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Chair: Ms. Al-Thani (Qatar)
later: Ms. Krutulytė (Vice-Chair) (Lithuania)

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

Agenda item 79: Criminal accountability of United Nations officials and experts on mission
(continued) (A/76/205 and A/76/208)

1. **Mr. Panier** (Haiti) said that his delegation welcomed the efforts made by the United Nations to prevent sexual exploitation and abuse by its officials, experts and personnel, thanked the Organization for its many peacekeeping missions in Haiti over the past 60 years. It was concerned, however, about the allegations of fraud, sexual exploitation, corruption and financial offences levelled since 2007 against some of them, and it regretted that the countries of nationality of the persons concerned had taken no action on more than 250 of the 286 allegations set out in the reports of the Secretary-General (A/76/205 and A/76/208). The large number of cases reported testified to the endemic nature of such misconduct, which reflected poorly on the Organization.

2. Haiti had specifically reported cases of fraud, corruption, assault, sexual exploitation and abuse, including of a minor. Although disciplinary measures had been taken against a number of officials of the United Nations Stabilization Mission in Haiti (MINUSTAH) allegedly involved in the case of sexual assault, it was regrettable that the authorities of their countries of nationality had simply dropped the criminal proceedings. After the cholera epidemic had been introduced into Haiti by United Nations peacekeepers shortly after the 2010 earthquake, the United Nations did not acknowledge the evidence until 2016, and even then, it did not acknowledge its legal responsibility in the case. Numerous allegations of offences levelled against United Nations officials had been dismissed. The countries of origin of United Nations officials and experts on mission bore the primary responsibility for prosecuting the alleged perpetrators. The zero-tolerance policy advocated by the United Nations must be strictly implemented, in particular with regard to sexual abuse. Immunity must not be confused with impunity. His delegation called for the elaboration of measures specifically designed to improve vetting and predeployment training.

3. It should be noted, however, that United Nations officials, experts and personnel were often the target of criminal assault in a number of countries. Many of them had died trying to help others. They were exposed to great danger in situations of armed conflict. Haiti firmly condemned such attacks.

4. **Mr. Al-Edwan** (Jordan) said that, as public trust was paramount to the legitimacy of the Organization, its

success in maintaining international peace was inextricably linked to the credibility of its officials and experts on mission. Jordan therefore called on Member States to give effect to the Secretary-General's recommendation for enhancing the United Nations system and related organizations to ensure the coherence and coordination of policies and procedures relating to the reporting, investigation, referral and follow-up of credible allegations of crimes committed by United Nations personnel. In their interactions with the authorities and population of a country, United Nations officials and experts on mission must exemplify the values and principles of the Charter of the United Nations and the Code of Conduct for United Nations Staff. They must display tolerance and respect for the country's laws, regulations, culture and religion.

5. His delegation stressed the need to establish a policy of zero tolerance for misconduct by officials and experts on mission, in particular with regard to sexual exploitation and abuse. That had been a focal point for Jordan since 2005, when it had introduced a comprehensive strategy to eliminate sexual exploitation and abuse during United Nations peacekeeping operations. His delegation therefore welcomed the progress made by institutions and Member States in that regard, as well as the Secretary-General's bulletin on addressing discrimination, harassment, including sexual harassment, and abuse of authority (ST/SGB/2019/8). Jordan was concerned that the Secretariat had received updates from national authorities on only 10 of 67 cases involving United Nations officials and experts on mission. Member States must promote the policies and procedures relating to the reporting, investigation, referral and follow-up of credible allegations, especially in situations outside the scope of General Assembly resolutions.

6. The Jordanian Criminal Code of 1960 criminalized offences committed by Jordanians operating abroad. As such, Jordanian personnel in peacekeeping, peacebuilding and other missions were subject to domestic criminal jurisdiction and did not enjoy immunity before Jordanian courts. Cases had been brought by Jordanian prosecutors for offences committed by Jordanians participating in United Nations missions and punishments had been imposed. States and the United Nations must cooperate to bring perpetrators to justice in a manner that would not affect the immunity of the Organization. His delegation noted that, in the interest of justice, the Secretary-General had decided to waive immunity in cases involving criminal conduct of United Nations personnel. It was of the utmost importance to resolve outstanding issues relating to jurisdiction, in particular for serious offences, in

order to facilitate investigation and prosecution. Jordan continued to support a proposal for a comprehensive international legal framework to address the criminal conduct of United Nations officials and experts on mission and jurisdictional gaps in national systems.

7. **Mr. Diakite** (Senegal) said that his delegation paid tribute to the devotion and professionalism of United Nations officials and experts on mission who worked every day to maintain international peace and security. Senegal, a troop-contributing country that had paid a heavy toll in peacekeeping operations around the world, was making every effort to fully implement the zero-tolerance policy on criminal conduct by United Nations officials and experts on mission. The President of Senegal, who was a member of the circle of leadership on the prevention of and response to sexual exploitation and abuse in United Nations operations, had issued a directive calling upon all defence and security forces operating as part of peacekeeping missions to comply strictly with relevant ethical standards, and instructing commanders to ensure that all breaches of such standards were duly investigated and, where appropriate, punished and reported to the United Nations. That political commitment was supplemented by national legislation to facilitate, in line with international rules and standards, the investigation and prosecution of Senegalese nationals who committed serious crimes abroad.

8. The State of nationality should have precedence over the host country in addressing such breaches. In that regard, his delegation appreciated the Organization's efforts to refer allegations of criminal conduct to the State of nationality and urged all States to comply with the recommendations contained in the resolutions on the subject. Senegal had informed the Secretary-General of its national point of contact for facilitating communications and cooperation with the United Nations on proceedings instituted at the national level. It also stressed the importance of predeployment and in-mission training and the need to take disciplinary and judicial action against the soldiers concerned.

9. An effective fight against impunity required both a credible framework for the prosecution of perpetrators and the building of national investigation and prosecution capacities. For that reason, Senegal had joined the call for a new multilateral treaty on mutual legal assistance and extradition for domestic prosecution of the most serious international crimes. His delegation called on all Member States, in particular troop-contributing countries that had not yet done so, to take all appropriate steps to ensure that the perpetrators were prosecuted. It was also necessary to promote a coordinated approach between the United Nations, the

national authorities and the host country, and to correct any shortcomings in accountability, especially where the host State's ability to exercise criminal jurisdiction was limited. The international community had a moral obligation to ensure that the privileges and immunities granted United Nations personnel did not serve as a pretext for committing reprehensible acts with complete impunity.

10. **Mr. Kihwaga** (Kenya) said that his country hosted a large United Nations presence and was a regular contributor to peacekeeping missions. The vast majority of United Nations officials and experts on mission upheld the highest standards of integrity and conduct. His delegation commended the Secretary-General for his efforts in implementing comprehensive measures designed to raise awareness within the wider United Nations system, vet and train personnel and establish an internal guideline to institute a policy of zero tolerance for criminal conduct, especially cases of sexual abuse and exploitation. It also welcomed the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel, and underlined the collaborative role played by specialized agencies and related organizations in support of the Secretary-General's initiatives.

11. It was critically important to acknowledge the equal responsibility shared by Member States, especially where acts were committed within their territory of jurisdiction or by a subject national. Member States must therefore consider adopting the necessary measures to strengthen cooperation among themselves and their jurisdictional capacities. They might also wish to avail themselves of the technical assistance offered by the United Nations to achieve that goal.

12. **Ms. Jorge** (Angola) said that her delegation was deeply concerned about the continuing allegations of abuses, violence and sexual exploitation perpetrated by members of the United Nations peacekeeping forces, humanitarian aid workers and other civilians serving the Organization. The allegations of sexual violence committed by humanitarian aid workers of the United Nations Children's Fund, the World Health Organization and the International Maritime Organization during the Ebola epidemic in the Democratic Republic of the Congo, for example, must be investigated and their perpetrators must receive an exemplary punishment.

13. Angola supported the Secretary-General's zero-tolerance policy with respect to criminal misconduct, including sexual exploitation and abuse, and welcomed the strengthening of measures to protect victims, based on the principles of transparency, accountability and

impartiality. It was regrettable that the personnel of United Nations peacekeeping missions entrusted with protecting civilians took advantage of women, girls and boys in vulnerable situations to commit despicable human rights violations. One way to mitigate the problem of sexual exploitation and abuse would be to increase the number of women protection advisers in peacekeeping operations and to monitor, analyse and report on conflict-related sexual violence, enhance prevention and provide for early warning and timely response.

14. States that had not yet done so must establish jurisdiction over crimes committed during such missions. Angola urged troop-contributing States to take all necessary measures to ensure that internal disciplinary mechanisms were in place and were brought into line with United Nations standards in order to support action by local authorities. States should cooperate to provide assistance in criminal investigations or extradition proceedings in relation to crimes involving minors committed by United Nations officials and experts on mission and to protect victims. All cases of suspected misconduct must be reported and investigated and the perpetrators held accountable.

15. Her delegation urged States to implement the recommendations contained in the Secretary-General's report ([A/76/205](#)).

16. **Ms. Rajaona** (Madagascar) said that, as a troop- and police-contributing country for peacekeeping operations, Madagascar was very concerned about the many allegations levelled against United Nations officials and experts on mission. If such criminal conduct did not give rise to an investigation and, where appropriate, criminal proceedings, it would lead to impunity. Madagascar was fully committed to a zero-tolerance policy for acts of violence and crimes perpetrated by United Nations officials and experts on mission. When found guilty, such persons must be held accountable. On no account could service in the United Nations system excuse or justify illegal acts or criminal activities. The privileges and immunities granted to United Nations personnel must not hinder prosecution. The Secretary-General should speed up the procedure for the waiving of immunity when necessary.

17. **Ms. Lbadaoui** (Morocco) said that her delegation commended the work of United Nations officials and experts on mission and the heroic sacrifices of peacekeeping personnel, but believed that any crimes they committed were deplorable. Their immunity could not serve as a pretext to evade criminal responsibility. Morocco reiterated its support for a zero-tolerance policy with regard to sexual exploitation and abuse

throughout the United Nations system. Allegations levelled against United Nations officials and experts on mission must first be thoroughly investigated in a national court of the State of nationality of the accused.

18. Cooperation and information-sharing between the Organization and the State of nationality were vital to combating impunity. Punitive measures must be combined with preventive measures as part of a multidimensional and holistic approach. United Nations officials and experts must receive proper training, tailored to the local context, with a view to reducing the risk of any behaviour that might constitute an offence. Morocco, a major troop-contributing country, provided its troops with high-quality, comprehensive predeployment training, which included information on human rights and international humanitarian law.

19. Accountability must be ensured in keeping with the universal principles of fair trial, including the presumption of innocence, respect for the rights of the defence and victims' right of access to justice. Domestic remedies must first be exhausted. There was no point in creating a competing jurisdiction between international and national courts, because it was up to the latter to consider cases involving their nationals working as United Nations officials or experts on mission. When allegations against such officials or experts were determined by a United Nations administrative investigation to be unfounded, the Organization must take appropriate measures to restore their credibility and reputation.

20. The lack of material and technical capacities, and judicial and institutional shortcomings in some States must not constitute a hindrance to justice and must be addressed by appropriate assistance when the State concerned so requested. National capacities must be strengthened through the establishment of the necessary legal framework and institutional mechanisms. For its part, Morocco had drafted a new Criminal Code, currently pending adoption, that recognized the jurisdiction of national courts over international crimes committed by Moroccan nationals.

21. **Mr. Liu Yang** (China) said that his country had consistently supported efforts to ensure accountability and punishment for crimes committed by United Nations officials and experts on mission, in order to protect the reputation and credibility of the Organization. His delegation supported a zero-tolerance policy to combat impunity. The State of nationality of the person concerned should take all necessary legislative action and judicial measures to combat such crimes. The United Nations should strengthen the practical measures within its purview to implement its

zero-tolerance policy and ensure accountability, fairness and justice.

22. Contributing States and the Organization should focus on integrating preventive and punitive measures and adopt a holistic approach to promote awareness-raising, education, in-mission training and supervision and management of United Nations officials and experts on mission to enhance professional ethics and standards of conduct. There should be greater cooperation between the host countries and the countries of origin of the officials and experts on mission with regard to extradition and legal assistance, and between Member States and the United Nations on the sharing of intelligence and information.

23. Under Chinese criminal law, China had jurisdiction over crimes committed by Chinese nationals outside its territory and over acts established as crimes in international treaties to which it was a party, within the scope of its treaty obligations. China was a party to more than 20 multilateral conventions concerning judicial cooperation and had also concluded 170 bilateral treaties on the subject. China cooperated on extradition and judicial assistance on a case-by-case basis and in accordance with the extradition law of China, international criminal assistance law and the principle of reciprocity.

24. **Ms. Falconi** (Peru) said that the participation of Member States in the different peacekeeping missions showed the clear commitment of the United Nations and its Member States to international peace and security. Peru had on several occasions made major contributions to peacekeeping operations and was currently present in five such missions, with 232 uniformed personnel and civilian experts. It therefore strongly condemned any conduct that violated international or national law or the ethical obligations of not only uniformed personnel but of all United Nations officials and experts on mission, in particular misconduct involving sexual exploitation and abuse and unrecognized paternity. The isolated cases of allegations against Peruvian peacekeeping personnel had been swiftly and rigorously investigated, in keeping with her Government's commitment to a zero-tolerance policy, and measures had been taken to prevent their recurrence.

25. Peru called on all States and the United Nations to cooperate among themselves in order to protect victims and to exchange information and facilitate the conduct of investigations. In view of the importance of cooperation on ensuring accountability, priority must be given to providing victims with immediate protection and assistance, especially in cases of sexual abuse and exploitation; ensuring the proper handling of children in

paternity cases; ensuring the prompt and rigorous investigation of allegations; allowing for robust and swift punishment in cases of proven responsibility for fraud, corruption and other financial offences; and enhancing predeployment and in-mission preventive measures.

26. Her delegation welcomed the recommendation contained in the Secretary-General's report (A/76/205) that Member States encourage the legislative bodies of the United Nations system and related organizations to help to ensure the coherence and coordination of policies and procedures relating to the reporting, investigation and follow-up of credible allegations revealing that a crime might have been committed by personnel of such agencies and organizations. The entities of the United Nations system should continue their efforts to assess the appropriateness of current policies and procedures. They should also continue their efforts to evaluate, coordinate and strengthen those policies and procedures in order to prevent crimes, mitigate their impact when they did occur, and ensure that victims received proper reparation. Her delegation recognized the valuable contribution made by United Nations officials and experts on mission to the fulfilment of the purposes and principles of the Charter.

Agenda item 83: Crimes against humanity

27. **Ms. Popan** (Representative of the European Union, in its capacity as observer), speaking also on behalf of the candidate countries Albania, Montenegro and North Macedonia; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Georgia and the Republic of Moldova and Ukraine, said that the international community must do everything in its power to prevent crimes against humanity and ensure that, when they occurred, they did not go unpunished. A convention on the prevention and punishment of crimes against humanity would be an additional step in that direction and an integral part of the common efforts of the international community to strengthen accountability for grave violations of international law.

28. Crimes against humanity were, together with genocide and war crimes, the most serious crimes of concern to the international community as a whole. However, while genocide and war crimes were regulated by conventions requiring States to prevent and punish such conduct and to cooperate toward that end, crimes against humanity were not. Yet, they might be more widespread than genocide or war crimes, as they could also occur in situations not involving armed conflict and did not require intent to destroy certain groups of people in whole or in part, as the crime of genocide did.

29. A convention on the prevention and punishment of crimes against humanity would close a gap in international treaty law on the criminalization, prevention and prohibition of such atrocity crimes and offer an important tool for the prevention and punishment of crimes against humanity by facilitating the investigation, prosecution and punishment of such crimes at the national level, while also providing a new legal basis for inter-State cooperation. The mutual legal assistance initiative, which was supported by all the States members of the European Union, was aimed at enhancing inter-State cooperation in the prosecution of perpetrators of international crimes. The adoption of both instruments, which complemented each other, would substantially contribute to the fight against impunity at the international level.

30. In 2019, many delegations had supported the recommendation of the International Law Commission for the elaboration of a convention by the General Assembly or by an international conference of plenipotentiaries in respect of its draft articles on prevention and punishment of crimes against humanity. While some delegations now considered that a number of the draft articles required further clarification, there appeared to be sufficient consensus on their core aspects to allow for the negotiation of a convention. It was important to agree on such a convention because the prohibition of the crimes against humanity, like the prohibition of the crime of genocide, was a peremptory norm of international law.

31. The concerns of some delegations about convening a diplomatic conference at the current stage could be addressed through an ad hoc committee, which would be an ideal framework for discussing different approaches in an effective and inclusive manner. The European Union reiterated its support for the elaboration of a convention on the basis of the draft articles, preferably by an international conference of plenipotentiaries.

32. **Ms. Fielding** (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that crimes against humanity were among the most serious crimes under international law, and their prevention and punishment was the concern of the international community as a whole. Despite the fact that such atrocities were clearly prohibited under international law, civilian populations continued to be subjected to them, and perpetrators continued to act with impunity. The international community must redouble its efforts to prevent and punish such heinous crimes.

33. A convention based on the draft articles on prevention and punishment of crimes against humanity

adopted by the International Law Commission would strengthen the international criminal justice system and promote inter-State cooperation for the effective investigation of crimes against humanity. It could also contribute to strengthening national laws and criminal jurisdiction. There was substantial support for the Commission's recommendation that a convention be elaborated. That process must not be delayed any longer. Several States had asked for clarification on certain draft articles. Those concerns could be addressed through inclusive, transparent and constructive intersessional discussions among experts in an ad hoc committee with a clear mandate and time frame.

34. **Mr. Khng** (Singapore) said it was imperative that the international community work together to end impunity for the perpetrators of the most serious crimes of concern to the international community and to provide justice for victims. The draft articles on prevention and punishment of crimes against humanity and the commentaries thereto could help to strengthen accountability by providing useful practical guidance to States.

35. His delegation was among those that had submitted written comments to the Commission on the topic of crimes against humanity. It appreciated the Commission's efforts to engage Member States but remained of the view that the draft articles could be improved or clarified in the manner proposed in its written comments. For example, on draft article 7, more than one State might have national jurisdiction over a criminal offence and wish to exercise it. The draft articles did not explain how such potential conflicts of jurisdiction could be resolved. Draft article 13, paragraph 12, simply provided that a State in whose territory the alleged offender was present was to give due consideration to the extradition request of the State in whose territory the alleged offence had occurred.

36. His delegation continued to believe that where such conflicts of jurisdiction existed, the draft articles should accord primacy to the State that could exercise jurisdiction on the basis of at least one of the cases set out in draft article 7, paragraph 1, rather than a custodial State that could exercise jurisdiction on the basis of paragraph 2 alone, because the former State would have a greater interest in prosecuting the offence. More of his delegation's comments were available on the Commission's website. His delegation had also read with interest the numerous written submissions by other delegations, which contained many valuable ideas but also demonstrated that there remained some divergence in views. His delegation looked forward to continuing discussions on those important matters as well as on the question of what further action should be taken.

37. **Mr. Turay** (Sierra Leone) said that his delegation supported the recommendation of the International Law Commission that a convention be elaborated on the basis of its draft articles on prevention and punishment of crimes against humanity. Such a convention, when added to the existing conventions on genocide and war crimes, would place an obligation on States both to develop their national laws and judicial systems and to cooperate with other States in the prevention, investigation and prosecution of crimes against humanity. Further debate on substantive matters should take place in the context of intergovernmental negotiations. Given the broad support among Member States for the recommendation to elaborate a convention, the Committee must determine the modalities for the negotiations, perhaps by establishing an ad hoc working group of the whole, and set a clear timetable for the process.

38. **Mr. Uddin** (Bangladesh) said that, during its war of liberation in 1971, Bangladesh had endured crimes against humanity. Some three million people had lost their lives, and more than two hundred thousand women had been victims of sexual violence. As a State party to the Rome Statute of the International Criminal Court, Bangladesh was fully committed to the prevention and punishment of crimes against humanity. In 2010 it had established an international crimes tribunal to punish the perpetrators of the crimes against humanity and genocide committed against the Bangladeshi people in 1971. Bangladesh had extended cooperation to the International Criminal Court in its efforts to ensure justice for the Rohingya Muslims who had been forcibly deported from Myanmar.

39. When crimes against humanity occurred, it should become the collective responsibility of the international community to hold the perpetrators accountable. States bore the primary responsibility for protecting their own people from crimes against humanity, and they must take the necessary measures and set up the legal framework to prevent such crimes within their jurisdiction and punish them when they occurred. The Security Council had the primary responsibility under the Charter of the United Nations for restoring and maintaining international peace and security, which were threatened by crimes against humanity. The Council should therefore play its part in preventing such heinous crimes from occurring in any part of the world. The International Criminal Court and other international courts and tribunals could also play a greater role in ensuring justice and ending crimes against humanity.

40. Bangladesh was in favour of elaborating a convention on the basis of the draft articles on prevention and punishment of crimes against humanity

adopted by the International Law Commission. The process of negotiating such a convention must be carried out in an inclusive and transparent manner.

41. **Mr. Asiabipour** (Islamic Republic of Iran) said that his delegation reaffirmed its unwavering commitment to the prevention and punishment of crimes against humanity. With regard to the draft articles on the topic presented by the International Law Commission, his delegation continued to be of the view that there still was insufficient general practice or *opinio juris* of States or agreement on a definition of the concept of crimes against humanity. Addressing such crimes required collective and unanimous action by the international community as a whole. The current divergence of views on both the draft articles and the Commission's recommendation concerning the fate of the draft articles meant that there was no consensus for addressing all aspects of such crimes. Attempts to incorporate definitions emanating from non-universal instruments, let alone national laws and practice in the context of progressive development, had also prevented Member States from reaching consensus.

42. His delegation was not convinced by the argument about legal lacunae in the topic. The existing legal instruments, such as the Rome Statute, the multiple parallel initiatives, and national and international practice with respect to crimes against humanity showed that there was a plethora of instruments rather than a normative gap. It was doubtful whether a new convention would be a significant development; it might only clutter *lex lata* on the subject. The goal of preventing crimes against humanity and other core crimes, combating impunity and avoiding politicization was not necessarily advanced by the adoption of an additional treaty instrument. Many countries were concerned that a convention might be applied by certain countries in a selective, arbitrary and politically motivated manner.

43. Given the interlinkage between crimes against humanity and the scope and application of the principle of universal jurisdiction, his delegation strongly believed that the two agenda items should move forward hand in hand. His delegation took note of the requests by a number of States to examine the draft articles in more detail in order to ensure that they were consistent with their national laws. The Committee should continue examining the current agenda item, including possibly through a working group.

44. **Mr. Abdelaziz** (Egypt) said that his delegation was convinced of the need to strengthen international mechanisms to address crimes against humanity in a comprehensive manner, encompassing prevention and

accountability. While the draft articles on prevention and punishment of crimes against humanity included many valuable elements on which the Committee could build, they also raised a number of concerns. For example, reference was made to the Rome Statute of the International Criminal Court, in several places, and to the principle of universal jurisdiction, in paragraph 2 of draft article 7, draft article 9 and draft article 10; yet neither enjoyed universal consensus.

45. Sufficient time should be allowed for all delegations to study the draft articles and ensure that they were consistent with their national Constitutions and laws; it would be premature to use them as the basis for a convention, or to convene an international conference for that purpose. His delegation had no objection to the idea of allowing more time for in-depth discussion of the draft articles, whether in the Committee or during the time before the forthcoming session of the Commission, provided that no specific time frame was imposed.

46. **Ms. Arumpac-Marte** (Philippines) said that when the International Law Commission's draft articles on prevention and punishment of crimes against humanity had first been presented to the Committee, her delegation had stated that they were an important contribution to the international community's collective efforts to deter and curtail atrocity crimes. The Philippines had complied with the fundamental obligation contained therein that each State take the necessary measures to ensure that crimes against humanity constituted offences under its criminal law. In recognition of the duty of every State to exercise its criminal jurisdiction over such crimes, the Philippines had passed the Act on Crimes against International Humanitarian Law, Genocide and Other Crimes Against Humanity in 2009 to criminalize crimes against humanity at the national level. The law was of value to the Commission for the fulfilment of its mandate to progressively develop and codify international law, in that it included a chapter on the protection of victims and witnesses and on reparations for victims, and specified the applicability of international law, including relevant agreements that the Philippines might ratify or accede to.

47. However, the question of the elaboration of a convention by the General Assembly or an international conference of plenipotentiaries on the basis of the draft articles needed further consideration. Her delegation cautioned once again against the premature commencement of negotiations for a convention, given the concerns raised by States during previous deliberations, including on State sovereignty, overbroad assertions of jurisdiction and the politicization of human

rights. The issue of developing national capacities for the investigation and prosecution of crimes against humanity, and also the implications of the draft articles on extradition and mutual legal assistance and cooperation between and among States, were critical for the good-faith fulfilment of commitments.

48. The Committee was the primary forum for the consideration of legal questions in the General Assembly and must not be rushed into handing over that mandate to a diplomatic conference over which no consensus had thus far been reached.

49. **Mr. Romero Puentes** (Cuba) said that his country was a longstanding defender of respect for international law and its principles, especially international criminal law. The draft articles on prevention and punishment of crimes against humanity would make a significant contribution to international efforts to prevent and punish such crimes and to efforts to strengthen the international criminal justice system. They would also provide useful guidance to States that had not yet adopted national laws criminalizing such crimes.

50. His delegation appreciated the efforts of the Special Rapporteur to take into consideration the range of domestic and regional approaches to the issue with a view to achieving international consensus. Nevertheless, it continued to believe that any convention on the subject should reflect the fundamental principle that primary responsibility for preventing and punishing serious international crimes rested with the State in whose jurisdiction the crimes had occurred. That principle should be set out in the operative part of the convention, regardless of whether it was mentioned in the preamble. States had the sovereign prerogative to exercise, in their national courts, jurisdiction over crimes against humanity committed on their territory or by their nationals. No one was better placed to prosecute the perpetrators of such crimes than the State that had jurisdiction, whether on the basis of territoriality or of the nationality of the defendant or the victims. Only when States were unable or unwilling to exercise jurisdiction should other mechanisms for prosecution be considered.

51. The Committee should continue to consider the topic in the light of the comments made by Member States, many of which still had concerns regarding substantive aspects of the draft articles. Such discussions would help to ensure that any future international convention based on the draft articles did not conflict with national laws on crimes against humanity, that it gained broad acceptance and that it reflected the diversity of national legal systems and the fact that not all States were parties to the Rome Statute.

Such a convention must also be consistent with the existing norms and institutions of international criminal law and avoid the fragmentation of international law on the topic.

52. Cuba failed to see the urgency of an accelerated adoption of the draft without a prior exhaustive study of its contents through the methods traditionally employed by the Commission, as was the case of the working groups that met during the main segment of its work. Moreover, there were international instruments in force on the topic, to which had been added the recent parallel initiative for the elaboration of a convention on international cooperation to investigate and prosecute the crime of genocide, war crimes and crimes against humanity. In the view of his delegation, there was significant overlapping between that initiative and the draft articles. Given the current uncertainty, it was preferable not to rush into a new and complex negotiation process.

53. The binding force of international instruments derived from the consent of States to the process of formation of international law. The International Law Commission was not a legislative entity responsible for establishing norms of international law; its role was to document the areas in which States had formulated norms that had implications for international law and to propose areas in which States might wish to consider the possibility of formulating such norms. In that regard, the elaboration of the draft articles had been an exercise not in the codification of customary international law, but rather in the progressive development of the law.

54. **Mr. Geng Shuang** (China) said that China supported the prevention and punishment of crimes against humanity, in accordance with the law, to achieve fairness and justice and promote international peace and security. The elaboration of a convention on the basis of the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission must be based on State practice and international consensus. However, views and State practice regarding crimes against humanity varied. The draft articles basically reproduced the definition of crimes against humanity set out in the Rome Statute, which was not a universal international treaty, as more than one third of the States Members of the United Nations had not acceded to it.

55. The topic of crimes against humanity was interconnected with other issues, such as immunity of officials from foreign criminal jurisdiction and universal jurisdiction, over which the international community remained divided. In the absence of sufficient State practice or a general willingness on the part of States, it

was not advisable to rush into the elaboration of a convention on crimes against humanity. Such instrument must be underpinned by international mutual trust and practical cooperation. In recent years, some States had, for political reasons, been loudly accusing others of committing crimes against humanity, while they themselves were interfering in the internal affairs of other States and violating the sovereignty of those States and ignoring their own grave international crimes.

56. Moreover, the arbitrary expansion of jurisdictions by international criminal justice mechanisms in cases of crimes against humanity was controversial and worrisome. That practice politicized important legal issues and undermined mutual trust and cooperation in the international community. China supported the ongoing discussion of crimes against humanity by the Committee, provided there was no predetermined international negotiation process or pre-set timetable or road map.

57. **Ms. Solano Ramirez** (Colombia) said that her delegation reaffirmed its commitment to combating impunity for the most serious crimes that shocked the conscience of humanity. An international legally binding instrument on crimes against humanity could serve to consolidate and strengthen international criminal law. However, the draft articles on prevention and punishment of crimes against humanity proposed by the International Law Commission would benefit from a number of additions and improvements. Although crimes against humanity per se were not criminalized under the Criminal Code of Colombia, the country's high courts, in particular the Supreme Court of Justice, had categorized as crimes against humanity certain crimes identified in the draft articles, in accordance with international custom. Such categorization made any statute of limitations automatically inapplicable to crimes such as homicide, rape and enforced disappearance, and ensured that an order from a superior could not be invoked as a ground for exclusion.

58. Her delegation recognized that the inclusion of crimes against humanity as a type of crime under the country's law would facilitate the work of prosecutors and judges by legally determining the crimes and conditions that fell in that category, thereby resulting in greater legal certainty. Her delegation would suggest adding the financing of a crime against humanity to the acts listed in draft article 6 of the draft articles, in order to reflect the role that financing played in enabling atrocities, whether it was provided by natural or legal persons or by criminal organizations.

59. The participation of victims in the criminal process was crucial for ensuring the protection of their rights. A definition of “victim” should be included in draft article 12 to help States to identify the victims of crimes against humanity in a consistent manner. Although the Commission indicated in its commentaries to the draft articles that the definition of “victim” might be derived from national laws, treaties that defined the term, such as the Convention for the Protection of All Persons from Enforced Disappearance and the Convention on Cluster Munitions, the regulations and jurisprudence of international courts and tribunals or practice in customary international law, without such a definition, it would not be easy for States to have a consistent manner of identifying the victims of crimes against humanity.

60. Her delegation was prepared to begin a process for the substantive review of the draft articles through a mechanism that States found most appropriate. It was aware, however, that not all delegations shared that view, and it was willing to consider intermediate alternatives.

61. **Mr. Alavi** (Liechtenstein) said that his Government firmly supported strengthening international cooperation in the fight against impunity for the most serious crimes, including crimes against humanity. The draft articles on prevention and punishment of crimes against humanity presented by the International Law Commission had the potential to further elevate the importance of that set of horrific crimes. His delegation was pleased that the Commission had based the draft articles on the Rome Statute of the International Criminal Court, even though the Statute had not been universally ratified and some States were reluctant to embrace the concept of international criminal justice. However, that was precisely why a convention on crimes against humanity was important: it would give States that were not ready to join the Rome Statute the option of joining a stand-alone treaty on the subject. Liechtenstein therefore supported, as an ultimate goal, the elaboration of such an instrument.

62. Liechtenstein was encouraged that the draft articles made reference to international cooperation, including on accountability mechanisms. Mechanisms such as the International, Impartial and Independent Mechanism for Syria and the Independent Investigative Mechanism for Myanmar were integral to the modern international criminal justice system. Liechtenstein also supported other initiatives focused on international cooperation, such as the mutual legal assistance initiative with regard to the prosecution of the most serious crimes of international concern. The elaboration of a convention on crimes against humanity would

complement efforts to formalize inter-State cooperation on the national prosecution of such crimes through the adoption of a mutual legal assistance treaty.

63. **Mr. Amaral Alves De Carvalho** (Portugal) said that States should follow the International Law Commission’s recommendation and convene a diplomatic conference to negotiate and adopt a convention on the basis of its draft articles on prevention and punishment of crimes against humanity. An international legally binding instrument would provide an additional substantive and procedural mechanism for fighting impunity and ensuring accountability for crimes against humanity. The differing opinions on the timing and form of a discussion on the elaboration of a convention must not result in a sterile repetition of arguments in the Committee and a postponement of the draft articles without action taken. The Committee must work through the different views of Member States in order to agree on a structured and inclusive process with a clear timeline and framework.

64. The mutual legal assistance initiative, which was aimed at the conclusion of an international convention to enhance cooperation among States, not only for crimes against humanity, but also for other serious crimes, was also under consideration. The existence of the two projects should not serve as a pretext for not advancing either of them. The two projects could be developed and implemented together on the basis of a common goal: creating a comprehensive international legal framework for the fight against such crimes. The Committee must recommend to the General Assembly a meaningful way forward on the agenda item under consideration, for the Assembly to be able to fulfil its responsibility under the Charter of the United Nations to codify and progressively develop international law.

65. **Mr. Molefe** (South Africa) said that his delegation saw great merit in a convention on prevention and punishment of crimes against humanity. The draft articles to that end prepared by the International Law Commission would help to ensure accountability; they also provided for inter-State cooperation and the development of domestic laws to prevent such crimes. Although international courts played an important role in ensuring accountability, States had the primary responsibility to exercise jurisdiction over the investigation and prosecution of the perpetrators of such crimes. For its part, South Africa had already criminalized crimes against humanity in its domestic law and had jurisdiction over such cases. It had also introduced legislation that would enable it to extradite the perpetrators and provide mutual assistance in relation to such crimes. His delegation reiterated its support for a convention and remained open as to the

process through which that goal might be achieved. Regardless of the method used, the process should not be unduly delayed.

66. **Mr. Simcock** (United States of America) said that his Government had been instrumental in the first prosecution of crimes against humanity at Nuremberg and had supported subsequent efforts to prosecute perpetrators of crimes against humanity in ad hoc international criminal tribunals, hybrid criminal tribunals and the domestic courts of a number of countries. The absence of a multilateral treaty addressing crimes against humanity had left a gap in the international legal framework that should be addressed.

67. The draft articles on prevention and punishment of crimes against humanity were an important step in that direction. Nonetheless, notwithstanding their many merits, the draft articles could and should be modified in certain key respects. That would be best accomplished through further discussion in an ad hoc committee with an appropriately robust mandate that reflected the importance of the project, and with modalities of work that would allow for an exchange of views on the project and on the Commission's recommendation for the elaboration of a convention by the General Assembly or a conference of States. That approach would have the best chance of ensuring that any future convention would be effective in practice and widely ratified by States. Advancing discussion of the project towards the elaboration of a convention should be the shared goal. Anything less would fall short of filling the critical gap in the international legal framework.

68. **Ms. Weiss Ma'udi** (Israel) said that her delegation's support for the topic of crimes against humanity stemmed from its consistent commitment to the prevention and punishment of the gravest international crimes, including crimes against humanity. Israel had taken note of the widely divergent views of Member States on the content and future form of the draft articles on prevention and punishment of crimes against humanity presented by the International Law Commission. Among the areas that remained to be addressed was the need to put in place effective safeguards to prevent attempts to abuse the draft articles to advance political goals. In her delegation's view, several of the draft articles did not reflect customary international law. Examples included draft article 6, paragraph 5, which dealt with the issue of immunity of foreign State officials, and draft article 6, paragraph 8, which dealt with measures to establish criminal, civil or administrative liability of legal persons.

69. Her delegation reiterated its proposal to establish a forum in the framework of the Committee, where States would attempt to clarify outstanding issues and resolve their differences with a view to the elaboration of a future convention. Such a proposal would allow the project to move forward and would encourage consensus-building among Member States.

70. **Mr. Fox Drummond Cançado Trindade** (Brazil) said that, since deciding to include the topic of crimes against humanity in its programme of work, the International Law Commission had been engaged in an extensive exercise involving not only its members, but also Governments and international and other organizations. Convinced of the need to address the existing gap in the international law framework, Brazil had been supporting that process since its inception, including by providing constructive comments on the draft articles on prevention and punishment of crimes against humanity. While noting that the Rome Statute of the International Criminal Court had served as inspiration for much of the text, Brazil had proposed that the preamble to the draft articles include a reference to the general prohibition on the use of force under international law. Although no such explicit reference had been included, his delegation welcomed the fact that, in the commentary to the preamble, the Commission had recalled that States must refrain from the threat or use of force in their international relations.

71. A new convention on crimes against humanity would fill a gap in the international system. Unlike the Convention on the Prevention and Punishment of the Crime of Genocide and the Geneva Conventions and their Additional Protocols, which had entered into force before the existence of the International Criminal Court, the draft articles on prevention and punishment of crimes against humanity post-dated the establishment of the Rome Statute system. They must therefore serve to strengthen that system, including by prioritizing the Court's jurisdiction when the custodial State had no nexus with the crime, the suspects or the victim. The draft articles would also benefit from the addition of safeguards to prevent the abuse of the principle of universality, such as a provision giving jurisdictional priority to States with the closest links to the crimes.

72. Brazil joined the large number of States that favoured the elaboration of a convention on the basis of the draft articles. The Committee should agree on an inclusive and legitimate process for the drafting of a convention that could be universally ratified. Brazil was ready to engage in such an endeavour.

73. *Ms. Krutulytė (Lithuania), Vice-Chair, took the Chair.*

74. **Mr. Giret Soto** (Paraguay) said that, under the Constitution of Paraguay, the crimes of genocide, torture, enforced disappearance of persons, kidnapping and homicide for political reasons were imprescriptible. The adoption of a legally binding convention on crimes against humanity could constitute a significant advance. Such an instrument could contribute to providing legal standards on which States could base their efforts to address those crimes. The fight against such crimes should not be limited to investigating and, where appropriate, punishing the perpetrators, but should entail the creation of conditions to prevent them from recurring. A convention on the basis of the International Law Commission's draft articles on prevention and punishment of crimes against humanity would help strengthen international law regarding crimes against humanity. In his delegation's view, a consensus could be reached in an inclusive process in which all members of the international community were heard. To that end, international cooperation and coordination were essential.

75. Paraguay was firmly committed to the adoption of a legally binding universal convention on crimes against humanity.

76. **Ms. Flores Soto** (El Salvador) said that her Government reaffirmed its condemnation of crimes against humanity and welcomed General Assembly resolution [75/136](#), in which the Assembly decided to continue to examine the recommendation of the International Law Commission for the elaboration of a convention on the basis of the Commission's draft articles on prevention and punishment of crimes against humanity. The Salvadoran Criminal Code contained provisions regulating individual offences relating to crimes against humanity, such as torture, enforced disappearances and crimes against sexual freedom. It also expressly regulated certain international crimes at the national level, including genocide, violation of the laws and customs of war and breach of the duty of humanity.

77. El Salvador was a party to various human rights instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Inter-American Convention to Prevent and Punish Torture, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions and their Additional Protocols and the Rome Statute of the International Criminal Court. National legislation contained provisions for the recognition and application of the principle of universal jurisdiction for acts affecting rights internationally protected by international human rights instruments and norms or which entailed a serious violation of

universally recognized human rights. The Criminal Code defined universal jurisdiction as an independent principle, whose implementation was not subject to the place where the offence was committed or the persons involved.

78. The international community should not permit the paralysis resulting from the coronavirus disease (COVID-19) pandemic to divert its attention from the shared objective of enhancing the international criminal law framework with regard to crimes against humanity. A new instrument on the topic could therefore help States strengthen their national legal frameworks and thus foster better mutual legal assistance in investigating and prosecuting such crimes to reduce impunity. His delegation was open to continuing the deliberations on the current agenda item in the Committee.

79. **Mr. Mlynár** (Slovakia) said the draft articles on prevention and punishment of crimes against humanity presented by the International Law Commission, many of which reflected customary international law, provided a sound basis for codification. Slovakia was aware that some States had voiced concerns regarding a number of the draft articles, resulting in a hesitancy to convene a diplomatic conference at the current time. In order to address those concerns, Slovakia was prepared to work with all delegations on setting up a meaningful and predictable process for substantive discussions. It was more important more than ever for the General Assembly and the Committee to agree on a strong response to crimes against humanity and to enhance international criminal justice and the fight against impunity. It was his delegation's understanding that there was agreement on the core obligation to prevent and punish such crimes and on the need to fill the legal gap in addressing them. Slovakia encouraged all States to put aside their political or other differences and work together to make progress on the important topic under consideration.

80. **Mr. Arrocha Olabuenaga** (Mexico) said that the adoption of General Assembly resolution [75/136](#) should not be seen as part of a new cycle of technical updates, but rather as the reflection of the impossibility to hold proper negotiations because of the limitations imposed by the COVID-19 pandemic. His delegation was confident that at the current session it would be possible to resume discussions on the recommendation of the International Law Commission and to focus on the negotiation of a process with clear time frames and mandates that included all States. A convention would help fill the legal gap, at both the international and the national levels, with regard to crimes against humanity. The Committee had the opportunity to break the pattern of inaction over recent decades with regard to the draft

articles on prevention and punishment of crimes against humanity referred to it by the International Law Commission. Progress on the topic would both advance the development of international criminal law and enhance the relationship between the Commission and the Committee. His delegation was prepared to participate actively in negotiations, without set views for or against, on the basis of an inclusive approach.

81. **Ms. Nguyen Quyen Thi Hong** (Viet Nam) said that her Government was firmly committed to the prevention and punishment of crimes against humanity in accordance with international law, in particular the principles enshrined in the Charter of the United Nations, including respect for national sovereignty and non-interference in internal affairs. States must take the primary responsibility for preventing and punishing serious crimes, and no effort should be spared in building their capacity to fulfil that responsibility through international cooperation and mutual legal assistance. International criminal law mechanisms should be used only as a last resort. The Criminal Code of Viet Nam provided for the definition, prohibition and punishment of crimes against humanity.

82. Her delegation highly appreciated the work of the International Law Commission on the draft articles on prevention and punishment of crimes against humanity. However, careful consideration should be given to whether there was a need for a convention on the topic. It was essential to ensure that the draft articles were compatible with the principles of international law and with national laws, experiences, practices and legal systems.

83. **Ms. Schneider Rittener** (Switzerland) said that her Government fully supported the recommendation of the International Law Commission that a convention be elaborated on the basis of its draft articles on prevention and punishment of crimes against humanity. Such a convention would fill a gap in the existing international legal framework and in treaty law on the remaining core international crimes since the adoption of conventions dealing with genocide and war crimes. Its universal value across legal systems and cultures would represent a powerful symbol. The convention would also help States meet their primary responsibility to investigate such crimes, and would also promote cooperation between States on investigating, prosecuting and punishing those crimes and serve as an essential tool for ensuring accountability and bringing the perpetrators to justice. To achieve that goal, it was important to establish a clear timetable for the next steps forward. An ad hoc committee with a clear, specific mandate should be set up to examine unresolved issues and establish an appropriate consultation process.

84. **Mr. Magyar** (Hungary) said that his delegation endorsed the view that strong and effective legal measures were needed to prevent crimes against humanity, bring perpetrators to justice and fight impunity. It was time to take further steps towards negotiating and adopting an international legally binding instrument based on the International Law Commission's draft articles on prevention and punishment of crimes against humanity. Hungary was fully committed to establishing an ad hoc committee or working group of the Committee, open to all States Members and observers of the United Nations and the specialized agencies, with a mandate to sort out issues hindering an agreement and to consider further steps to elaborate a convention.

85. The COVID-19 pandemic had also affected work on the mutual legal assistance initiative, which was aimed at the negotiation of a convention on international cooperation in the investigation and prosecution of the crime of genocide, crimes against humanity and war crimes, and would complement the draft articles, enhance inter-State cooperation in the prosecution of those heinous international crimes and serve as a sound basis for States to cooperate and eliminate safe havens for perpetrators. Hungary hoped that the postponed diplomatic conference would be held in the near future and that Member States could rally their forces to finalize the draft convention.

86. **Mr. Klusmann** (Germany) said that it was crucial to facilitate a meaningful discussion on the International Law Commission's recommendation for the elaboration of a convention based on its draft articles on prevention and punishment of crimes against humanity, by the General Assembly or by an international conference of plenipotentiaries. While some delegations still considered that a number of the draft articles required further clarification, there was a consensus as to the core provisions. At the current stage, an ad hoc committee could offer an ideal framework for successful negotiations within suitable institutional frameworks to address remaining concerns in an effective and inclusive manner.

87. A separate instrument for the prevention and punishment of crimes against humanity would have practical implications for ensuring accountability and bringing perpetrators to justice across legal systems and cultures. It would foster inter-State cooperation with regard to the investigation, prosecution and punishment of such crimes, and it would provide further impetus for the prevention and prosecution of atrocity crimes and represent a milestone in the common fight against impunity. Germany favoured the elaboration of a

convention on the basis of the draft articles, preferably by an international conference of plenipotentiaries.

88. **Mr. Leal Matta** (Guatemala) said that crimes against humanity constituted the most serious form of human rights violation and were of particular concern to the international community, owing to their impact on civilians, especially women and children. As set out in the preamble to the Rome Statute of the International Criminal Court, it was the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes. The international human rights system, in particular the Inter-American Court of Human Rights and the International Criminal Court, assisted States in preventing crimes that threatened world peace, security and well-being. Guatemala was a party to the Rome Statute, which stood at the centre of the international system of justice. The firm commitment and support of the States parties to the Rome Statute was crucial in order to enhance the Court's capacity to ensure accountability, secure justice and compensation for victims, and help to prevent future crimes.

89. Guatemala attached great importance to the initiative on the responsibility to protect and the defence of human rights. It had been part of the core group that had submitted General Assembly resolution [75/277](#) on the responsibility to protect and the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity. With the adoption of that resolution, the General Assembly had ensured that it would continue to consider the responsibility to protect in plenary and that the Secretary-General would report to the Member States annually on its progress. His delegation was in favour of convening an intergovernmental conference to elaborate a convention on crimes against humanity, which would be an important contribution to international law in that area.

90. **Mr. Butt** (Pakistan) said that the international community must work together to end impunity for perpetrators of crimes against humanity and secure justice for victims. The International Law Commission's draft articles on prevention and punishment of crimes against humanity and commentaries thereto could provide useful guidance to Member States, thereby helping to ensure accountability. While the Commission's work could be considered as a useful starting point, it was too early to draw any conclusions on the nature and format of the draft articles before holding in-depth discussions. During the previous sessions of the Committee, many delegations had continued to express concerns regarding the content of some of the draft articles. Draft articles 7, 9 and 10 in particular were based on an expansive interpretation of

the doctrine of universal jurisdiction, on which the Committee had been unable to reach consensus, even though the item had been on its agenda for over a decade.

91. Likewise, it must be ensured that the definitions set forth in the draft articles for the crimes of enslavement, torture and enforced disappearance were consistent with those in the relevant United Nations conventions. Care should be taken to avoid introducing new definitions that could create uncertainty as to their interpretation. Given the divergence of views, in the light of the numerous written submissions by Member States, more time was needed to allow all delegations to study the draft articles and ensure that they were consistent with their national Constitutions and domestic laws. It would be unwise to make a rushed use of the draft articles as the basis for a convention or to convene an international conference for that purpose.

92. A working group could be set up to continue discussions and seek a consensus. That was the only way to ensure that a future convention would be widely accepted and ratified by the international community, including by States that were not parties to the Rome Statute. The draft articles should remain open to further in-depth consideration in the Committee. It was important to focus on legal issues, to avoid politicization and selectivity, and to create a framework that genuinely addressed accountability and impunity for such crimes in full conformity with the principles and objectives of the Charter of the United Nations.

93. **Mr. Zukal** (Czechia) said that the prevention and punishment of crimes against humanity, unlike the prevention and punishment of the other core crimes under international law, were regulated only partially at the international level. A new convention would fill that gap. His delegation supported the International Law Commission's recommendation to start negotiations aimed at adopting a convention based on its draft articles on prevention and punishment of crimes against humanity. His delegation was aware that the content of the draft articles and the process leading to the negotiation of a convention required further discussion among delegations. The most appropriate way forward would be for the Committee to establish an ad hoc committee with a clear mandate and timetable for discussions during the intersessional period.

94. **Ms. Bhat** (India) said that, in her delegation's view, crimes against humanity were already established as punishable offences under existing international instruments such as the Rome Statute. Even States that were not yet parties to the Rome Statute had national laws covering such offences. Her delegation therefore

saw no need for a convention focused on crimes against humanity. If the wider membership of the United Nations felt differently, the draft articles on prevention and punishment of crimes against humanity would need to be thoroughly examined, with full account taken of the comments of all Member States. Her delegation opposed any work on the topic that resulted in a duplication of existing international legal mechanisms.

95. A number of Member States, including India, shared the concern that the draft articles were not based on empirical analysis of international practice and had been prepared largely by analogy with the provisions of other conventions; they were neither new nor universal. There should be no attempt to impose legal theories or definitions derived from international agreements that did not enjoy universal acceptance. The proposal to elaborate a convention on the basis of the draft articles was therefore premature.

96. **Mr. Altarsha** (Syrian Arab Republic) said that his delegation commended the International Law Commission for its draft articles on prevention and punishment of crimes against humanity. Any discussion of the topic should reflect the fundamental principle that the primary responsibility for preventing and prosecuting grave crimes rested with the concerned State, which had the sovereign prerogative to exercise jurisdiction in its own courts. It was therefore essential to build national capacities, including through international cooperation and mutual legal assistance at the request of the concerned State, so that the competent authorities could fulfil their responsibility to criminalize and prosecute such crimes in all their aspects.

97. Any future international convention on crimes against humanity should reflect the principles of the Charter of the United Nations and international law, particularly the principles of non-interference and the sovereign equality of States. Due regard should be given to the variety and specificities of national legal systems, and care should be taken to avoid conflict with domestic laws. Any such convention should be adopted by consensus. His delegation, like many others, had repeatedly asked for more time in order to examine the draft articles in a comprehensive and objective manner and to ensure that they were consistent with their domestic laws. It believed that the Committee should retain the item on its agenda and consider establishing a working group with a view to reaching a consensus that would reflect the genuine wishes of all Member States.

98. Any effort to address crimes against humanity and prevent their recurrence should be made objectively, without selectivity or double standards. All forms of crimes against humanity should be condemned,

wherever and by whomsoever they were perpetrated. Such crimes included those committed by Governments against the peoples of other States at the behest of illegal coalitions that had been established beyond the scope of the United Nations. They also included criminal actions that were justified by misinterpretations of the Charter, and that were undertaken without the invitation or consent of the concerned State.

99. The most recent form of crime against humanity was the collective punishment of entire peoples through the use of illegal unilateral coercive measures that flagrantly violated the Charter and international law, at a time when solidarity and cooperation were sorely needed in order to confront the coronavirus disease (COVID-19) pandemic. Certain States that portrayed themselves as defending the victims of crimes against humanity would be better advised to refrain from inciting, funding and arming terrorist groups, adopting double standards, politicizing human rights issues, and furthering their own interests through coercion and hegemony.

100. **Mr. Galstyan** (Armenia) said that his delegation welcomed an open and inclusive discussion of the International Law Commission's draft articles on prevention and punishment of crimes against humanity, which would serve as the basis for a future convention and fill the gap in the international legal landscape for atrocity crimes. His delegation's commitment to preventing and punishing all crimes against humanity stemmed from the tragic experience of the Armenian nation. Crimes against humanity were often preceded by a history of violations of fundamental human rights. A convention would provide an important legal tool and an instrument to facilitate inter-State cooperation in the investigation, prosecution and punishment of such crimes at the national level.

101. The draft articles reflected a degree of consensus within the international community on the shared objective of combating impunity for the perpetrators and ensuring justice for the victims. It was important to build on that consensus, in order to develop the capacity of the international community to protect people, no matter where they were, from crimes against humanity. Armenia condemned in the strongest terms policies of ethnic hatred propagated by State actors, and viewed them as an affront to the values, ideals and principles of the United Nations.

The meeting rose at 5.55 p.m.