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# Sixth Committee

**Summary record of the 9th meeting**
Held at Headquarters, New York, on Monday, 10 October 2022, at 10 a.m.

*Chair*: Mr. Afonso . . . . . (Mozambique)
*later*: Ms. Sverrisdóttir (Vice-Chair) . . . . . (Iceland)

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

**Agenda item 84: The rule of law at the national and international levels** (*continued*) (A/77/213)

1. **Mr. Proskuryakov** (Russian Federation) said that the authors of the report of the Secretary-General (A/77/213) had once again failed to address the national and international dimensions of the rule of law in a balanced manner. They had shown a clear bias towards the national component of the rule of law; reference was made to a "renewal of the social contract", on the pretext of building a sustainable peace, with no proviso that any assistance by the Organization was to be provided only at the request of the country concerned.

2. Moreover, there was nothing in the report on the importance of taking into account the national, cultural and religious specificities of States, even though the catastrophic consequences of a failure to do so were well known. For example, the attempt to make the Government and society of Afghanistan "fit" the Western mould during the period following the intervention of the North Atlantic Treaty Organization (NATO) had resulted in failure. After 20 years of Western occupation, the Afghan people had been abandoned to their fate and left on the brink of survival in a ravaged and ruined country. Yet the authors of the report were completely unconcerned about the background and root cause of the crisis. They were interested only in the situation relating to the rights of women and girls in the country.

3. There was a significant bias in the report as a whole towards gender and human rights issues. Such issues were certainly important, but the emphasis on them was extreme and could give the impression that there were no serious problems regarding the rule of law besides gender and sexual violence. Furthermore, other specialized forums were available for the discussion of those issues.

4. The section of the report concerning promotion of the rule of law at the international level had rightly been expanded. However, even that section was not without its flaws. For example, the information about the activities of the International Court of Justice was scant, and the work of the International Tribunal for the Law of the Sea was presented through selective references to specific cases before the Tribunal, while the International Criminal Court, a non-universal, non-United Nations body, received detailed coverage. Furthermore, his delegation did not understand why, once again, the report contained references to the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011, and to the analogous structure for Myanmar, both of which the General Assembly had established in resolutions that had not enjoyed consensus. In future reports, the Secretariat should provide detailed information only on the activities of international courts and tribunals that had universal support.

5. At the previous session, his delegation had requested information on the sources of funding for the Global Focal Point for the Rule of Law and on whether Member States had mandated its establishment. Unfortunately, those questions were not answered in the report.

6. It was regrettable that some delegations had decided to introduce the irrelevant politicized subject of Ukraine into the discussion. The allegations that were being levelled against the Russian Federation looked strange, given the succession of aggressive and bloody military adventures of the collective West that had resulted not only in the loss of hundreds of thousands of lives but also in the breakdown of such States as Yugoslavia, Libya and Afghanistan. The people of Syria were still suffering as a result of NATO aggression, while Iraq faced a long road to recovery from the consequences of the military invasion by the United States and its allies. In addition, the West's imposition of pseudo-legal concepts, such as humanitarian intervention, and its invention of false pretexts, such as non-existent weapons of mass destruction, to justify its own aggression, were, needless to say, incompatible with the Charter of the United Nations and international law.

7. **Mr. Al Shehhi** (Oman) said that the primacy of the rule of law was enshrined in the Basic Statute of Oman. At the national level, his Government had worked intensively to modernize the country's laws and ensure compliance with international standards and instruments. In the Oman Vision 2040, a particular emphasis was placed on governance and accountability, which would encourage competitiveness and confidence in the national economy. At the international level, Oman remained committed to the values of consensus and tolerance and the principles of non-interference in the internal affairs of States, the peaceful resolution of disputes, the prohibition on the threat or use of force, and cooperation and dialogue among States.

8. **Mr. Liu** Yang (China) said that his delegation welcomed the discussion under the current agenda item on the impacts of the global coronavirus disease (COVID-19) pandemic on the rule of law at the national

and international levels. China had been following a people-centred philosophy and had been pushing ahead with efforts to prevent and control the pandemic on the basis of the rule of law. It had formulated a biosecurity law and amended the law on the prevention and treatment of infectious diseases, and corresponding rules and regulations had been promulgated at the local level. Judicial organs at all levels had been combating illegal acts that impeded pandemic prevention and control efforts and had been addressing related civil and commercial disputes. The Government enforced the pandemic prevention and control measures strictly, but always upheld the legitimate rights of the general public in the process. Furthermore, in accordance with the relevant laws of the country, his Government had promptly activated an emergency response mechanism, which had prevented the spread of the pandemic, protected the lives, safety and health of the population and minimized the impact of the pandemic on economic and social development.

9. The positive outcome of his country's approach was widely recognized throughout the world. Since the outbreak of the pandemic more than two years previously, infection and mortality rates in China had remained the lowest in the world. At the same time, China had been able to maintain its overall steady economic growth. The facts showed that the pandemic prevention and control efforts, which were science-based, were effective and enabled the Government to meet its responsibility to its people.

10. The pandemic had combined with geopolitical conflicts, energy and food crises and climate change to severely hamper the implementation of the 2030 Agenda for Sustainable Development. In the context of those global challenges, the Government of China had chosen to act for the benefit of the whole world rather than focusing on its own interests: it had proposed its Global Development Initiative as a means of tackling global development challenges. China had done its best to provide anti-epidemic supplies and to share its epidemic prevention experience with a view to building a global community of health for all. It had been the first to commit to making COVID-19 vaccines a global public good and the first to support a waiver on vaccine-related intellectual property rights. To date, China had provided more than 120 countries and international organizations with over 2.2 billion doses of vaccines.

11. China was committed to promoting international cooperation in the rule of law related to epidemic prevention and control. It had actively participated in the revision of the International Health Regulations of the World Health Organization (WHO) and had faithfully fulfilled its obligations under the Regulations. It had also pushed for improvements to the global public health order. The pandemic served as a reminder of the inadequacies that still existed in the global public health governance system. Beggar-thy-neighbour and zero-sum policies would not help countries to solve their own problems, nor would they help to address global challenges such as the pandemic. The true solution lay in global action and the enhancement of cooperation. First, countries must resolutely support the United Nations and WHO in playing their central coordinating roles in ensuring global public health security. Second, efforts to improve the global legal framework of epidemic prevention and control and the international community's capacity to prevent the spread of infectious diseases must be continued. Third, vaccines must be treated as a global public good and must be made accessible and affordable to developing countries.

12. The international security situation remained turbulent, and the global economic recovery was fragile. A myriad of risks and crises continued to emerge. All countries should improve the rule of law and safeguard the international legal system, with the United Nations at its core, and practise true multilateralism. The rule of law was not a privilege of a few countries and the rules of those countries should not be taken as international rules, nor should they be equated with international standards. All countries should persist in seeking the unified application of international law. Rights should be exercised in accordance with the law and obligations should be honoured in good faith. There should be no double standards or exceptionalism.

13. The rule of law should not be used as a pretext to infringe on the rights and interests of other countries; much less should there be any cherry-picking with regard to compliance with international law. The pandemic would eventually recede but the rule of law would remain. China stood ready to work with the international community in continuing to promote the international rule of law, improve public health governance, jointly build a global community of health for all and usher in a better future for the world.

14. **Ms. Cerrato** (Honduras) said that, following a coup in Honduras in 2009, it had taken 12 years to restore democracy, with the holding of free and transparent elections, and to re-establish the rule of law. The new Government had a responsibility to restore the social fabric of the nation and act with transparency and accountability. In order to combat corruption and work towards the achievement of Sustainable Development Goal 16, it had established the Ministry of Transparency and Anti-Corruption, which would implement the first national transparency and anti-corruption strategy, covering the period 2022–2026. As indicated in the

Secretary-General's report (A/77/213), the Organization, in response to a request from her Government, had deployed a multidisciplinary mission to examine existing needs in relation to the fight against corruption and impunity and a possible way forward.

15. In Honduras, women had been instrumental in promoting the transformation of the social and economic system with a view to building a participatory democracy that would ensure better living conditions, gender equality and justice. Her Government had established the Ministry for Women's Affairs, and was examining the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women with a view to its ratification. Furthermore, the third plan for gender equality and justice, covering the period 2023–2033, had been formulated.

16. As a founding member of the United Nations, Honduras complied with its rules and always used peaceful dispute settlement mechanisms, such as the International Court of Justice, to resolve its differences with other States. Honduras embraced the principles and practices of international law that promoted solidarity, respect for the self-determination of peoples and the consolidation of universal peace and democracy. It also fully supported the validity and applicability of international arbitration and judicial rulings. It had participated in the fourth and fifth sessions of the intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, and was advocating the swift conclusion of negotiations on the instrument.

17. One of her Government's priorities was to establish a public health system of the highest quality that met the needs of the population. It also had a historic responsibility to build back better after the pandemic by restoring the rule of law and making progress towards the eradication of poverty, the reduction of inequalities and the mitigation of the environmental and climate crises. The existing international and regional instruments relating to economic, social and climate matters and the oceans to which Honduras was a party, along with the 2030 Agenda for Sustainable Development, provided the guiding framework for its efforts. However, the pandemic had made clear the need for new universal instruments in the field of health. In addition, there was an urgent need for multilateral action to support the efforts of low- and middle-income countries to safeguard the rule of law through more equitable access to financial resources and technology.

18. **Ms. Okuoma** (Gabon) said that global challenges, such as climate change, mass displacement, migration, conflict, poverty, and terrorism and violent extremism, together with the political changes they brought about, not to mention the COVID-19 pandemic, all threatened the rule of law as a basic principle governing the life of nations, public trust in the social contract with the State, and the aspiration for greater justice and more coherent and durable institutions. There was, however, no single model for strengthening the rule of law: it was the expression of a shared vision and political will. Dialogue was therefore required to ensure national ownership.

19. Gabon was deeply attached to the rule of law, both at the domestic level and in its relations with other countries and its international partners, as reflected in its Constitution and in its Government's determination to foster social peace and justice at the national level. Strengthening the rule of law had always been a major objective of the country's development strategy. Gabon was continuing to strengthen a number of institutions through reforms aimed at optimizing governance and consolidating the independence of the judiciary by allocating additional budget resources and providing better training. Awareness-raising programmes were also being carried out to enable people to understand the judicial system better and improve their access to justice.

20. The Civil Code and Criminal Code of Gabon had been revised to better reflect the rights of women, girls and widows. In addition, the country's legal and institutional framework for the protection of the environment had been strengthened in the light of current national and regional realities, and new offences of terrorism and money-laundering had been established. To combat corruption and money-laundering, a framework document had been prepared with the technical and financial support of the United Nations Development Programme.

21. Gabon had recently chaired a debate in the Security Council on strengthening the fight against the financing of armed groups and terrorists through the illicit trafficking of natural resources, which was threatening peace and security in its subregion and beyond and hampering the development of the countries concerned. It was vital to put in place a consultation framework to strengthen security, prevent crime and curb armed violence, with the aim of preserving the rule of law.

22. In an increasingly interdependent world where technological advances had given added momentum to the exchange of ideas, the movement of persons and the

transfer of tangible and virtual goods, there was unprecedented pressure on sovereignty. It was therefore important to reaffirm the obligation of States and international institutions to respect and strengthen sovereignty in order to ensure more harmonious relations among States, irrespective of their size or power.

23. **Ms. Falconi** (Peru) said that in an increasingly interdependent world, the defence of an international rules-based order was essential if the international community was to deal effectively with the most serious threats to international peace and security. Her Government acknowledged the decisive contribution of the United Nations in promoting the rule of law through its assistance activities. It was committed to building a society in which social inclusion and democratic governance prevailed and fundamental human rights were guaranteed. The new social contract proposed by the Secretary-General must be linked with the attainment of the Sustainable Development Goals.

24. Her Government's social inclusion agenda prioritized the principle of leaving no one behind, especially the poorest and most vulnerable. In order to promote the rule of law, it was necessary to tackle the devastating worldwide effects of the COVID-19 pandemic, which Peru had not been spared. Her Government had adopted a number of measures, such as strengthening the vaccination process, retaining and recruiting health sector staff, and providing financial assistance to approximately 12.5 million vulnerable Peruvians so as to cover their basic needs. It was also implementing various programmes to promote well-being, ensure social protection and food security, and relaunch the economy and productive activities through rural development.

25. The criminal justice system in Peru offered viable alternatives to incarceration; the aim was to rehabilitate offenders and enable them to perform productive activities in order to facilitate their return to society and their reintegration into the labour market. Access to justice for all, free of charge, was ensured through an independent, transparent, efficient and predictable justice system. The Ministry of Justice and Human Rights provided free legal assistance in criminal and other matters. It also defended persons who had been the victims of rights violations. In the light of the pandemic, her Government had taken steps to allow judicial and administrative bodies to hold remote hearings. It was also working to remove all legal, social and economic obstacles to the empowerment of women and girls, ensure that their rights were upheld and eliminate discriminatory practices towards them.

26. Peru continued to promote the peaceful settlement of disputes, in accordance with Chapter VI of the Charter of the United Nations, and urged international solidarity and cooperation in order to tackle the continued effects of the pandemic. It attached great importance to strengthening the capacity of the United Nations in preventive diplomacy and the early warning mechanisms required for that purpose, in compliance with Articles 1, 34 and 99 of the Charter. It was deeply concerned about the frequent violations of international law; international peace and security could not be maintained without respect for the rule of law.

27. With regard to international accountability mechanisms, Peru was paying close attention to the activities of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 and the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant. That attention reflected the importance that it attached to the need to exhaustively document alleged atrocities so that the perpetrators could be brought to justice.

28. **Ms. Lbadaoui** (Morocco) said that her delegation welcomed the wide range of activities undertaken by the Secretariat to support Member States in their efforts to consolidate the rule of law during the reporting period. Morocco attached profound importance to the rule of law and to strengthening the principles of democracy, good governance and human rights. It reaffirmed its commitment to universally recognized human rights and acknowledged the primacy of duly ratified international conventions over domestic law.

29. The COVID-19 pandemic had given rise to major governance challenges, which the Moroccan authorities had taken measures to address. Two decree-laws issued during the pandemic and the establishment of a legal framework to protect fundamental rights had been part of the swift response by the authorities. To ensure continuity of access to justice during the pandemic, the Ministry of Justice, in coordination with the Judicial Council and the Office of the Public Prosecutor, had taken a number of cross-cutting measures, including holding legal proceedings remotely and continuing the process of digital transformation of the justice system launched prior to the pandemic. Digitalization was considered an important step in improving the quality of justice services, upholding the rule of law and reinforcing the principles of integrity, transparency and equal access to justice. Moroccan lawmakers had also taken several steps to address the impact of the

pandemic on women and girls and to promote gender equality and the advancement of women.

30. The experience of the pandemic had highlighted the central role of the State in ensuring security and upholding the rule of law, including in exceptional circumstances. As the world recovered from the effects of the pandemic, efforts must be redoubled to strengthen respect for the rule of law and ensure that the pandemic did not serve as a pretext for the erosion of previous gains, especially in the areas of human rights and humanitarian law.

31. **Mr. Gertze** (Namibia) said that the rise in geopolitical polarity in recent months, coupled with the negative impacts of the COVID-19 pandemic, had been a reminder of the fragility of the world order and of the importance and relevance of the rule of law as the foundation for a fair and just society. The rule of law served to guarantee responsible government and independent, accessible justice, which were core components of peace, security and sustainable development. His delegation welcomed the Secretary-General's comprehensive report entitled "Our Common Agenda" (A/75/982), which provided clear recommendations on how to advance progress on the Sustainable Development Goals, and on all existing global agreements, through multilateralism, with the United Nations at the centre of those efforts. It appreciated the commitment to a new vision for the rule of law that built upon Sustainable Development Goal 16 and the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels of 2012.

32. The rule of law, the administration of justice and the protection of civil liberties were anchors that buttressed the stability of Namibia. With a view to improving the country's overall governance architecture, his Government had introduced a plan which prioritized the implementation of programmes aimed at addressing inequalities and enhancing service delivery, economic recovery and inclusive growth. As an example of its commitment to ensuring open governance, reducing corruption and promoting the rule of law, his Government was engaging in voluntary self-assessments of governance as part of the African Peer Review Mechanism. It was equally committed to ensuring access to justice for all as a human right and as a crucial means of enforcing other substantive rights. The Namibian judiciary was free and independent, and the Constitution of Namibia provided for free legal aid for less privileged litigants in order to ensure equal access to justice.

33. His Government was committed to implementing a coordinated approach to combating corruption at all levels. Namibia formed part of the Eastern and Southern Africa Anti-Money Laundering Group, and was putting in place various mechanisms to ensure that cases of corruption were reported, investigated and prosecuted. It continued to sign bilateral agreements on mutual legal assistance with various countries to cooperate in fighting transnational crime. Where no such agreement existed, Namibia would, based on the principle of reciprocity, provide the necessary assistance to ensure that the rule of law was upheld.

34. **Mr. Soumaré** (Mauritania) said that, in a State governed by the rule of law, justice was a public service through which the State fulfilled its mission of ensuring legal protection for citizens. Access to justice was therefore an inherent aspect of the rule of law and a fundamental requirement for any democratic society. The rule of law ensured that international law and the fundamental principles of justice applied to and were equally respected by all States and, together with the body of international law, it provided the structure for the conduct of international relations.

35. His Government had demonstrated its commitment to meeting the challenges of good governance, combating corruption, strengthening democracy and decentralization, promoting the rule of law, strengthening parliamentary control, reforming the legal and judicial system, revitalizing the public administration, and promoting human rights. Concerned by arbitrariness, injustice, impunity, torture and the violation of human dignity, it had affirmed the need to respect the freedom and dignity of the person and proclaimed its determination to base its entire development policy on the rule of law and the promotion and protection of human rights. All of the civil, political, economic and social rights set out in the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights were enshrined in the country's Constitution.

36. Political governance, justice and the rule of law were key components of the Government's strategy for accelerated growth and shared prosperity, which was aligned with the Sustainable Development Goals and was intended to promote social cohesion, peace and security and to create the conditions for a strong democracy. With regard to governance in the areas of justice and security, his Government had set the objectives of strengthening the resources of the defence and security forces, building peace and social cohesion, improving access to and the quality and effectiveness of justice, and eliminating gender-based violence and all forms discrimination against women. As for strategic,

economic and financial governance, it had established public audit institutions to improve the management of public funds, combat corruption and promote transparency. The recent institutionalization of regional councils was part of decentralization efforts aimed at creating a strong and efficient administration at both the central and the regional levels, rationalizing and improving the quality of public services, and improving local governance.

37. His delegation was grateful to the United Nations for its increasingly prominent role in promoting justice and the rule of law through international courts. The Organization's role in promoting human rights was becoming ever more necessary.

38. **Mr. Guerra Sansonetti** (Bolivarian Republic of Venezuela) said that his Government reaffirmed its full support for the Charter of the United Nations and for the principles of equality of sovereign States, self-determination of peoples, territorial integrity of States, peaceful settlement of disputes, non-interference in the internal affairs of States and the right of States to the use, exploitation and management of their natural resources. Those principles were fundamental to the achievement of a just and equitable international order in which the rule of law, peace and the social progress of peoples prevailed. The founders of the United Nations had set out to establish an Organization in which all peace-loving countries would participate and had embraced multilateralism and the peaceful settlement of disputes as the way to achieve international peace and security, sustainable development and the realization of human rights. Regrettably, however, multilateralism had been seriously undermined by unilateral actions, which had become increasingly frequent in recent years.

39. During the COVID-19 pandemic, his country had been faced with unilateral coercive measures whereby various of its assets had been illegally frozen abroad, causing damage to the country that would take years to repair. Furthermore, non-State actors, including mercenaries and terrorists, had illegally penetrated Venezuelan territory with the aim of carrying out criminal actions against the Venezuelan people in application of the misnamed strategy of "regime change", in flagrant violation of international law and the Charter. The cruellest of the actions taken against his country had been the limitations imposed on its access to vaccines, medicines and medical equipment needed to combat and prevent the lethal effects of COVID-19. For example, in June 2021 a financial institution had blocked the release of $110 million intended for the purchase of 11 million doses of COVID-19 vaccines.

40. His Government continued to make efforts to consolidate political dialogue and understanding and strengthen the rule of law at the national level. While appreciating the efforts of the various United Nations agencies to assist Member States in strengthening the rule of law, his delegation was of the view that those efforts should be in line with the principle of national ownership and the sociocultural circumstances, realities and needs of each country. They should also be in accordance with mandates previously established by the Committee and with the purposes and principles of the Charter.

41. His delegation took the opportunity to recall that in April 2019 the Bolivarian Republic of Venezuela had withdrawn its membership of the Organization of American States, a regional body that lacked independence and openly acted in the interests of the Government of its host country and that, through its actions in violation of international law, undermined the rule of law at the international level.

42. **Ms. Sayej** (Observer for the State of Palestine) said that the rule of law was the guarantor of freedom, dignity, equality, justice and stability. Under the rule of law, everyone was accountable, the powerless were protected and the powerful were contested. Despite being deprived of protections for decades, the Palestinian people still believed in the rule of law, which constituted the legal and moral foundation for their just quest for independence. The State of Palestine had become a party, without reservations, to numerous international treaties, including the human rights treaties, and actively participated in the codification of others. It was working with national and international partners, including the United Nations, to ensure the implementation of those treaties and had created national committees and groups of experts to protect the rights of Palestinian citizens.

43. The supremacy of the law, equality before the law and accountability for breaching the law were fundamental principles guiding and ensuring the predictability and legitimacy of international relations. Yet, there were some that had systematically and deliberately undermined those principles, claiming for themselves a set of rules different from those enshrined in international law. Such exceptionalism undermined the multilateral system and the international law-based order. Palestinians were well-placed to speak to such double standards, as for 75 years they had witnessed how rules applied for some but were suspended for others, how accountability depended on the identity of the perpetrators or the identity of their victims, and how international mechanisms were activated in some cases but systematically blocked in others. Such selective

justice had allowed might to trump right, power to supplant justice and impunity to subvert accountability. There could be no rule of law if there was no willingness to enforce it on the ground in Palestine, which remained the ultimate test for the efficacy of the rule of law at the international level.

44. A permanent court to prosecute individuals who committed war crimes, crimes against humanity, genocide and the crime of aggression was critical to ensuring the durability of the rule of law. The State of Palestine had turned to the International Criminal Court to seek justice and prevent the recurrence of atrocity crimes against its people. It would continue to cooperate, fully and effectively, with the Court and with other international mechanisms and bodies to ensure accountability for crimes and to uphold the rule of law. Her delegation called on the international community to ensure the protection, independence and impartiality of the Court and to deter any attacks on or politicization of its essential work.

45. Respect for and compliance with resolutions of the United Nations and decisions and advisory opinions of the International Court of Justice were indispensable to preserving the rule of law. Eighteen years had passed since the Court had issued its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, in which it had made clear determinations regarding the illegality of Israeli policies. The Court had underlined that the construction of the wall would amount to de facto annexation, in breach of the cardinal principle prohibiting the acquisition of territory by force. Nevertheless, rather than reversing its policies, Israel, the occupying Power, had continued to pursue its plans to annex Palestinian land and to confine the Palestinian people in enclaves, depriving them of their rights, lands and resources.

46. The State of Palestine reiterated its unwavering commitment to the rule of law, the purposes and principles of the Charter, the essence of humanity, and the centrality of human rights and dignity. It would continue to work tirelessly to ensure the triumph of universal values for its people and for all peoples.

47. *Ms. Sverrisdóttir (Iceland), Vice-Chair, took the Chair.*

48. **Ms. Duric** (Observer for the International Anti-Corruption Academy) said that corruption existed in symbiosis with the shadow financial infrastructure and illicit financial flows. Through its academic and training programmes, research and awareness-raising activities, the International Anti-Corruption Academy assisted States in addressing the challenges relating to corruption and meeting their obligations under the United Nations Convention against Corruption. It paid particular attention to the nexus between corruption and illicit financial flows, including money-laundering and asset tracing and recovery, and to anti-corruption compliance. The Academy strove to make its programmes accessible financially, geographically and linguistically, including by offering support and scholarships to students from least developed countries and developing countries.

49. Establishing an effective anti-corruption framework at both the national and the international levels was crucial for the protection of global financial systems. The Academy supported the recommendation of the High-level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda regarding the need for an inclusive and legitimate global coordination mechanism under the auspices of the Economic and Social Council to address financial integrity on a systematic level. The Secretary-General had also noted the need for such a mechanism in his report on international coordination and cooperation to combat illicit financial flows (A/77/304). The Academy stood ready to join forces with the United Nations and Member States on initiatives to further the implementation of the Convention against Corruption through anti-corruption education, technical assistance and research.

50. **Mr. Melchionna** (Observer for the European Public Law Organization (EPLO)) said that his organization worked to promote public law and governance worldwide. In 2019, in cooperation with the United Nations system and several Member States, it had launched a global rule of law initiative, as part of which it had established a global rule of law commission with the aim of developing a comprehensive global concept of the rule of law. The commission would have 17 members, representing all regions of the world. It would work in coordination with the Global Focal Point for the Rule of Law and would present annual reports to the General Assembly. EPLO appealed to all delegations for support and suggestions regarding the work of the new commission and requested all permanent missions to propose a person to act as a focal point, representative and liaison with its global rule of law initiative.

51. **Mr. Brinkman** (Observer for the International Development Law Organization (IDLO)) said that his organization promoted a people-centred concept of justice and a vision of the rule of law firmly rooted in human rights, equality and inclusion. Over the previous two years, IDLO had organized conferences bringing together policymakers, practitioners, academics and civil society representatives to discuss, among other issues, the challenges related to the COVID-19

pandemic and sustainable development. It had also partnered with the World Health Organization in reviewing legal and regulatory frameworks for pandemic preparedness and response and with the Food and Agriculture Organization of the United Nations on a global legal assessment of how legislation could be harnessed to support the right to safe, affordable and nutritious food for the most vulnerable and thereby help to alleviate global food insecurity.

52. IDLO had been addressing climate change through the lens of climate justice. It had recommended, among other things, investing in people-centred laws that were conducive to a just energy transition and engaging with customary and informal justice systems to protect biodiversity and natural resources. Such engagement was particularly important for protecting the rights of Indigenous persons, who were often excluded from decision-making processes. In its work, IDLO also focused on addressing specific justice challenges, including eliminating discriminatory laws and policies, combating gender-based violence, enhancing the participation of women in the justice sector and empowering women and girls to realize their rights. IDLO remained committed to working with Member States, the United Nations system and other partners to promote rule of law-based solutions to current global challenges.

*Statements made in exercise of the right of reply*

53. **Mr. Knyazyan** (Armenia) said that the allegations made by the representative of Azerbaijan against Armenia at the previous meeting (see A/C.6/77/SR.8), which had nothing in common with either the truth or the agenda item currently under consideration, revealed the essence of a decades-long policy of using Armenia and Armenians as a useful enemy to conceal the poor record of Azerbaijan in governance, the rule of law and human rights. Armenia fully stood for the multilateral system, with the Charter and international law at its core. As a nation that had survived the first genocide of the twenty-first century, it knew all too well what calamities could threaten humankind if the international order collapsed. Its commitment to its legally binding obligations under international law was reflected in its long-standing positive cooperation with the United Nations and its promotion of peace and security, arms control and the rule of law. Its unwavering fulfilment of those obligations was reflected in the reports of numerous inspection teams and fact-finding and assessment missions from the United Nations, the Council of Europe and others.

54. For decades Armenia had engaged constructively in the negotiations under the auspices of the Minsk Group with a view to reaching a comprehensive and lasting settlement of the Nagorno-Karabakh conflict. It had supported the proposals of the international mediators with regard to strengthening the ceasefire and promoting confidence-building measures and people-to-people contacts aimed at creating a conducive environment for reaching a sustainable resolution.

55. Regarding the root causes of the conflict, which the representative of Azerbaijan attempted to portray as an inter-State conflict, the precursor had been pre-planned atrocities against the Armenian population in cities of Azerbaijan in response to the peaceful appeals of the people of Nagorno-Karabakh to self-determination, the legitimacy of which had been increasingly acknowledged by the international community, including within the European Parliament. The massacres of the Armenian population in Sumgait in 1988 had been the first identity-based mass crime in Europe since the end of the Second World War. Azerbaijan had never made a secret of its long-standing objective of resolving the conflict through the use of force. For decades it had been failing to respect proposals on confidence- and security-building measures, consolidation of the ceasefire regime, establishment of a mechanism to investigate ceasefire violations, expansion of the international presence on the ground and related measures.

56. Instead of committing in good faith to the peace process, the authorities of Azerbaijan had engaged in an uncontrolled and unabated military build-up, in violation of their legally binding international obligations in the sphere of arms control, culminating in the aggression against Nagorno-Karabakh and the large influx of international foreign terrorist fighters in September 2020. The Azerbaijani armed forces had conducted targeted attacks on civilian settlements, including schools and hospitals, and caused endless suffering to the people, who were trapped between the COVID-19 pandemic and the conflict. Videos of public executions, mutilations and inhuman treatment of prisoners of war and civilian hostages had been distributed widely online and publicly glorified at the highest political level in Azerbaijan.

57. Azerbaijan continued to obstruct humanitarian access by United Nations agencies to Nagorno-Karabakh and prevent them from conducting a comprehensive assessment of the humanitarian and human rights situation, in gross violation of international humanitarian law. The populations forcefully displaced from Nagorno-Karabakh had been deprived of the right to safe, voluntary and dignified return, and Azerbaijan had refused the full and unconditional return of all prisoners of war and civilian

captives, in blatant disregard for the Geneva Conventions of 1949 and their Additional Protocols and in defiance of the order issued by the International Court of Justice on 7 December 2021. The whole world had been shocked by videos of extrajudicial executions of Armenian prisoners of war by the Azerbaijani armed forces. Equally disturbing was the systematic destruction of the Armenian cultural and religious heritage in the occupied parts of Nagorno-Karabakh. The massive amount of disturbing evidence pointing to war crimes by the Azeri military was undeniable.

58. There was also no shortage of well-documented evidence of a State-led policy of dehumanizing Armenians and creating fertile ground for the commission of atrocity crimes. The Committee on the Elimination of Racial Discrimination, the European Commission against Racism and Intolerance and other international bodies had highlighted the systemic nature of the racist policies of Azerbaijan and the glorification of hate crimes in that country. Indeed, killing an Armenian in Azerbaijan was not a crime, but rather an act that was rewarded, including monetarily, and glorified by the highest leadership. Against that backdrop, Armenia had instituted proceedings before the International Court of Justice for violations of the International Convention on the Elimination of All Forms of Racial Discrimination, in response to which the Court had ordered that Azerbaijan take all necessary measures to prevent the incitement and promotion of racial hatred and discrimination targeted at persons of Armenian national or ethnic origin. The references to reconciliation and a peace agenda by the representative of Azerbaijan were window-dressing aimed at obscuring his country's poor record on human rights and the rule of law.

59. Well-documented high-level corruption practices in Azerbaijan had replaced good governance and the rule of law in that country. It sufficed to recall the scandalous money-laundering scheme known as the "Azerbaijani laundromat", which had been exposed by the Organized Crime and Corruption Reporting Project and had contributed to corrupt activities within the Parliamentary Assembly of the Council of Europe. In other words, what the leadership of Azerbaijan could contribute to discussions on the rule of law was not its non-existent experience in that field, but rather its practice of bribing high-level public officials.

60. **Mr. Musayev** (Azerbaijan) said that the delegation of Armenia was continuing its attempts to bring its destructive political agenda, which was based on apparent fabrications, misinterpretations and contempt for international law, to the work of the Committee. It was ironic that Armenia – which bore full responsibility for unleashing the war against Azerbaijan, committing heinous crimes during the conflict, carrying out ethnic cleansing on a massive scale and advocating undisguised racist ideology – had the cheek to blame and lecture others. The conflict had begun in the late 1980s with unlawful and groundless territorial claims and assaults by Armenia on Azerbaijanis, both in Armenia and in Azerbaijan. In the early 1990s, Armenia had unleashed a full-scale war against Azerbaijan, which had continued until the establishment of a ceasefire in May 1994. By that time, a significant part of the territory of Azerbaijan had been occupied.

61. Serious violations of international humanitarian law amounting to war crimes, crimes against humanity and acts of genocide had been committed by Armenian forces in the course of the aggression, resulting in the killing of thousands of civilians and ethnic cleansing of more than 700,000 Azerbaijanis in captured areas. Numerous cities, towns and villages had been razed to the ground, and thousands of historical monuments, mosques, cemeteries and museums had been destroyed, looted and vandalized, with the sole objective of permanently changing the demographic composition of the areas seized and removing any traces of their Azerbaijani cultural and historical roots.

62. It was no coincidence that the representative of Armenia had deliberately omitted any mention of the four Security Council resolutions on the matter. The reason for that selectivity was simple: in those resolutions the Security Council had explicitly condemned the use of force against Azerbaijan and the resulting occupation of its territories, expressly reaffirmed respect for the sovereignty and territorial integrity of Azerbaijan and the inviolability of international borders, and demanded the immediate, complete and unconditional withdrawal of the occupying Armenian forces from all territories. However, Armenia had ignored those binding demands and continued to colonize the occupied territories of Azerbaijan under cover of the ceasefire and the peace process, in clear violation of international law and the Security Council resolutions.

63. The resumption of hostilities in 2020 had been a logical consequence of the impunity enjoyed by Armenia for 30 years. Azerbaijan had not unleashed aggression against anyone, and the assertion of the opposite was contrary to international law and the resolutions adopted by the General Assembly and the Security Council. The legality of the use of force by Azerbaijan to restore its territorial integrity and protect its people was indisputable. Azerbaijan had acted exclusively on its sovereign soil, in full conformity with the Charter of the United Nations and international law,

resulting in the liberation of more than 300 occupied cities, towns and villages of Azerbaijan. The fact that Armenia had committed, under the terms of the trilateral statement of 10 November 2020, to withdraw its armed forces from the remaining occupied territories of Azerbaijan was significant, given its stubborn denial throughout the war of its role as an aggressor and occupier or even as a party to the conflict.

64. The fact that Armenia was responsible for the most serious international crimes had been well documented by numerous independent and impartial sources, including in the comprehensive report on war crimes in the occupied territories of Azerbaijan contained in document A/74/676-S/2020/90. The repeated use by Armenian armed forces of cluster munitions and other prohibited weapons had also been documented by international organizations. The unlawful targeting of Azerbaijani civilians and peaceful settlements had been a deliberate tactic employed by Armenia throughout the conflict.

65. Armenia should attend to its own track record with regard to human rights and democracy rather than groundlessly blaming others. All successive Governments in Armenia, including the current one, had come to power violently. The crackdown on opposition, the persecution of political opponents, politically motivated killings, attacks on human rights defenders and civil society, violence against women and children, systematic corruption, limited freedom of the media and interference in the judiciary were bitter realities in Armenia. Instead of attempting to distort reality, Armenia must cease and desist from disseminating, promoting or sponsoring hate propaganda, prosecute and punish the perpetrators of the numerous war crimes for which it was responsible, commit to the normalization of inter-State relations based on international law, fulfil faithfully its international obligations and support the efforts aimed at building, strengthening and sustaining peace and stability in the region.

66. **Mr. Knyazyan** (Armenia) said that it was hard to find diplomatic formulations to describe the outburst of verbal diarrhoea from the representative of Azerbaijan and his attempt to ignore the reports of the international community about his country's very poor record with regard to the rule of law, both domestically and internationally. The representative's comments regarding the Security Council resolutions distorted their content and misrepresented the causes and consequences of the conflict and its historical context. In fact, for many years Azerbaijan had been ignoring the requests of the Security Council to refrain from the use of force and to commit to a political settlement within the framework of the Minsk Group.

67. By resorting to aggression in 2020, Azerbaijan had violated not only its legally binding obligations under the ceasefire agreements of 1994 and 1995, but also the provisions of the Charter calling for the resolution of disputes exclusively by peaceful means. Its actions had also been contrary to the Secretary-General's call for a global ceasefire during the COVID-19 pandemic. With regard to democracy and human rights, the representative of Azerbaijan was right in mentioning that Armenia had had several Governments. Armenia was proud of not having a hereditary regime in which for 40 years power had been transferred solely within one family.

68. **Mr. Musayev** (Azerbaijan) said that there had been nothing surprising in the groundless and unethical comments made by the representative of Armenia, at the core of which was an evident attempt to conceal his own Government's misdeeds, hate crimes and undisguised racist policy. His unacceptable allegations demonstrated not only the ill-breeding of those who had written, approved and delivered them, but also his Government's irresponsibility and inadequacy vis-à-vis commonly agreed norms and values. He had once again put forward a set of standard fabrications and irrelevant, out-of-context assertions that eloquently confirmed that notions such as justice and the rule of law were alien to Armenia.

69. While projecting itself as a proponent of human rights and democracy, Armenia continued to deny its responsibility for numerous war crimes committed by its forces, agents, officials and other persons under its direction and control and refused to prosecute and punish the perpetrators and to offer appropriate remedies or redress for its breaches. It was outrageous that a country in which international terrorists and war criminals were national heroes could consider itself to be democratic. Armenia must abandon its provocations, fully abide by its international obligations and commit to the normalization of inter-State relations, based on international law. Its attempts to falsify history, sow dissension, misinterpret international law and conceal its own responsibility for the most serious crimes must never be allowed to succeed.

## Agenda item 78: Crimes against humanity

70. **Ms. Lahmiri** (Morocco), speaking on behalf of the Group of African States, said that the General Assembly's willingness to continue considering the recommendation of the International Law Commission concerning the draft articles on prevention and

punishment of crimes against humanity, as contained in paragraph 42 of the Commission's report on its seventy-fourth session (A/74/10), reflected the collective will to prevent and punish the most serious crimes that affected the entire international community and shocked the conscience of humanity. The Group attached paramount importance to the fight against impunity for all crimes, in particular the most serious ones, and welcomed open discussions aimed at achieving consensus on the establishment of an effective legal framework for that purpose. For such an endeavour to be successful, the international community must act collectively and with respect for the fundamental foundations of human society, cultural specificities and geographical realities.

71. While the draft articles might constitute a basis for a future convention, the legitimate concerns of Member States must not be ignored, and there should be no attempt to impose the views of any party or legal theories or definitions derived from international agreements that did not enjoy universal acceptance. The Group remained of the view that, in order to combat impunity effectively, there was a need not only to establish an efficient legal framework that enabled the prosecution of perpetrators, but also to develop and strengthen national capacities for investigation and prosecution. International assistance to developing countries was essential in that regard. An open, inclusive and transparent debate was needed, using all the time necessary for the proper evaluation of the draft articles.

72. **Ms. Popan** (Representative of the European Union, in its capacity as observer), speaking also on behalf of the candidate countries Albania, Montenegro, the Republic of Moldova and Ukraine; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Georgia and San Marino, said that crimes against humanity were one of the core international crimes. Although, unlike genocide and war crimes, such crimes were not regulated by a dedicated convention, they were not a "lesser evil", nor did they inflict less harm or pain on civilian populations at risk. The lack of a convention on crimes against humanity was a significant gap in international treaty law, which the international community must fill without delay.

73. With regard to the International Law Commission's recommendation concerning its draft articles on prevention and punishment of crimes against humanity, the European Union and its member States supported the negotiation of a convention, preferably by an international conference of plenipotentiaries. While the views of delegations that had a different perspective were respectable, it could not be ignored that a large part of the international community had spoken in favour of progress and that, since the previous year, more, not fewer, crimes against humanity had been committed around the world. A convention might not stop all crimes against humanity from being perpetrated or ensure that all perpetrators were held to account, but it would undoubtedly strengthen prevention and punishment of such crimes at the national level and offer a new legal basis for inter-State cooperation.

74. The different perspectives on the matter could be usefully discussed in a dedicated body established by the General Assembly and mandated to examine and exchange substantive views on the draft articles and the Commission's recommendation. An ad hoc committee could offer an ideal framework for discussing different approaches in an efficient, balanced and constructive manner. An ad hoc committee would not be an end in itself, but a means of ensuring progress on the matter. It would therefore be essential to have a clear mandate and a clear timeline for the completion of its work, which would be without prejudice to States' positions and participation in a future convention.

75. The Committee's work on the issue of crimes against humanity had stagnated for too many years. The European Union appreciated the proposal put forward by Mexico and a number of other countries, which reflected the views expressed previously by many delegations, including her own, and constituted a good basis for discussions at the current session. It called upon those who shared the goal of protecting humanity to engage constructively in the debate and stood ready to work with other delegations in an inclusive and transparent manner towards ensuring meaningful progress.

76. **Ms. Fielding** (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that crimes against humanity were the only core international crimes not covered by a dedicated international convention. Despite the fact that such heinous crimes 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 them.

77. The Nordic countries continued to fully support the development of a convention based on the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission, which would strengthen the international criminal justice system and promote inter-State cooperation for the effective investigation of such crimes. It could also contribute to strengthening national laws and criminal jurisdiction. Although a majority of

States had expressed support for moving forward towards the drafting of a convention, no progress had been made in the previous three years. The process must not be delayed any longer. The Committee must demonstrate willingness to follow up on the Commission's recommendation in order to ensure effective prevention and punishment of crimes against humanity.

78. 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. Such a committee would enable States to examine and exchange substantive views on the draft articles and consider further the Commission's recommendation, without prejudging the outcome of the discussions or States' participation in a future convention. The Nordic countries appreciated the proposal by the delegation of Mexico and a number of other delegations and looked forward to engaging constructively in the negotiations thereon.

79. **Mr. Mead** (Canada), speaking also on behalf of Australia and New Zealand, said that the international community must remain steadfast in its efforts to prevent and punish crimes against humanity and other serious international crimes. While genocide and war crimes had long been addressed by multilateral treaties, there was currently no universal convention to address crimes against humanity, leaving a significant gap in the international accountability framework. Australia, Canada and New Zealand supported progress towards a convention based on the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission, which would complement existing treaty law for international core crimes and reinforce international efforts aimed at ensuring proper accountability and bringing perpetrators of crimes against humanity to justice.

80. The three delegations appreciated the Commission's work on the draft articles and were particularly pleased with its decision to remove the definition of the word "gender" from the second version of the draft articles. However, they were concerned that the Committee had been unable to move the discussion forward beyond merely taking note of the draft articles. While they understood that not all Member States were ready to proceed directly to the drafting of a convention, they believed that suitable frameworks existed to advance the discussions, while addressing outstanding concerns in an open and inclusive manner.

81. As the Committee embarked upon the current session's discussions, it should seek to create a structured process, with a clear timetable and next steps. Such an approach would not presuppose the outcome of the deliberations, but it would offer the space needed to engage in appropriate and dedicated dialogue on aspects requiring further precision and clarification. The three delegations looked forward to working with other delegations to develop an effective procedural pathway forward. They had co-sponsored the proposal by Mexico on behalf of a cross-regional group of States to establish an ad hoc committee to discuss the matter, and they encouraged others also to support the proposal.

82. **Mr. Khng** (Singapore) said that 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 adopted by the International Law Commission could help to strengthen accountability by providing useful practical guidance to States. His delegation was among those that had submitted written comments to the Commission on the topic of crimes against humanity. It remained of the view that the draft articles could be improved or clarified so as to resolve critical legal and practical issues that they left unaddressed in their current form. Other delegations had raised similar concerns.

83. For example, under 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. 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 on the draft articles were available on the Commission's website.

84. **Mr. Al-edwan** (Jordan) said that, in view of the importance of international cooperation in combating crimes against humanity, his delegation supported the elaboration of an international convention based on the draft articles on prevention and punishment of crimes

against humanity adopted by the International Law Commission. The draft articles would complete the existing legal framework for combating the most serious international crimes and criminalizing widespread or systematic crimes against civilians. They purported to provide a comprehensive treaty regime that defined crimes against humanity and ensured prosecution through the application of the principle of *aut dedere aut judicare*. In the light of their sovereign responsibilities and international obligations, States had a duty to hold accountable the perpetrators of such offences. Accordingly, his delegation supported the establishment of an ad hoc committee to discuss the text and the procedure for the adoption of such a convention as soon as possible.

85. **Mr. Pérez Ayestarán** (Bolivarian Republic of Venezuela), speaking on behalf of the Group of Friends in Defence of the Charter of the United Nations, said that the Group was seriously concerned at recent procedural developments within the Committee, in particular the introduction by a group of States of a draft resolution without holding any prior consultations and before the Bureau had appointed facilitators for the discussions on such draft resolution. The practice of appointing such facilitators had for years been key in reaching compromise and forging consensus. While, under the rules of procedure of the General Assembly, any Member State could put forward a proposal, including a substantive resolution, there were long-standing practices and traditions within the Committee that had, until very recently and for good reason, been supported by a large majority of Member States.

86. The Committee had unique competence to produce texts that could become new norms of international law, but only if it preserved the practice of adopting its decisions by consensus. To divert from that practice would jeopardize the possibility of such texts ever becoming treaties or international rules, let alone enjoy universal acceptance. Nevertheless, there seemed increasingly to be an activism-based approach, driven by political pressure and self-imposed deadlines arising from an artificial sense of urgency. Such an approach should have no place in the Committee. Proposals that were not the product of an inclusive and transparent process of intergovernmental negotiations were not acceptable.

87. The draft resolution proposed by a group of States could open a Pandora's box that could drastically change how the Committee worked. It was worth recalling that, for decades, the Committee had been unable to move forward on some other agenda items, precisely because of the lack of clear consensus. Departing from the practice of consensus-based decision-making would exacerbate any differences that might exist and remove any incentive for accommodating the views and concerns of all Member States. It would also open the door to the use of a similar approach for other agenda items assigned to the Committee. The Group of Friends called upon Member States to preserve the Committee's traditions and practices, and urged the Chair and the rest of the Bureau to use their good offices to address the unfortunate situation in which the Committee found itself.

88. **Mr. Ghorbanpour Najafabadi** (Islamic Republic of Iran) said that his Government reaffirmed its unwavering commitment to the prevention and punishment 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 on prevention and punishment of crimes against humanity proposed by the International Law Commission and its recommendation concerning the fate of the draft articles prevented a united response to such crimes. Attempts to incorporate definitions emanating from non-universal instruments, and from national laws and practice in the context of progressive development, had also prevented Member States from reaching consensus.

89. The Committee had been unable to formulate a method for moving forward on the draft articles owing to a number of obstacles. Those hurdles could be overcome if all concerns and expectations were addressed thoroughly and equally in a spirit of consensus and unanimity. 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 was the appropriate forum and should continue its deliberations on the current agenda item. It should also move forward with a holistic approach on all products of the Commission currently pending before it. In that connection, his delegation expressed its dissatisfaction with the Committee's selectivity with regard to its consideration of the Commission's products, a number of which had been pending for years before the submission of the draft articles on prevention and punishment of crimes against humanity.

90. **Mr. Lagdameo** (Philippines) said that his delegation subscribed to the view that the prohibition of crimes against humanity was a peremptory norm of international law. The Philippines already had mechanisms in place to protect against such crimes. Its Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity recognized that the most serious crimes of concern to the international community as a whole must not go

unpunished and that it was the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes. The Act conferred original and exclusive jurisdiction for crimes against humanity on the Philippine regional trial courts.

91. His delegation recognized the need at the international level to combat crimes against humanity, which were not covered by any existing international legal framework. It therefore continued to view the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission as an important contribution to the international community's collective efforts to deter and curtail atrocity crimes. While his delegation supported the objectives of the draft articles, it remained of the view that the question of the elaboration of a convention needed further consideration. 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 without the required consensus.

92. **Mr. Alavi** (Liechtenstein) said that, as there was currently no stand-alone international treaty governing crimes against humanity, his delegation supported the drafting of a convention based on the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission. After years of delay, it was time for the Committee to take concrete steps to that end. His delegation was ready to engage in a transparent and inclusive negotiating process at the earliest possible moment and in a suitable format. It supported the establishment of an ad hoc committee, with a clear mandate and timeline, that would provide an opportunity for in-depth discussions on the draft articles.

93. **Ms. Sánchez García** (Colombia) said that the Committee could benefit from a discussion on its working methods and on how to avoid stagnation in its discussions on the topics on its agenda and in particular on the outputs of the International Law Commission. Her delegation reaffirmed its commitment to combating impunity for the most serious crimes that shocked the conscience of humanity and its view that 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 Commission would benefit from a number of additions and improvements, such as those outlined by her delegation in earlier statements.

94. It seemed clear from the Committee's previous discussions on the topic that a majority of delegations were interested in engaging in discussions on the content of the draft articles. To that end, her delegation supported the establishment of an ad hoc committee and had therefore decided to co-sponsor the draft resolution put forward by a group of States. It was important to make decisive progress in the development and codification of international criminal law so that those responsible for the most serious crimes against humanity did not go unpunished. Her delegation stood ready to enter into active dialogue with other delegations within the framework of the ad hoc committee.

95. **Ms. Vittay** (Hungary) said that the draft articles on prevention and punishment of crimes against humanity produced by the International Law Commission provided a solid basis for further discussion, as the need for a comprehensive international legal framework on such crimes was undeniable. Moreover, there was consensus that the perpetrators of such crimes must be brought to justice. It was time to take further steps towards negotiating and adopting an international legally binding instrument based on the draft articles. Hungary was fully committed to the establishment of an ad hoc committee, open to all States Members and observers of the United Nations and the specialized agencies, with a mandate encompassing the exchange of substantive views on the draft articles and the consideration of the Commission's recommendation regarding the elaboration of a convention. Her delegation was ready to engage in the discussions.

96. **Mr. Evseenko** (Belarus) said that the draft articles on prevention and punishment of crimes against humanity developed by the International Law Commission were an important addition to the existing international legal framework on the topic, but not all their provisions could be considered rules of customary international law. Unfortunately, the fight against crimes against humanity was frequently politicized, something which, like the crimes themselves, could pose a threat to international peace and security. It was therefore crucial to achieve unanimity and cohesion among the members of the international community.

97. It was difficult, however, to achieve a consensus on the draft articles as they stood. While some States had concerns about the norms contained in the draft articles could be applied in a selective, arbitrary and politicized manner on the adoption of a convention based on the draft articles, others had concerns about issues such as State sovereignty, immunity of State officials from foreign criminal jurisdiction and universal

jurisdiction. In order to achieve broader recognition of the draft articles, the Committee should continue considering them without any time limitations, to see how they align with norms in national laws and the provisions of related international legal instruments.

98. The Committee was currently the appropriate forum for the consideration of the current item, but his delegation was concerned about some procedural changes introduced in the Committee prompted by the hasty submission of the draft resolution by some States without prior consultations and without the appointment of coordinators. That was a departure from the Committee's long-standing tradition and practice of consensus-based decision-making which could also set an unfortunate precedent for similar actions under other agenda items. Although the draft articles were important for the codification of customary international law, other outputs of the Commission, such as those on diplomatic protection, responsibility of international organizations and other topics on its programme of work should not be overlooked.

99. **Mr. Milano** (Italy) said that preventing crimes against humanity was a duty of the international community as a whole, and it had become particularly urgent in the current international security context, especially in the light of recent events that put the rights and the safety of civilians at risk. His delegation continued to support the development of a convention based on the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission and modelled on the existing international conventions on war crimes and genocide.

100. His Government was currently drafting a code of international crimes at the national level. Although many of the specific offences falling under the category of crimes against humanity were punishable through specific provisions already existing in the domestic legal system, it was considered important to criminalize crimes against humanity as such, given their severity. The enactment of such laws at the national level could also be a means of fostering accountability for international crimes at the international level, since the International Criminal Court could only exercise jurisdiction if the competent national courts were unable or unwilling to do so.

101. In drafting the code, his Government was giving full consideration to the work of the Commission in related fields. In particular, it was considering the inclusion of a provision concerning immunity *ratione materiae* before national criminal tribunals, which was meant to reproduce draft article 7 of the Commission's draft articles on immunity of State officials from foreign criminal jurisdiction. Since crimes against humanity were often committed by State officials acting pursuant to a State policy, his delegation would recommend the inclusion of a similar provision in any domestic laws that might be established in line with the Commission's draft articles on prevention and punishment of crimes against humanity.

102. Like other delegations, his delegation found it regrettable that the negotiations on the resolutions on the agenda item in recent years had produced no tangible results. It urged all delegations to engage constructively in the process and supported the establishment of an appropriate procedural mechanism, such as the proposed ad hoc committee, to advance towards the elaboration of a convention.

*The meeting rose at 1 p.m.*