camps for 2010. A letter of understanding had also been signed between the Algerian Government and the World Food Programme (WFP) concerning food assistance for the most vulnerable refugees as well as an agreement for the management of food reserves in Tindouf. Stressing that Algeria would continue to spare no effort in assisting the Western Saharan refugees, he called on donors to continue their support for the UNHCR programme of assistance.

82. With respect to the UNHCR confidence-building measures programme, which sought to reconnect refugees in the Tindouf camps with family members living in Western Sahara, Algeria had responded favourably to the request to expand the programme to include the use of road transport for family visits, as mentioned in the High Commissioner's report. He reiterated Algeria's commitment to contribute to a lasting resolution of the refugee question.

83. **Mr. Munde** (India) said that the fact that UNHCR, which had been created to address a transient refugee problem following World War II, had become a permanent institution reflected the protracted nature of the problem. While commending UNHCR on its work under extremely difficult conditions and its advocacy of measures conducive to sustainable repatriation, he

reiterated India's position that adequate attention had not been paid to the abject poverty affecting refugees. A better analysis and understanding of the underlying reasons that impeded durable solutions was needed.

84. In light of the statistics cited in the UNHCR report, which underscored the immensity of the challenge, he acknowledged that non-State actors had changed the nature of armed conflict. The international community needed to address the issue of accountability of non-State actors, as well as the limited leverage of the international human rights and humanitarian framework over them. Refugee status needed to be strictly defined, to ensure those guilty of terrorist and criminal acts did not abuse national asylum systems and the international protection regime.

85. With regard to internally displaced persons, the primary responsibility lay with national authorities and the challenges were beyond the capacity of any one organization to handle. Therefore, UNHCR could only complement, not substitute for, national efforts, while remaining non-partisan and impartial. Considering the dominant role developing countries played as countries of asylum, UNHCR and member States also needed to recognize the in-kind contributions and services of those States.

86. India was not a signatory of the 1951 Convention on Refugees because the Convention did not address the problem of massive refugee flows and accompanying concerns, such as mixed migration. Nevertheless, its commitment to humanitarian concerns, including the principles of protection and non-refoulement, was reflected in the large number of refugees it hosted and the refugee support programmes it funded. India remained committed to working in concert with UNHCR and the international community, recognizing the challenge of ending displacement as inseparable from the challenge of establishing and maintaining peace.

87. **Mr. Loulichki** (Morocco) said that in order to protect the ever-narrowing humanitarian space, UNHCR and the international community needed to be vigilant and require all parties to fully respect international humanitarian law, international refugee law, human rights and humanitarian principles. His Government welcomed internal reforms undertaken by the agency and believed that the burden of sheltering refugees should be more equitably shared, given that

80 per cent of refugees lived in developing countries. In light of the global financial crisis and the difficult budgetary decisions facing host countries, Morocco fully supported the proposed “new deal” between countries of asylum and developed nations.

88. He reiterated Morocco’s belief that voluntary repatriation was the optimal solution to protracted refugee situations and hinged on the registration and census of the refugees, which had been carried out with increasing accuracy by UNHRC throughout the world, with the exception of the camps at Tindouf in Algeria. The refusal of that country to allow the UNHCR census at Tindouf, which was designed to ensure the protection of the camp populations, violated international law and was an affront to the international community. The Algerian Government had ignored the Secretary-General’s call for a census in his most recent report on the situation concerning Western Sahara (S/2010/175) and had preconditioned such a census on the achievement of a political solution, contradicting the conclusion on protracted refugee situations of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees (A/65/12/Add.1). Calling that attitude obstructionist, he urged UNHCR to engage with the Algerian authorities in order to conduct registration and a census in the camps. Urgent action was further justified by the exodus of hundreds of Saharans, who fled their camps to return to Morocco that year, and the case of the illegal and arbitrary detention of Mustapha Salma Ould Sidi Mouloud. In light of the ongoing financial crisis, international donors had a right to know the exact number of refugees living in the camps and could no longer tolerate the continued diversion of humanitarian aid that had been extensively documented in recent years. The blocking of family visits between populations in the Tindouf camps and their relatives in Morocco was another example of politicization of a purely humanitarian action.

89. Referring to the comments made earlier by the representative of Algeria, he noted the absence of concrete proposals. He expressed the hope that Algeria would take a constructive position, based on realistic expectations and the spirit of compromise, at the upcoming informal meeting planned by the Secretary-General’s Personal Envoy to Western Sahara and contribute to resolving the dispute.

90. The following year would mark the sixtieth anniversary of the adoption of the Convention relating

to the Status of Refugees and the creation of UNHCR. He expressed the hope that the increased focus on refugee issues would reaffirm the mission of the agency, secure the necessary resources to fulfil its mandate and ensure that all States parties complied with their obligations as host countries of refugees without delay or equivocation.

*The meeting rose at 1.10 p.m.*