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Chair: Mr. Afonso (Mozambique)
later: Mr. Leal Matta (Vice-Chair) (Guatemala)

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The meeting was called to order at 10 a.m.

Agenda item 78: Crimes against humanity
(continued)

1. **Mr. Geng Shuang** (China), noting that, during the Second World War, the Chinese people had suffered immensely from crimes against humanity, said that China supported the prevention and punishment of such crimes, in accordance with the law, to achieve fairness and justice and promote peace and security. In recent years, the Committee had discussed the need for a dedicated convention on crimes against humanity. Despite the divergence of views expressed, the discussions had reflected the high priority that the international community attached to the prevention and punishment of such crimes. Those discussions had been valuable and should be continued.

2. The elaboration of a convention on crimes against humanity would be a complex undertaking that must be approached by all parties in a responsible manner. Before launching negotiations on a convention, it was essential to explore the core issues and build international consensus, as experience had shown that rushing into negotiations in the absence of basic consensus tended to be counterproductive. The written comments submitted by States and the discussions in the Committee on the subject showed that there were still widely differing views on such core issues as the definition of crimes against humanity, the application of universal jurisdiction, dispute settlement mechanisms and the relationship between a future convention and domestic law. There was therefore a need to continue the in-depth exchange of views on the core issues within the Committee so as to clarify ideas, bridge differences and pave the way for subsequent negotiations on a convention.

3. It was imperative to respect the Committee's long-standing tradition of consensus-based work. Some delegations had deviated from established practice by introducing a draft resolution on crimes against humanity on their own, without consultation, and had even indicated that they were prepared to put the draft resolution to a vote, a course of action that would not be at all constructive. Abandoning the tradition of decision-making by consensus would shake the foundation of the Committee and undermine the interests of all countries. It also ran counter to the spirit of the rule of law, which called for equal consultation and democratic decision-making. Negotiations on a convention must take place in an atmosphere of unity and cooperation and without political interference.

4. In recent years, some States had, for political reasons, been loudly and arbitrarily accusing others of committing crimes against humanity, thus interfering in the internal affairs of other States, undermining fairness and justice, disrupting international relations and seriously hindering practical cooperation by the international community on the topic. Those countries should change course and take concrete steps to build political trust and create favourable conditions for combating impunity and launching negotiations on a convention.

5. Although there was not yet a dedicated convention on crimes against humanity, there was a legal framework covering such crimes, as they were already punishable under the domestic laws of the vast majority of States and were also prohibited under international humanitarian law, international human rights law and other rules of international law. China stood ready to work with all parties to continue to explore the possibility of drafting a convention on crimes against humanity. At the same time, it supported efforts by all countries to strengthen their domestic legislation and law enforcement and to expand international legal cooperation in a manner consistent with their own national conditions. His delegation supported the ongoing discussion of crimes against humanity by the Committee, provided that the discussions did not lead to a pre-determined outcome, timetable or road map.

6. **Mr. Ajayi** (Nigeria) said that his Government strongly condemned crimes against humanity and called for continuous efforts to address impunity. Perpetrators of such heinous crimes must be exposed and punished, and victims must receive justice. His Government had shown the political will to address such crimes and would continue to demonstrate its determination to fulfil its obligations under international law. At the national level, the Government had introduced laws and other measures to deter the perpetrators of crimes against humanity. It had also set up a complex case work group in response to crimes against humanity, and was working to create an electronic case file and evidence database that would help Nigerian prosecutors to build better cases against perpetrators of egregious crimes, and thus better address impunity. The Government had also appointed 21 investigators and prosecutors to be part of a proposed serious crimes response team.

7. At the global level, the international community should be more united in the fight against impunity and should embrace a legal framework to that end. Nigeria continued to express its unwavering support for the Rome Statute of the International Criminal Court, which held the promise of ending impunity and ensuring access to justice for victims and punishment for perpetrators of

crimes that shocked the conscience of humanity. States that had not yet acceded to the Statute were encouraged to do so.

8. **Ms. De Raes** (Belgium) said the fight against impunity for the most serious crimes affecting the international community as a whole had always been a priority for her delegation, which supported 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. Such a convention would fill the existing gap in international treaty law. Taking into account the different points of view expressed during previous debates on the subject, her delegation was of the opinion that an ad hoc committee of the General Assembly, with a clear mandate and a well-defined timetable, would be an appropriate framework to discuss various approaches and move towards the convening of a diplomatic conference. It stood ready to work with all delegations in a constructive and inclusive manner in order to make significant progress on the important issue of crimes against humanity.

9. The mutual legal assistance initiative launched by Argentina, Belgium, Mongolia, the Netherlands, Senegal and Slovenia was aimed at developing a modern operational framework for effective inter-State collaboration in the national prosecution of genocide, crimes against humanity and war crimes. That initiative pursued the same objective as the draft articles, but its material scope and approach differed considerably from those of the draft articles. Whereas the draft articles took a holistic approach and addressed a range of rules and concepts relating solely to crimes against humanity, the initiative focused on the creation of a comprehensive modern framework for mutual legal assistance and extradition in cases of crimes of genocide, crimes against humanity and war crimes. The two projects were therefore complementary and could coexist and continue to develop in parallel.

10. **Ms. Theeuwes** (Netherlands) said that crimes against humanity were among the most serious crimes under international law and their prevention and punishment was of concern to the international community as a whole. Although crimes against humanity were categorically prohibited under international law, civilian populations continued to be victims of such atrocities and perpetrators continued to act with impunity. Three years earlier, the International Law Commission had delivered a well-founded set of draft articles on prevention and punishment of crimes against humanity, which would fill a gap in the international legal framework for the prevention and punishment of the worst international crimes. The

current international context, including the war in Ukraine, illustrated why filling that gap was a necessity.

11. A convention based on the draft articles would strengthen the international criminal justice system and help bolster domestic laws and criminal jurisdiction in the fight against impunity for crimes against humanity. Her delegation would therefore welcome the opening of treaty negotiations. At the same time, it understood that some delegations desired further scrutiny of certain elements of the draft articles. An ad hoc committee would offer an ideal forum for further examination of the draft articles with a view to making concrete progress towards the opening of treaty negotiations. It was essential for such a committee to have a clear mandate and a clear timeline for the completion of its work.

12. The mutual legal assistance initiative was aimed at developing a modern operational framework for effective inter-State cooperation for the prosecution of crimes of genocide, crimes against humanity and war crimes. While the initiative, which was currently supported by 76 States, and the draft articles shared a similar objective of fighting impunity for the most serious crimes, they differed broadly in material scope and general approach. Nonetheless, the two projects were complementary and could continue to be pursued in parallel.

13. **Mr. Ben Lagha** (Tunisia) said that the majority of those who had spoken on the current agenda item agreed that crimes against humanity were among the most serious crimes of concern to the international community as a whole. Civilian populations continued to be victims of such crimes, while their perpetrators continued to act with impunity. Unlike the case of genocide and war crimes, there was no universal convention governing crimes against humanity. His delegation believed that the draft articles on prevention and punishment of crimes against humanity prepared by the International Law Commission provided a good basis for the negotiation of an international convention that would fill the gap in international treaty law and strengthen the current architecture of international humanitarian law, international criminal law and international human rights law. Such a convention would enable States to harmonize their domestic laws on the matter and would contribute significantly to the promotion of international cooperation for the prevention and punishment of crimes against humanity at the national level.

14. The Commission's decision in 2019 to recommend the elaboration of a convention based on its draft articles on prevention and punishment of crimes against

humanity had marked a significant step forward in the codification of the law relating to such crimes, but little progress had been made since then. That recommendation was well-founded and deserved further consideration. His delegation was aware that some Member States had reservations about both the substance of the draft articles and the way forward. It was important to discuss those concerns further in an appropriate setting in order to identify differences, enhance understanding and work towards a compromise.

15. The time had come to move to a more structured debate in which all Member States could participate fully. His delegation believed that the establishment of a special ad hoc committee, which would meet during the intersessional period and have the necessary time and resources, would be the best way to organize such a debate. It therefore welcomed the proposal to that effect put forward by Mexico and other countries and hoped that agreement could be reached to support that proposal, in keeping with the Committee's tradition of decision-making by consensus. While his delegation wished to preserve that tradition, it believed that the Committee had a duty to ensure that its commitment to consensus did not prevent it from advancing in the consideration of agenda items or from fully performing its fundamental functions, including promoting the progressive development of the law, especially on crucial issues such as the prevention and punishment of crimes against humanity and the fight against impunity.

16. **Mr. Al-Zahrani** (Saudi Arabia) said that all Member States and international organizations had a duty to work together to combat crimes against humanity. It would not be appropriate, however, to introduce new definitions that could create uncertainty in interpretation. Instead, efforts should be made to harmonize the use of such terms as "enslavement", "torture" and "enforced disappearance" in the draft articles on prevention and punishment of crimes against humanity and to ensure consistency with the relevant United Nations conventions. Moreover, in draft articles 7, 9 and 10, the concept of universal criminal jurisdiction was applied in an expansive manner. Given that the agenda item "The scope and application of the principle of universal jurisdiction" was still being debated by the Committee, it was important to examine the considerable variance in the approaches taken in the legal systems of Member States with regard to the prevention of impunity and to avoid deviating from the principles enshrined in the Charter of the United Nations and in international law, particularly the sovereignty, immunity and equality of States. In considering the

item, it was important to proceed without undue haste and to build a consensus among Member States.

17. **Ms. Dime Labille** (France) said that crimes against humanity were atrocious crimes for which the perpetrators must be held accountable. However, unlike the crimes of genocide and war crimes, such crimes were not the subject of an international convention. Her delegation fully supported the adoption of a convention based on the draft articles on prevention and punishment of crimes against humanity prepared by the International Law Commission, which would strengthen the international legal framework for combating the most serious crimes. It regretted the lack of substantive negotiations on the topic during the previous two sessions, owing to the circumstances surrounding the coronavirus disease (COVID-19) pandemic. It was time to make concrete progress on the matter during the current session. Delegations should determine collectively how they wished to take ownership of the high-quality work produced by the Commission. Her delegation stood ready to engage in the broadest and most transparent possible dialogue and continued to advocate for the universal adoption of a convention on the prevention and punishment of crimes against humanity. It fully supported the proposal by Mexico and other countries for the creation of an ad hoc committee to engage in further discussions on a draft convention and invited all Member States to take part in those discussions.

18. **Mr. Bouchedoub** (Algeria) said that the draft articles on prevention and punishment of crimes against humanity prepared by the International Law Commission contained many valuable elements, including the provision that every State should exercise its criminal jurisdiction with respect to crimes against humanity. However, several essential matters remained unclear and required further discussion, including the responsibility of legal persons and the use of concepts that did not enjoy consensus, such as the principle of universal jurisdiction. In several places, including in article 6, paragraph 5, the draft articles did not accurately reflect the current situation of international law or practice. The Committee's deliberations in the previous two sessions had highlighted the wide divergence among Member States concerning both the content and the future form of the draft articles. Like many others, his delegation believed that any draft international agreement on the topic should be consistent with the purposes and principles of the Charter of the United Nations, particularly sovereign equality of States and non-interference in their internal affairs.

19. In order to ensure its credibility and practical application, any resolution adopted by the Committee should be based on consensus and transparent negotiations. The aim should be to establish an effective legal framework consistent with the Charter and the specificities of the legal systems of Member States, particularly the jurisdiction of domestic courts over the investigation and prosecution of crimes against humanity. No attempt should be made to impose legal concepts derived from limited practice and from agreements that did not enjoy global acceptance.

20. **Ms. Rossa** (Plurinational State of Bolivia) said that, throughout history, the most heinous crimes had been committed against civilians with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, and many of the perpetrators of those crimes had gone unpunished. An example was the violent events that had taken place in the cities of Sacaba and Sencata during the coup d'état in her country in 2019. Acts amounting to crimes against humanity, including the massacre and extrajudicial execution of demonstrators protesting against the de facto government, had been carried out by the police and military forces, resulting in the deaths of dozens of civilians. Without a doubt, there had been an excessive and disproportionate use of force motivated by hatred for Indigenous Peoples, among other social groups. Major efforts were under way at the national level to conduct investigations and bring those responsible to justice.

21. Her Government considered it imperative to develop an international legal instrument to ensure that such acts did not go unpunished. As numerous delegations had noted, there was still a gap in the international legal framework with regard to crimes against humanity. It was regrettable that no substantive progress had been made on the issue in recent years. All Member States had committed to the core principles of the Charter, international human rights law and international humanitarian law, and thus to ensuring the prevention and punishment of all crimes at the national and international levels. The proposal for a convention based on the draft articles on prevention and punishment of crimes against humanity prepared by the International Law Commission should therefore be a priority.

22. **Ms. Yahaya** (Malaysia) said that her delegation stood firm in its belief in the rule of law and its commitment to ending impunity. It had long held the position that genocide, war crimes, crimes against humanity and the crime of aggression were the most serious crimes of concern to the international community and that the perpetrators of such crimes should be brought to justice. No such crimes should be

treated as exceptions, and no culprits should be regarded as non-prosecutable. Access to justice should be ensured and universal standards of international law and international human rights law should be upheld for everyone, including the Palestinian people, who had long suffered at the hands of the Israeli apartheid regime, as well as the people of Myanmar, including the Rohingya, who had been subjected to continual violence even before the military takeover in February 2021.

23. In Malaysia, perpetrators of crimes against humanity could be prosecuted under the country's general criminal laws, the foremost of which was the Penal Code. International cooperation on the matter was mainly governed by the Mutual Assistance in Criminal Matters Act 2002 and the Extradition Act 1992. Her delegation remained flexible and supportive of the continued discussion and elaboration of the draft articles on prevention and punishment of crimes against humanity, whether by the General Assembly or by an international conference of plenipotentiaries. It reiterated its hope that the draft articles would not overlap with, but rather complement, existing regimes.

24. **Mr. Stellakatos Loverdos** (Greece) said that his delegation considered the draft articles on prevention and punishment of crimes against humanity prepared by the International Law Commission to be of utmost importance in the fight against impunity for the most heinous crimes. In contrast to the situation in respect of other international crimes, there was still no dedicated international convention establishing the obligation of States to criminalize, prevent and punish crimes against humanity. The draft articles provided guidance to States that had not yet adopted national legislation governing crimes against humanity, thus contributing significantly to the prevention of such crimes and to the strengthening of accountability.

25. His delegation supported the Commission's recommendation for the elaboration of a convention on the basis of the draft articles. The Committee, and subsequently the General Assembly, had now adopted three resolutions on the subject with identical content, the effect of which had been the inclusion of the topic of crimes against humanity on the agenda of forthcoming sessions with no further indications as to the way forward regarding the Commission's recommendation. That approach was clearly not sustainable. It was time to provide for an inclusive, effective and efficient framework that would allow delegations to discuss and address their concerns. The framework should clearly identify the way forward and establish a timeline for the achievement of concrete results. In that connection, his delegation invited States

to engage constructively in discussions on the draft resolution put forward by Mexico and other States.

26. An international convention based on the draft articles that provided for the criminalization, prevention and punishment of crimes against humanity at the national level, coupled with the establishment, through the mutual legal assistance initiative, of a legal procedural framework for inter-State cooperation in the fields of mutual legal assistance and extradition for core international crimes, would significantly enhance the ability of States to ensure accountability for crimes against humanity.

27. **Ms. Raojee** (Mauritius), noting that the definition of crimes against humanity had evolved over the years in the light of new concepts and situations and the severity of the acts committed, said that the prevention and punishment of such crimes had been seriously hampered by the absence of an internationally legally binding treaty. Enslavement, torture, unjustified imprisonment and forcible displacement of populations were egregious crimes that deeply shocked the conscience of humanity. The international community had a duty to protect, defend and preserve the integrity of humanity and the dignity of human beings. That could only be achieved by ensuring that crimes against humanity were criminalized and by putting in place a robust system of arrest, prosecution and sentencing through a legally binding treaty.

28. Her delegation encouraged the Committee to continue examining the recommendations of the International Law Commission and to consider practical ways in which those recommendations could be translated into implementable actions by States. Her delegation considered it urgent to put in place a treaty on crimes against humanity and would support any action that made it possible to reach that goal. It was in favour of the proposal to establish an ad hoc committee in 2023, open to all States, to examine and exchange substantive views on the draft articles on prevention and punishment of crimes against humanity and consider further the Commission's recommendation for a convention. An ad hoc committee would provide a clear and dedicated framework for substantive discussions on the content of the draft articles.

29. Reaching agreement on a comprehensive international treaty that would specifically address the grave offences enumerated in and prohibited under article 7 of the Rome Statute of the International Criminal Court would require cooperation and a wide consensus among States. A treaty on crimes against humanity should serve as a deterrent for such crimes and provide adequate tools for the investigation thereof and

for the conduct of impartial proceedings against the perpetrators of such crimes. It would be important, however, to be mindful of the lessons learned from other international mechanisms and avoid creating the perception that only certain groups of persons were being targeted by international prosecutors. Such perceptions would only breed resistance against a global treaty and make it difficult to implement.

30. **Mr. Khaddour** (Syrian Arab Republic) said that, although the Commission's work on the current agenda item had yielded valuable proposals, it continued to be hampered by an approach that did not reflect current developments. The nature of armed conflict had changed since the Second World War, which had been the starting point for endeavours to codify crimes against humanity. Certain States were now resorting to new forms of crime that did not fit the old categories. Examples included proxy wars, fomenting extremism within societies, blockading entire peoples and imposing unilateral coercive measures to deny some peoples access to food, water and energy. The perpetrators claimed to be combating terrorism and spreading democracy, accusing the targeted States of committing crimes against humanity, while at the same time providing cover for crimes committed by their allies. Such selective and vindictive policies belied their concern for the prosecution of the most serious crimes. Notwithstanding their enthusiasm for an international convention on crimes against humanity, those States resisted any effort to codify the crime of aggression or war crimes.

31. His delegation was mindful of the need for a comprehensive, integrated and consensus-based agreement on crimes against humanity. However, it would be difficult to make any progress without addressing the concerns of Member States regarding the definition of such crimes, or regarding the principles of immunity and universal jurisdiction, which were two essential points of disagreement. Moreover, there was some overlap between the concept of crimes against humanity and that of terrorist offences, which represented the most serious challenge to the international order.

32. His Government remained committed to preventing and punishing crimes against humanity in accordance with the principles enshrined in the Charter, particularly respect for national sovereignty and non-interference in the internal affairs of States. Principal responsibility for preventing and punishing such serious crimes rested with the State concerned. Action should therefore be taken to build national capacities, shore up judicial institutions and strengthen

international cooperation and mutual legal assistance at the request of the State concerned.

33. **Ms. Ozgul Bilman** (Türkiye) said that crimes against humanity had the potential to disrupt the social order and the rule of law, wreak havoc on peoples and societies and threaten peace and security. Ensuring that such crimes were prevented and duly punished was a major collective task necessitating comprehensive, coordinated and multifaceted efforts at the national, regional and international levels. Inter-State cooperation must be a crucial component of those efforts. Under Turkish criminal law, crimes against humanity were one of the crimes over which universal jurisdiction might be exercised, provided that stringent conditions were met. Türkiye had supported international efforts to prevent and punish such crimes, in particular through the courts and other mechanisms established under the auspices of the United Nations to prosecute and adjudicate cases involving crimes of a serious nature committed in different parts of the world.

34. Her delegation maintained its firm conviction that the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission should be the subject of a comprehensive, constructive and structured exchange of views between States. Many such exercises had been successfully conducted before. Indeed, the previous year, the Committee had agreed upon a structured mandate for the substantive consideration of a set of draft articles on another topic of global concern.

35. As was evident from the extensive discussions on the topic in previous years, crimes against humanity were complex and a considerable number of States shared the concern that such crimes could be particularly susceptible to non-legal motives. Such considerations should not dissuade the Committee from substantively discussing the matter. On the contrary, delegations should do their utmost to find common ground that would allow them collectively to move forward. Her delegation had consistently highlighted the need to address the topic of crimes against humanity in a diligent and inclusive manner, employing a step-by-step approach. Such an approach was crucial not only to ensure that any possible outcome would enjoy overall support from the community of States, but also to preserve the integrity of the rules of international law governing serious international crimes and prevent their abuse or misuse.

36. Her delegation strongly hoped that the Committee would make concrete progress at the current session in deciding on the way forward with regard to the consideration of the topic, without prejudice to the

outcome of any discussions to be held. To that end, all sides would have to demonstrate flexibility and engage genuinely and constructively in considering the variety of views and options that might be presented. The Committee should ensure that a meaningful and structured discussion on the substance of the draft articles and on the Commission's recommendation was undertaken in keeping with established practice. It was crucial for the Committee to conduct such a discussion before making any recommendation to the General Assembly regarding substance or procedure. To facilitate the discussion, her delegation was of the view that Member States should be invited to submit written comments. It looked forward to engaging with fellow delegations in the coming days on the basis of consensus and constructive engagement, which had, for good reason, traditionally characterized the Committee's work.

37. **Ms. Ijaz** (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 the 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 would be premature to draw any conclusions on the nature and format of the draft articles before holding in-depth discussions on them. During previous discussions on the topic, 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 a consensus.

38. 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 contained 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 expressed in the Committee's discussions and in 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 countries' 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 to draw up such a convention.

39. 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.

40. **Mr. Aron** (Indonesia) said that his Government attached great importance to the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission and was committed to combating such grave international crimes. Crimes against humanity might be more widespread than genocide or war crimes, as they might occur in situations not involving armed conflict and, unlike the crime of genocide, they did not require the intent to destroy certain groups of people, in whole or in part. Ending impunity and denying safe haven to individuals who committed such crimes was a collective responsibility of States. It was clear from the discussions on the topic thus far that Member States continued to hold divergent positions, particularly on the way forward. The importance of a consensus in responding to the Commission's recommendation regarding the draft articles could not be emphasized enough. Further consultations were needed to deepen understanding and bring States closer to a consensus. The ultimate aim, however, should be to ensure progress. His delegation stood ready to engage positively in discussions on both substantive and procedural issues in order to decide the best way forward in a consensual manner.

41. His delegation welcomed the formulation of draft articles 6 and 7, on criminalization of crimes against humanity under national law and the establishment of national jurisdiction, respectively. It was important to preserve the primary responsibility of States to exercise their national criminal jurisdiction with respect to crimes against humanity occurring in their territory and to ensure the effective prosecution of such crimes at the national level. Indonesia had promulgated Law No. 26 of 2000 on the Human Rights Court, which gave the Court jurisdiction over cases involving crimes against humanity, including such crimes committed by Indonesians living abroad. The definition of crimes against humanity set out in the Law was similar to the definition contained in the Rome Statute of the International Criminal Court, including the description

of the elements constituting such crimes. The law covered all phases of the judiciary process, from arrest and detention to investigation, prosecution, trial and sentencing. It also included provisions on the protection of witnesses and victims of crimes against humanity, as well as compensation, restitution and rehabilitation.

42. To complement the national legal infrastructure, Indonesia stressed the importance of cooperation among States and had concluded extradition and mutual legal assistance treaties with numerous countries. It was also a party to a regional mutual legal assistance treaty of the Association of Southeast Asian Nations.

43. **Ms. Rubinshtein** (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. Since the outset of the discussions on the topic, her delegation had supported the establishment of 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 forum would allow the project to move forward in a constructive manner and contribute to the development of international law. Her delegation was ready to engage actively in such discussions and share its substantive comments and concerns.

44. Israel was aware that Member States held widely divergent views with regard to both the substantive content of the International Law Commission's draft articles on prevention and punishment of crimes against humanity and their future framework, but stressed the importance of achieving progress with regard to the draft articles. Accordingly, her delegation supported the proposal to establish an ad hoc committee to examine the draft articles and the path forward. At the same time, it considered the principle of consensus within the Committee to be important for maintaining the unity and consistency of international law and believed that meaningful and inclusive discussions among States should take place with a view to reaching a consensus on the matter.

45. **Ms. Lungu** (Romania), noting with profound regret that crimes against humanity continued to be perpetrated around the world, including in close proximity to her country, said that it was necessary to put an end to impunity for the perpetrators of such crimes and thus contribute to the prevention of further crimes against humanity. However, no dedicated multilateral treaty adopted for that purpose existed. By contrast, the prevention and punishment of genocide and war crimes were the subject of widely ratified

multilateral treaties. That discrepancy should be corrected. A coherent approach to all crimes of grave concern to humankind should be adopted to ensure that no fragmentation occurred, especially with regard to inter-State cooperation and mutual legal assistance. Only in that manner could the overall objective of prevention and punishment of such crimes be effectively attained.

46. Her delegation welcomed the International Law Commission's recommendation as to the elaboration of a convention by the General Assembly or by an international conference of plenipotentiaries on the basis of its draft articles on prevention and punishment of crimes against humanity. Such a convention would provide a strong legal basis for inter-State cooperation on the prevention, investigation and prosecution of such crimes.

47. Despite the encouraging level of engagement and interest from delegations, the Committee's discussions so far had fallen short of a thorough consideration of the Commission's recommendation. The current session provided the Committee with a new opportunity to move forward constructively and agree on establishing a dedicated forum and time frame that would allow for open, substantive exchanges between delegations on the draft articles and on the Commission's recommendation. Her delegation stood ready to engage in any negotiations that would ensure a meaningful and predictable process for the elaboration of a convention on the basis of the draft articles.

48. **Mr. Pieris** (Sri Lanka) said that the prevention of conflicts and the protection of populations from atrocity crimes and large-scale human rights violations remained a primary responsibility of States. Indeed, in the 2005 World Summit Outcome, the States Members of the United Nations had reaffirmed their responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and had committed to assisting each other in fulfilling that responsibility and to acting collectively when States failed manifestly to protect their populations from such crimes. While some crimes, such as murder and sadistic rape, might degrade the humanity of the victim without implicating the interests of the entire human race, crimes against humanity were offences against humankind, and those who perpetrated such odious crimes were enemies of all human beings.

49. It was important to pay attention, understand and react to the early warning signs of atrocity crimes, because while they were most likely to occur in situations of armed conflict, there had been cases of genocide and crimes against humanity committed

outside of conflict situations. Nonetheless, the international community must move beyond early warning alone and insist on early action in order to address risks before they became crises.

50. **Ms. Sayej** (Observer for the State of Palestine) said that her delegation had been consistent and clear in its firm position that accountability for the most serious crimes of concern to the international community as a whole was essential for the integrity and sustainability of the international law-based order. Justice for victims of such crimes was a collective obligation. As a party to the Rome Statute of the International Criminal Court, the State of Palestine had long called for States to join it in ending the dangerous cycle of impunity for such crimes. Her delegation supported the recommendation of the International Law Commission for the elaboration of a convention based on its draft articles on prevention and punishment of crimes against humanity. It was time to remedy the lack of a convention on such crimes, a lacuna that called for detailed debate and discussion to allow for the drafting of a universal and collective convention.

51. The draft articles were not merely a legal exercise. Rather, they represented the practical efforts of the international community to put the forces of international law at the service of the protection of humanity, leaving no victim behind and no perpetrator unpunished, and refusing to let the law be subject to the whims of political powers. The crimes in question had been systematic, widespread, devastating and persistent and the community of nations could neither dismiss the issue nor perpetually delay taking action on it.

52. **Archbishop Caccia** (Observer for the Holy See) said that crimes against humanity were among the most serious crimes under international law and their prevention and punishment concerned the entire international community. Although such crimes were clearly prohibited under customary international law, civilian populations continued to be victims of widespread and systematic attacks, and the perpetrators of such heinous crimes continued to enjoy impunity. While crimes against humanity were conceptually distinct from war crimes, civilians were at particular risk wherever war raged. Massacres, torture, rape and the deliberate, indiscriminate targeting of civilian areas and humanitarian corridors might constitute not only war crimes but also crimes against humanity. Furthermore, slavery in its many forms continued to occur.

53. Where there was credible evidence of a widespread or systematic attack against a civilian population, there must be accountability. Of course, primary responsibility for protecting civilian

populations from such crimes lay with Member States, but some domestic legal systems lacked laws on such crimes and the capacity to investigate them. In addition, crimes against humanity frequently had transborder effects and might therefore destabilize peace and security. Strengthened international cooperation was needed to prevent the occurrence of such crimes. A global convention on crimes against humanity would reinforce the current framework of international humanitarian law, international criminal law and human rights law. His delegation therefore supported further discussions on the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission.

54. Any convention developed on the subject must centre on the codification of existing customary law and the promotion of international cooperation. Adding to or modifying the already agreed definition of crimes against humanity before State practice and *opinio juris* had fully developed would not be conducive to achieving a broad consensus. In that regard, it was regrettable that the Commission had decided not to include in the draft articles the definition of the word “gender” contained in article 7, paragraph 3, of the Rome Statute, which formed an integral part of the definition agreed during the 1998 Rome Conference. The sources mentioned in paragraphs (41) and (42) of the commentary to draft article 2, on the definition of crimes against humanity, did not constitute State practice, nor did they provide any evidence of *opinio juris*.

55. It should also be ensured in the proposed convention that State sovereignty was respected and that interference in the internal affairs of States was avoided. Any new convention should therefore follow the well-honed precedents of other crime-prevention treaties, building upon the principle of *aut dedere aut judicare* and setting out the duty of States parties to prosecute crimes against humanity within their borders and to cooperate with each other in that task, including, when appropriate, by extraditing wrongdoers and providing assistance to victims. The convention should also include safeguards against the abuse of the law for political goals. The United Nations had been born with the idea that the primary responsibility of States was to protect their populations, but when they failed or were incapable, it was the international community’s responsibility to protect populations exposed to atrocity crimes, such as crimes against humanity. A convention, adopted by consensus, would advance that worthy goal.

Agenda item 149: Administration of justice at the United Nations (A/77/130, A/77/151 and A/77/156)

56. **The Chair**, recalling that, at its 3rd meeting, the General Assembly had referred the current agenda item to both the Fifth and the Sixth Committees, said that, in paragraph 21 of its resolution 76/242, the Assembly had invited the Sixth Committee to consider the legal aspects of the report to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibility for administrative and budgetary matters.

57. **Ms. Popan** (Representative of the European Union, in its capacity as observer), speaking also on behalf of the candidate countries Albania, the Republic of Moldova, Serbia and Ukraine and, in addition, Georgia, said that an independent, transparent, professionalized and adequately resourced and decentralized system of administration of justice was key to ensuring respect for the rights and obligations of both staff and non-staff personnel and the accountability of managers and staff members. It was also key for the image and credibility of the United Nations and its ability to uphold the rule of law.

58. The United Nations Dispute Tribunal and the United Nations Appeals Tribunal were to be commended on the significant reduction of the backlog of pending cases. The European Union noted with interest the recommendation of the Internal Justice Council that the current system of rotating the presidencies of the Tribunals be replaced by the appointment by the General Assembly of dedicated presiding judges to each Tribunal to be selected by the Council.

59. Disciplinary matters involving harassment or abuse of authority had a significant impact on the work relationships between the staff members and the Organization. Both sexual and non-sexual harassment and retaliation were unacceptable in the workplace and should not be tolerated. It was a source of particular concern that several women leaders had reported that they seemed to be measured by different standards compared to their male counterparts. In order to protect the privacy and personal data of witnesses and victims, in particular in cases involving harassment, the Tribunals should consider implementing a system for granting anonymity to victims and witnesses under certain circumstances. Such a system had been implemented by the Court of Justice of the European Union, demonstrating that the principle of open courts and public information could be reconciled with the need to protect personal data in sensitive cases.

60. There was a notable disparity in access by staff and non-staff personnel to the services of the Office of the

United Nations Ombudsman and Mediation Services. Mediation, which was key to avoiding unnecessary litigation, remained underutilized, with staff in field operations reporting the majority of cases handled by the Office. All categories of staff should have access to justice and to effective remedies. The root causes of disputes also needed to be examined and addressed upstream. The Office was to be commended on its Dignity through Civility campaign, which was aimed at increasing awareness, engaging staff in dialogue and promoting action to improve workplace behaviour. All personnel who wished to discuss issues of real or perceived discrimination of any kind were encouraged to contact the Office.

61. Multilingualism played an important role in ensuring equal access to justice within the system of administration of justice. To that end, information on informal conflict resolution should be provided in the six official languages. It was also essential that the system of administration of justice incorporate a gender-responsive approach. In order to ensure the protection, promotion and fulfilment of human rights, gender inequality needed to be addressed and eliminated in all areas of society.

62. *Mr. Leal Matta (Guatemala), Vice-Chair, took the Chair.*

63. **Ms. Lahmiri** (Morocco), speaking on behalf of the Group of African States, said that a stronger, independent, impartial, transparent and professionalized system of administration of justice at the United Nations would help to ensure that workplace disputes received the fullest attention of management and were resolved in a fair, timely and cost-effective manner. Informal conflict resolution, including the increased use of mediation by the Office of the United Nations Ombudsman and Mediation Services, was a crucial component of that system, as it reduced the need for costly litigation.

64. The Group commended the Organization for the use of flexible work arrangements to ensure that its justice system continued functioning despite the immense challenges posed by the COVID-19 pandemic. The Group took note of the recommendation of the Internal Justice Council that the presidents of the Dispute Tribunal and the Appeals Tribunal be appointed for seven-year terms, and of the views of the Tribunals and the Secretariat in that regard. Welcoming the decrease in the number of pending cases before the Dispute Tribunal, the Group noted with concern the high number of cases reported by field personnel, who faced both hardship and stress related to the nature of their contractual status.

65. The measures taken by the Secretary-General to strengthen the work of the Office of Staff Legal Assistance to better support staff, in particular those working in the field, were a welcome step towards ensuring access to the internal justice system of the Organization. The Group noted with appreciation the dispute and appeals toolkits provided by the Office of Administration of Justice to staff opting for self-representation, which ensured that applicants had all the necessary information to file a case and have confidence in a fair and satisfactory outcome. The Group also welcomed the measures taken to increase the case disposal rate and supported the continued use of half-time judges.

66. The Group supported the Organization's efforts to improve its internal justice system and provide staff members the justice they deserved in an impartial, accessible and accountable manner. A positive work climate led to a positive work culture. It was therefore important to create a workplace environment that valued human resources.

67. **Ms. Russell** (New Zealand), speaking also on behalf of Australia and Canada, said that the Organization needed an adequately resourced, transparent, impartial, independent and effective internal justice system, anchored in the principles of due process and access to justice, in order to achieve its objectives. The Organization should be applauded for using flexible work arrangements to ensure that its justice system had continued to function effectively during the COVID-19 pandemic. The Tribunals had been able to significantly reduce the backlog of pending cases without compromising the quality of the judgments rendered. Australia, Canada and New Zealand took note of the recommendations of the Internal Justice Council that the Council should select dedicated Presidents for the Tribunals and recommend them to the General Assembly for appointment and that a training programme for new judges be established.

68. Australia, Canada and New Zealand welcomed the efforts of the Office of the United Nations Ombudsman and Mediation Services to identify systemic issues underlying workplace conflicts, which were compounded by the lingering effects of the pandemic, and to improve the work environment by focusing on prevention and fostering a culture of dialogue and connection. The three delegations were also pleased that the Office was taking seriously the mental health and personal needs of non-staff personnel.

69. The delegations acknowledged the extensive efforts under way to address racial and gender discrimination and sexual harassment in the

Organization and to promote diversity, equality, inclusion and equity using the strategic action plan drafted by the Secretary-General's Task Force on Addressing Racism and Promoting Dignity for All, and welcomed the recommended enhancements to the system of administration of justice in that regard. They also welcomed the recommendations of the Internal Justice Council that steps be taken to raise awareness of the Organization's whistle-blowing policy and the policy on protection against retaliation, which remained a persistent risk.

70. **Mr. Simcock** (United States of America) said that the efforts of all staff and non-staff personnel involved in the administration of justice at the United Nations made the Organization a better place to work and helped to ensure that it embodied the values of fairness, inclusion and excellence. His delegation appreciated the progress made on key reforms advocated by the Committee and was pleased to see the significant reduction by the Dispute Tribunal of its case backlog, made possible by the hard work of the Tribunal staff and the use of half-time judges and remote work arrangements. Both Tribunals should continue to build on the momentum to address the challenge posed by case backlogs.

71. The newly updated Court Case Management System and the public case-tracking dashboard, and the recently launched Caselaw portal and electronic digest of all judgments of the Tribunals, all of which had long been requested by the Committee, would be valuable tools for both litigants and the general public. Such transparency was critically important, as it enabled staff, their representatives and the General Assembly to better understand how the Tribunals did their work. His delegation appreciated the work of the Office of the United Nations Ombudsman and Mediation Services, which oversaw the informal system of dispute resolution, and that of the Management Evaluation Unit and the Office of Staff Legal Assistance, which also helped to resolve requests before they reached the litigation stage, thereby playing a critical part in maintaining the efficiency and effectiveness of the entire system.

72. **Mr. Nyanid** (Cameroon) said that festering workplace conflict and its effect on staff motivation, engagement and well-being undermined the Organization's efficiency and effectiveness and resulted in formal complaints, internal investigations and disciplinary proceedings. Access to justice enabled individuals to face up to abuse of authority, bullying and retaliation. In that connection, his delegation noted the protection offered under the Secretary-General's bulletin on protection against retaliation for reporting

misconduct and for cooperating with duly authorized audits or investigations ([ST/SGB/2017/2/Rev.1](#)).

73. The internal system of administration of justice at the United Nations should remain independent, transparent, professionalized, adequately resourced and decentralized and continue to operate in accordance with the relevant rules of international law and the principles of the rule of law and due process, in order to ensure respect for the rights and obligations of staff members and the accountability of managers and staff members alike. It was important for the Office of Administration of Justice to ensure that staff members felt that they had a stake in the system and were not only aware of their rights, but also knew how to assert them.

74. His delegation was concerned by the growing number of pending cases before the Dispute Tribunal and supported the Secretariat in its efforts to improve the efficiency of both Tribunals, urging them to assign cases more quickly and use a strict timetable to ensure the timely issuance of decisions and prevent case backlogs. His delegation welcomed the appointment of the new half-time judges and their integration into the structure and activities of the Dispute Tribunal. It also welcomed the simplification and streamlining of the dispute settlement procedure available to consultants and individual contractors, which included a phase comprising strengthened informal amicable dispute resolution and, if that failed, procedures for a streamlined and simplified expedited arbitration to be adjudicated by a sole arbitrator based on the Expedited Arbitration Rules of the United Nations Commission on International Trade Law.

75. His delegation applauded the work of the Office of the United Nations Ombudsman and Mediation Services, which provided valuable informal assistance to managers and staff members alike by working with individuals and groups in the Organization to explore options, to empower them and help them to resolve conflicts, problematic issues or concerns.

76. With regard to recent judgments of the Appeals Tribunal that redefined the authority of the Secretary-General to impose disciplinary measures, his delegation called for strict adherence to staff regulation 10.1. The decision to impose a disciplinary measure must be taken upon the conclusion of the disciplinary process, under the authority of the Secretary-General, on the basis of investigation reports produced by the Office of Internal Oversight Services, statements and additional documentary evidence attached to those reports, and the submissions provided by the staff members charged with misconduct and their legal counsel in response to the allegations of misconduct.

77. It was therefore important to strengthen the authority of the Office of Internal Oversight Services, as established by the General Assembly in its resolution [48/218 B](#), which should retain its role as an investigator of facts and an institution that assisted the Secretary-General in ensuring accountability for misconduct, rather than be relegated to that of an allexer of misconduct. His delegation was of the view that the Tribunals should conduct a judicial review of disciplinary decisions and the process leading to such decisions. In cases involving sexual harassment, sexual exploitation and sexual abuse, which were especially sensitive and had a direct link to human dignity and integrity, the Secretary-General should not base a decision to impose discipline for misconduct solely on the basis of the investigative materials provided by the Office of Internal Oversight Services. The Dispute Tribunal was obligated to establish that the misconduct occurred. An investigative report by the Office, while useful, was not a substitute for the Tribunal's determination.

78. The Office of Staff Legal Assistance was to be applauded for its work, which was in accordance with the Universal Declaration of Human Rights, which enshrined the key principle of equality before the law, and the International Covenant on Civil and Political Rights, in particular its article 14, which stated that all persons were entitled to have legal assistance assigned to them to ensure that they received a fair and public hearing by a competent, independent and impartial tribunal established by law. His delegation therefore supported the use of a voluntary supplementary funding mechanism for the Office.

79. His delegation supported the Internal Justice Council in its view that the efforts of the registries and the Dispute Tribunal to reduce the backlog of pending cases would benefit from greater use of mediation in the internal system of justice, and that special attention should be given to a 12-month pilot project to test the main goal of judicial mediation, which was to avoid unnecessary litigation and reduce costs.

80. **Mr. Mora Fonseca** (Cuba) said that his delegation attached great importance to strengthening the Organization's system of administration of justice and encouraged its staff to continue to be guided in their work by the principles of international law, the rule of law and due process. The system was a dispute-resolution mechanism that aimed to strike a balance between the interests of the Organization's management and its staff. His delegation believed that the main purposes of the system should include safeguarding all rights, including human rights, to ensure that the Organization's managers fulfilled their obligations, and

that staff were held accountable. The Office of Staff Legal Assistance played an important role in providing legal advice and other legal services that helped staff to find ways to resolve conflicts in a fair and speedy manner. Lastly, the system of administration of justice should be subject to a regular review process in order to ensure its continuous improvement and the availability of the resources it needed to function effectively.

81. **Mr. Ashley** (Jamaica) said that respect for the role of independent, transparent and professionalized legal systems ensured adherence to the rule of law at the institutional level. His delegation therefore applauded the continued professionalization and enhanced transparency and efficiency of the system of administration of justice at the United Nations, in accordance with General Assembly resolutions [61/261](#), [62/228](#) and [63/253](#). It supported efforts to ensure that well-established principles of law, such as separation of powers and the independence of the judiciary, governed the management of the system of administration of justice. Those principles must also be matched by a commitment to ensuring the highest standards of accountability. The system should also operate in line with the principles of administrative law, the rule of law and due process, in order to ensure respect for the rights and obligations of staff members and the accountability of staff members and managers alike. The effective and efficient processing and disposition of disputes using both formal and informal systems were central to the Organization's ability to fulfil its mandate.

82. His delegation commended the Dispute Tribunal for its ongoing efforts to manage its heavy caseload and for having met its case disposal and judgment targets in 2021. It also commended the staff of the Office of Administration of Justice for the professionalism and dedication with which they had performed their duties during the COVID-19 pandemic. His delegation was pleased that despite numerous challenges, the justice system had continued to function through the use of flexible work arrangements, a virtual courtroom and other electronic workspaces. The recently launched Caselaw portal, which included a digest of all judgments of the Tribunals, and the addition of French-language capability to the Court Case Management System were welcome steps to enhance the system's accessibility. The Office was to be commended for its commitment to multilingualism.

83. His delegation looked forward to the consideration of the revised proposal submitted by the Dispute Tribunal concerning amendments to its rules of procedure submitted to the General Assembly, contained in annex I to the report of the Secretary-General on the administration of justice ([A/77/156](#)). His delegation also

looked forward to discussion of the Secretary-General's proposed amendments to the statute of the Dispute Tribunal regarding the review of administrative decisions to impose disciplinary sanctions, set out in the same report.

84. **Ms. Chanda** (Switzerland) said that access to justice should be fair, transparent, effective and non-discriminatory. To that end, effective safeguards should be put in place and remedies should be available to all categories of United Nations personnel. An internal system of justice that was fair, effective and accessible to all lent greater credibility to the Organization's commitment to the right of equal access to justice and the rule of law. Although the potential designation of the Permanent Court of Arbitration to support the conduct of ad hoc arbitration proceedings between the United Nations and non-staff personnel was a welcome development, the high cost of the proposed arbitration procedure could lead to unequal treatment of staff members. Her delegation encouraged the Secretary-General to examine alternative solutions.

85. Her delegation supported, for example, the proposal to extend the mandate of the Office of the United Nations Ombudsman and Mediation Services to include non-staff personnel. Mediation was underused as a method for resolving workplace disputes. Her delegation urged the Secretary-General to promote greater use of mediation for all personnel categories, including non-staff personnel, and supported the proposal to conduct a pilot project introducing a mandatory discussion about mediation as a first step in the dispute resolution process. In his next report, the Secretary-General should provide an update on the progress made towards ensuring that non-staff personnel had access to fair and effective mechanisms for settling workplace disputes and the results of the efforts made to promote the increased use of mediation. Issues related to the administration of justice should remain on the Committee's agenda.

86. **Ms. Theeuwes** (Netherlands) said that the staff of the system of administration of justice were to be commended for their continued efforts to deliver results despite the continued enormous impact of the COVID-19 pandemic on travel in 2021. In particular, her delegation appreciated the disposal by the Dispute Tribunal of all 404 cases pending before it as at 31 December 2018, achieved by using full-time and half-time judges and allocating judicial resources in a way that took account of the caseload differences among duty stations. Her delegation encouraged the Tribunal to increase its efficiency in line with the measures set out in General Assembly resolutions [73/276](#) and [74/258](#). Her delegation also noted the increase in the number of

judgments delivered and cases disposed by the Appeals Tribunal, as well as the slight decrease in the number of cases it received.

87. The Office of the United Nations Ombudsman and Mediation Services, including the regional ombudsman offices, provided all staff members with a safe, accessible and cost-effective way to discuss all types of workplace concerns. Her Government welcomed the continuation of the pilot project offering access to informal dispute resolution services to non-staff personnel and looked forward to the expeditious development of other initiatives aimed at improving the prevention and resolution of disputes involving non-staff personnel.

88. Her delegation noted with concern that the existence of two independent administrative tribunals with concurrent jurisdiction – the United Nations Tribunals and the International Labour Organization Administrative Tribunal – continued to pose a challenge for organizations of the United Nations common system. It hoped that implementing the recommendations contained in the report of the Secretary-General on the review of the jurisdictional set-up of the United Nations common system ([A/77/222](#)) would help to resolve the issue.

89. Emphasizing the importance of a strong, efficient and professionalized internal system of administration of justice at the United Nations, accessible to both staff and non-staff personnel, her delegation welcomed the information contained in the Secretary-General's report on strengthening and coordinating United Nations rule of law activities ([A/77/213](#)) and requested that information on the implementation by the Organization of decisions taken by its judicial institutions be included in the next report.

90. **Ms. Niamke** (Côte d'Ivoire) said that a quality internal system of justice underpinned the Organization's credibility, impact and authority. The Organization's exemplary management of the system's different legal services could serve as a model for its Member States at a time when multilateralism and good governance faced challenges at the international level. Her delegation therefore welcomed the progress made towards improving the functioning of the system, in particular the reduction in the number of pending cases and the diligent processing of new cases by the Dispute and Appeals Tribunals and the Office of the United Nations Ombudsman and Mediation Services. Her delegation also applauded the Secretary-General's new staff performance management system, which included a 360-degree feedback process that allowed staff to provide upward feedback. That system provided

transparency, increased accountability and encouraged staff to do their best.

91. The Office of Administration of Justice had also engaged in welcome efforts to strengthen multilingualism, including by publishing relevant documentation in the six official languages, such as the statutes and rules of procedure of the Tribunals, the code of conduct for the judges of the Tribunals, and the mechanism for addressing complaints regarding alleged misconduct or incapacity of those judges. The Office of the United Nations Ombudsman and Mediation Services and the Internal Justice Council had also made commendable efforts to encourage staff members to use mediation services. That informal system of justice could be used to address concerns with the workplace environment, interpersonal relationships and communication and other sociocultural issues. In that connection, her delegation welcomed the recommendations of the Internal Justice Council regarding the need for the Office to take into account the issues of sexual harassment, racism and other forms of discrimination, and supported the Council's recommendations aimed at improving the overall system of justice of the United Nations.

92. **Mr. Geng Gai** (China) said that his delegation welcomed the achievements of the Organization's internal justice system over the previous year and the efforts to enhance the system's transparency and efficiency, including the adoption of a virtual courtroom, an e-filing system and other measures to overcome the impact of the pandemic. The recently launched Caselaw portal would help to enhance the system's transparency, but the system could be improved further by taking stock of the experiences of all stakeholders.

93. The internal justice system played an important role in strengthening the Organization's internal architecture and safeguarding the legitimate rights and interests of its staff. His delegation welcomed the implementation of innovative measures to improve the management paradigm, such as the launch of the new, more efficient, agile performance management framework, and supported the continued exploration of such measures with a view to enhancing judicial efficiency and reducing case backlogs. In both the formal and the informal systems of justice, it was important to always adhere to the principles of the rule of law, strictly enforce rules and regulations, prioritize the resolution of differences and promote fairness and justice. His delegation supported the continued development of mechanisms that provided legal services to staff to ensure that all staff members had timely access to legal remedies.

94. As no Chinese judge had ever been elected to either the Dispute Tribunal or the Appeals Tribunal since their establishment, his delegation called on other delegations to vote for the two Chinese judges whose candidacies had been put forward for the upcoming elections for judges on the two Tribunals, thus also enhancing the representation of the Asia-Pacific region on the Tribunals.

95. **Ms. Jiménez Alegría** (Mexico) said that an effective and efficient mechanism for the resolution of workplace conflicts contributed to ensuring a healthy work environment. Welcoming the Dispute Tribunal's success in reducing the number of pending cases before it, in particular the number of cases aged over 400 days, her delegation called for the Tribunal to continue to decrease the number of the older cases in its backlog. The recent launch of the Caselaw portal would ensure greater transparency, accessibility and visibility of the work of the Tribunal and would be a useful resource to staff members.

96. Noting the efforts made to strengthen the Organization's informal system of justice, in particular to expand access to mediation services, her delegation underscored the importance of ensuring that non-staff personnel had access to such services, and took note of the pilot project aimed at improving such access within available resources. Mediation offered a means to achieve a favourable outcome for all parties and avoid unnecessary litigation. The Organization should therefore redouble its efforts to raise awareness of mediation services among its staff, including non-staff personnel. The increased number of claims filed with national courts by local staff working for the Organization's various offices and agencies was a sign that the use of mediation needed to be revitalized within the Organization. The Office of the United Nations Ombudsman and Mediation Services thus provided important services that were necessary for addressing potential disputes early by employing mediation as a first step in dispute resolution.

97. It was important to continue to promote the gender perspective in all aspects of the system of administration of justice. In addition, cases relating to sexual abuse should be handled as a matter of priority. More needed to be done to study and promote policies relating to protection against retaliation, address the lack of a mental health component in the legal process involving sexual abuse cases, discrimination and abuse of authority, and make public the results of actions to enforce accountability.

Agenda item 145: United Nations common system
(A/77/222)

98. **The Chair**, recalling that the General Assembly had referred the current agenda item to both the Fifth and the Sixth Committees, said that in its resolution [76/240](#), the Assembly had invited the Sixth Committee to consider the legal aspects of the report of the Secretary-General on the review of the jurisdictional set-up of the United Nations common system (A/77/222), without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibility for administrative and budgetary matters. The Bureau recommended that a letter reflecting the views of the Committee be prepared, in the framework of informal consultations, for transmission to the President of the General Assembly, with the request that it be forwarded to the Chair of the Fifth Committee.

The meeting rose at 12.55 p.m.