



General Assembly

Seventy-eighth session

Official Records

Distr.: General
8 December 2023

Original: English

Sixth Committee

Summary record of the 11th meeting

Held at Headquarters, New York, on Thursday, 12 October 2023, at 3 p.m.

Chair: Mr. Chindawongse (Thailand)
later: Ms. Lungu (Vice-Chair) (Romania)
later: Mr. Chindawongse (Thailand)

Contents

Agenda item 80: Crimes against humanity (*continued*)

This record is subject to correction.

Corrections should be sent as soon as possible, under the signature of a member of the delegation concerned, to the Chief of the Documents Management Section (dms@un.org), and incorporated in a copy of the record.

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

23-19346 (E)



Please recycle



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

Agenda item 80: Crimes against humanity (*continued*)

1. **Mr. Margaryan** (Armenia) said that crimes against humanity constituted grave offences against the values and principles enshrined in the Charter of the United Nations. Armenia therefore welcomed the ongoing discussions on the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission. A convention on crimes against humanity would fill a perceived gap by adding to the Convention on the Prevention and Punishment of the Crime of Genocide and the Geneva Conventions of 12 August 1949. Such a convention would also be useful to Member States as an effective legal tool in the prevention and punishment of crimes against humanity by facilitating national investigations, prosecutions and punishments of such crimes, as well as inter-State cooperation, thereby ensuring that the rights of people were properly protected no matter where they were located. Indeed, a new convention would have much more than legal effects, as crimes against humanity not only represented a direct assault on the dignity of human beings, but also posed grave threats to the maintenance of international peace and security.

2. Such heinous crimes had systematically been committed by Azerbaijan, whose pervasive record of human rights violations, anti-Armenian rhetoric and unchecked and disproportionate violence demonstrated a most dangerous pattern of utter disregard for international law. The aggression unleashed by Azerbaijan against Nagorno-Karabakh in 2020 amidst a global pandemic, in a brazen attempt to resolve an international dispute by force, was a case in point. That aggression, which had taken the lives of thousands of people, leading to the most intense and destructive crisis in the region since the 1990s, had been in grave violation of ceasefire agreements and international humanitarian law.

3. The repeated military attacks against the territorial integrity of Armenia in 2021 and 2022 had been targeted at densely populated areas and civilian infrastructure, with verified and extensively documented reports of despicable crimes having been committed on the territory of Armenia, including those involving the most barbaric forms of atrocities, gender-based sexual violence, torture and mutilations. Those systematic attacks against Armenia and the Armenian people in Nagorno-Karabakh had involved multiple instances of violent and hostile conduct, in flagrant violation of international law and the legally binding orders of the International Court of Justice issued in 2021 and 2023

on the requests for the indication of provisional measures filed by Armenia.

4. On 19 September 2003, Azerbaijan had unleashed yet another large-scale offensive against Nagorno-Karabakh that had taken the lives of hundreds of people, including children, and had resulted in mass forced displacement of the entire population. That premeditated and well-planned aggression had been preceded by a humanitarian crisis which the people of Nagorno-Karabakh had been experiencing since the blockade of the Lachin Corridor in December 2022. Mr. Ocampo, the former Prosecutor of the International Criminal Court, had identified that action as the archetype of genocide in that it imposed conditions of life designed to bring about a group's destruction. That aggression had constituted an explicit case of ethnic cleansing, perpetrated under the watch of the United Nations.

5. A new United Nations convention defining crimes against humanity, including extermination, forcible transfer of a population and intentionally causing great suffering, was essential in order to bolster the prevention toolbox of the international community. It would ensure that such heinous acts did not go unpunished, as impunity for past violations only served to embolden the perpetrators to commit new crimes.

6. Armenia was committed to effectively addressing and combating impunity, including through the mechanisms of international criminal courts. To that end, it had recently launched the process of accession to the Rome Statute of the International Criminal Court, an important step towards promoting justice and accountability in the face of persistent widespread attacks, threats and use of force. Prevention of crimes against humanity was a mandatory and essential duty that the Member States and the relevant international entities owed to the countless victims of past crimes and past inaction. Armenia remained steadfast in its determination to support efforts designed to prevent and punish crimes against humanity and to ensure that tangible progress was made in that regard.

7. **Ms. Lungu** (Romania) said that while the resumption of the debate on the prevention and punishment of crimes against humanity was welcome, it was regrettable that those heinous crimes continued to be perpetrated around the world, including in the vicinity of Romania. The international community therefore had a legal and moral obligation to address the gaps in the current international legal framework that could lead to impunity for the perpetrators of such crimes. Unlike for the crime of genocide and war crimes, there was no multilateral treaty governing the prevention and punishment of crimes against humanity.

8. Romania therefore welcomed the International Law Commission's recommendation for the elaboration of a global convention on the basis of its draft articles on prevention and punishment of crimes against humanity, which would provide a strong legal grounding for inter-State cooperation on the prevention, investigation and prosecution of such crimes. The Committee had taken an important step forward by convening a resumed session in April 2023, which had given delegations the opportunity to exchange substantive views on all aspects of the draft articles, and by deciding to consider further the Commission's recommendation in two resumed sessions.

9. Her delegation hoped that the constructive atmosphere in which those discussions had taken place, the interactive nature of the legal exchanges, as well as the broad convergence on the need to have a new convention would be replicated at the next resumed session, scheduled for April 2024. Along with the substantive discussions, delegations would need to foster more mutual trust among themselves to help achieve their shared goal of preventing impunity for crimes against humanity. Romania stood ready to continue playing a positive role in that respect.

10. **Mr. Rodriguez Torres** (Dominican Republic) said that crimes against humanity, which included genocide, war crimes, ethnic cleansing and other inhuman acts, were atrocious acts that shocked the conscience of humanity, undermined the foundations of civilization and should be condemned by all without reservation. In that regard, his delegation reaffirmed its commitment to the Charter of the United Nations and the Rome Statute of the International Criminal Court, which established the obligation to prevent and punish such crimes. International justice was essential for putting an end to impunity and for ensuring that the perpetrators faced the consequences of their actions.

11. The Dominican Republic joined the international community in the fight against crimes against humanity and supported efforts to strengthen accountability mechanisms and inter-State cooperation in order to address that challenge. Education, promotion of tolerance and respect for human rights were powerful tools for the prevention of those abominable crimes. As a country that was recently elected to the Human Rights Council, the Dominican Republic would work to ensure that those tools were implemented for the well-being of humankind and that all fundamental rights were respected. In so doing, it would help millions of people affected by armed conflicts or other humanitarian emergencies to regain their optimism and hope and the desire to build a better future.

12. **Ms. Arumpac-Marte** (Philippines) said that the most serious crimes of concern to the international community as a whole must not go unpunished and their effective prosecution must be ensured by States taking measures at the national level to put an end to impunity for the perpetrators and thus contributing to the prevention of such crimes. Indeed, it was the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes. Her delegation therefore considered the draft articles on prevention and punishment of crimes against humanity to be an important contribution to the international community's collective efforts to deter and curtail atrocity crimes.

13. Were the draft articles to become the basis of a convention, then the Philippines would have complied with the fundamental provision in draft article 6 that each State should take necessary measures to ensure that crimes against humanity constituted offences under its criminal law. Crimes against humanity were defined in her country's legislation on crimes against international humanitarian law, genocide and other crimes against humanity, which had considerable convergence with the draft articles.

14. Her delegation would endeavour to continue contributing to the discussions on the draft articles at the resumed session in April 2024. The close examination of the draft articles was consistent with the position of the Philippines that the draft articles needed careful scrutiny by individual Member States and by the Committee.

15. **Mr. Al-Hasani** (Iraq) said that his country had endured the gravest violations and other systematic attacks perpetrated by Da'esh, including deliberate murder, displacement, burning of groves, destruction of infrastructure and pillaging of property representing the cultural heritage of humanity. Those attacks spared no religion, ethnicity or constituency and amounted to war crimes and crimes against humanity. The Government of Iraq, in collaboration with those of friendly countries and the international coalition, had put in place a number of measures and procedures to counter international terrorism, in its effort to liberate towns that had been under the control of terrorist organizations.

16. His Government was committed to cooperating with the international community and the international coalition to combat terrorism and its repercussions and reiterated its commitment to combat all forms of crimes against humanity. His delegation condemned all acts conducive to the perpetration of such crimes anywhere in the world and called for stronger collaboration and intelligence cooperation to combat them. Iraq appreciated the efforts of the International Law Commission in the codification and progressive

development of international law and looked forward to the consideration of the Commission's draft articles on prevention and punishment of crimes against humanity and its recommendation for the elaboration of a convention on the basis of the draft articles.

17. **Mr. Laboti** (Albania) said that it was unacceptable and intolerable that the core international crimes, including crimes against humanity, continued to be committed all over the world, victimizing thousands of people whose demands for justice were still unfulfilled. Albania remained a pioneer of international justice and reiterated its unwavering support for international courts and independent mechanisms in pursuing international justice for all atrocity crimes.

18. The delivery of justice required a legal framework and clear international rules and regulations. It was therefore of paramount importance to fill the existing gap in the international treaty framework concerning atrocity crimes. Perpetrators of such crimes must be held accountable and duly processed in accordance with rules and procedures. It was the common responsibility of the international community, in the name of its shared human and democratic values and respect for human rights, to establish legal instruments to satisfy victims' demand for justice. The international community should invest more in victim protection programmes and in a whole-of-society approach to addressing such crimes, with a particular focus on women and children, who suffered the most from them.

19. His delegation therefore welcomed the discussion on the International Law Commission's draft articles on prevention and punishment of crimes against humanity. A convention based on the draft articles would be the step needed to achieve justice for all.

20. **Mr. Katz Pavlotzky** (Uruguay) said that, along with genocide and war crimes, crimes against humanity were among the most serious crimes known to humankind. Unfortunately, those crimes continued to be committed and to jeopardize the delicate balance achieved in the maintenance of international peace and security. As a strong proponent of international criminal law, Uruguay believed in the importance of a convention on the prevention and punishment of crimes against humanity. As there was currently no global convention governing the prevention and punishment of such crimes, it was incumbent on the international community to close that gap in order to strengthen accountability and bring the perpetrators of those crimes to universal justice. A new convention would therefore complement existing conventional law on crimes against humanity and would foster inter-State

cooperation in the investigation, prosecution and punishment of such crimes.

21. His delegation therefore welcomed the International Law Commission's draft articles on prevention and punishment of crimes against humanity, which were widely supported by the international community. Following the examination and discussion of the concerns and suggestions expressed by the various interlocutors, a structured process would need to be put in place for the negotiation of a convention based on the draft articles. A convention would give greater impetus to the prevention of atrocity crimes committed against humankind.

22. His delegation welcomed the fact that the draft articles, which would provide a solid basis for fruitful and inclusive negotiations, were based on the Rome Statute of the International Criminal Court, even though that Statute had not been universally ratified. Indeed, it was precisely for that reason that a convention on crimes against humanity was important; such a convention would give States that were not prepared to accede to the Rome Statute the option to accede to an independent treaty on the topic.

23. His delegation had participated constructively in the work of the resumed session in April 2023 and would continue to do so at the resumed session scheduled for April 2024.

24. **Mr. Alenezi** (Kuwait) said that his country rejected all crimes against humanity, whatever the circumstances; all human beings had a right to a dignified life, regardless of their nationality, ethnicity, civilization or religion. Kuwait had pressed for the adoption of Security Council resolution [2474 \(2019\)](#), a landmark resolution that gave hope to the families of missing persons in armed conflict. It was committed to the principles of international humanitarian law and looked forward to serving on the Human Rights Council for the term 2024–2026. At the domestic level, it had established a national standing committee on international humanitarian law, whose tasks included examining national laws and judicial rulings and raising awareness of issues pertaining to humanitarian law.

25. Action should be taken at the national, regional and international levels to tackle human rights violations, uphold the rule of law, prevent impunity and promote good governance, peaceful coexistence and the achievement of the Sustainable Development Goals. It was also important to draw attention to the double standards applied to the Palestinian people, whose lives were no less valuable than those of other peoples. Defenceless civilians could never be a target. The international community and, in particular, the Security

Council, must bring an end to the unconscionable crimes committed against Palestinian civilians, especially women and children, over the previous 75 years. All relevant international and regional actors should join forces to establish an effective, comprehensive plan to prevent those crimes.

26. **Ms. Güç** (Türkiye) said that crimes against humanity undermined the foundations of the rule of law and fundamentally violated the principles of human dignity. It therefore remained of utmost importance that the prevention and punishment of such crimes continue to be at the forefront of the international community's efforts in pursuit of the objectives of the Charter of the United Nations. Her country had incorporated the category of crimes against humanity into its criminal law and had therefore consistently supported international initiatives aimed at preventing and punishing such crimes.

27. Her delegation remained firmly convinced that the topic should continue to be the subject of a comprehensive, constructive and well-structured exchange of views. Member States should not be discouraged by the multifaceted nature of the topic. On the contrary, they must make every effort to identify common ground that would enable them to make progress. To that end, they should all exhibit not only flexibility but also a genuine commitment to constructive dialogue and a willingness to consider the wide array of viewpoints and options that might be presented. Her delegation therefore reiterated its unwavering support for the Committee in its efforts to ensure a meaningful and well-structured dialogue on the substance of the draft articles on prevention and punishment of crimes against humanity.

28. Lastly, her delegation was deeply concerned about the escalation of tensions in the Israeli-Palestinian conflict and condemned the loss of civilian lives. It reiterated its call for restraint and avoidance of any actions that might exacerbate the situation in the region. The indiscriminate attacks against civilians and civilian infrastructure were unacceptable. International humanitarian law and international human rights law must be respected under all circumstances. As recent events had shown once again, lasting peace and security in the Middle East could only be achieved through a two-State solution. Türkiye therefore continued to support the establishment of an independent, geographically integrated and viable State of Palestine based on the 1967 borders, with Jerusalem as its capital, in line with the relevant resolutions of the United Nations.

29. **Ms. Minale** (Ethiopia) said that her country viewed crimes against humanity as extremely grave

offences and was consistently prepared to address and eradicate impunity for them. The country's Constitution included a dedicated provision on crimes against humanity, which stipulated that persons who committed such crimes, as defined by international agreements ratified by Ethiopia, could not benefit from any statute of limitation or from any amnesty or pardon from the legislature or any other State organ. A strong legal framework that aligned with universally accepted international legal instruments was needed in order to effectively address impunity. That framework should facilitate the prosecution of those responsible for those crimes and also enable the enhancement of national investigation and prosecution capabilities.

30. With regard to the need for a treaty on crimes against humanity, her delegation believed that existing human rights, humanitarian law and other treaties, as well as domestic criminal laws provided the necessary legal basis for the prosecution of such crimes, and that any perceived legal gaps should be addressed through national legislative and institutional mechanisms. Her delegation also recognized that crimes against humanity were subject to political sensitivity and hence required a delicate act of legislative balancing.

31. Her delegation took note of the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission, but found that the reference in the draft articles to the International Criminal Court or its constituent instrument, both of which were not accepted by more than one third of the States Members of the United Nations, complicated the discussion. Ethiopia was not a party to the Rome Statute and believed that criminal law and criminal justice policy fell under national jurisdiction. International tribunals, when established, must be ad hoc in nature and designated for specific cases based on the consent of the States concerned. Her delegation also had strong reservations about the Court's consistent discriminatory practices, which violated the immunity of State officials, and its selective approach, which undermined the sovereign equality of States and the resolution of peace and security challenges.

32. Lastly, her delegation believed that crimes committed as part of the policy of colonization, slavery and apartheid should also be included in the draft articles, and that there was a need for further discussion on the draft articles, which had not yet reached the stage of becoming a convention.

33. **Mr. Milano** (Italy) said that his delegation supported the International Law Commission's recommendation that a convention be elaborated on the basis of its draft articles on prevention and punishment

of crimes against humanity. It welcomed the substantive engagement of delegations during the resumed session held in April 2023, which had shown the renewed interest of Member States in the work of the Committee as a deliberative organ promoting the progressive development and codification of international law.

34. The draft articles constituted a solid basis for the negotiation of a global convention that would facilitate inter-State cooperation in that field. It was not acceptable that 75 years since the conclusion of the United Nations Convention on the Prevention and Repression of the Crime of Genocide and the Geneva Conventions of 1949, the international community still did not have a global legal instrument addressing horizontal cooperation on crimes against humanity. There was also a need for consistency between a future convention based on the draft articles and parallel, complementary international legal instruments promoting judicial cooperation on the prosecution of international crimes.

35. Areas of legal overlap with regard to judicial cooperation on crimes against humanity should not in general create inconsistencies that would complicate the task of national lawmakers when incorporating those instruments into the legal orders of their countries. For instance, while it recognized the *pacta tertiis* principle, Italy was of the view that the Rome Statute should represent a point of reference for the definitions that would be adopted in a future convention. Furthermore, his delegation appreciated the inclusion in the draft articles of rules that ensured that, notwithstanding the particularly heinous character of crimes against humanity, any prosecution concerning such crimes must be conducted in compliance with the principles of due process and fair trial, and with international human rights law and international humanitarian law, where applicable.

36. His delegation would continue to contribute to the advancement of the process leading to an international conference for the adoption of a convention on the prevention and punishment of crimes against humanity, including through substantive engagement in the resumed session that would be held in April 2024.

37. **Mr. Skachkov** (Russian Federation) said that the resumed session in 2023 had provided delegations with an opportunity to engage in an in-depth exchange of views on the draft articles on prevention and punishment of crimes against humanity elaborated by the International Law Commission. The exchange had demonstrated that delegations held diametrically opposing views on most issues related to the draft articles: they could not reach consensus on any of the 15

draft articles or on the preamble and could not even agree on the definition of the term “crimes against humanity”. The draft articles in their current form were therefore not a good basis for the elaboration of an international convention.

38. Rather than provide a clear definition of crimes against humanity in draft article 2, the Commission had listed disparate acts that failed to give a sense of what a crime against humanity really was. It had provided a similarly deficient description of the subjective elements of crimes against humanity. Furthermore, the list of crimes it had provided was far from exhaustive. For example, it did not include unilateral coercive measures, such as depriving a population of access to food and medicine, whereas the catastrophic consequences of such actions were comparable to those of crimes against humanity.

39. Delegations had continuing concerns over the obligations of States and the jurisdictional thresholds set out in the draft articles. As currently worded, the relevant provisions caused confusion and could lead to numerous conflicts. The draft articles were also excessively detailed, which was problematic in view of the differences between national legal systems and would result in numerous difficulties for national judiciaries.

40. It was unlikely that delegations would agree, given the numerous deficiencies of the draft articles. Unlike some delegations that were urging the Committee to press on with its work on the topic, his delegation valued quality over speed. It looked forward to participating actively and constructively at the next resumed session in the search for solutions that would be acceptable to all, while continuing to support the Committee’s tradition of taking decisions by consensus.

41. His delegation wished to draw attention to other important instruments, such as the articles on the responsibility of international organizations and the draft articles on the expulsion of aliens, which had been dormant for many years. Both were ripe for substantive consideration and could be addressed through the resumed-session format used for the topic of crimes against humanity.

42. **Mr. Wavrin** (France) said that crimes against humanity were atrocious crimes, the perpetrators of which must be held accountable. Yet, unlike for the crimes of genocide and war crimes, there was currently no international convention governing the prevention and punishment of crimes against humanity. A first step to that end had been taken with the adoption of the Ljubljana-The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War

Crimes and other International Crimes – an indispensable tool for cooperation that highlighted the need for progress to be made with respect to the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission. After several years of stagnation, the Committee had been able to discuss the draft articles in April 2023 and to engage, for the first time, in an exchange of substantive views on them. His delegation hoped that, at the resumed session scheduled for April 2024, concrete progress would be made toward the negotiation of a convention based on the draft articles.

43. His delegation fully supported the adoption of such a convention, which would strengthen the international legal framework for combating the most serious crimes. His delegation commended the Commission for its ongoing efforts in the codification and progressive development of international law and would continue to advocate the adoption of a universal convention on the prevention and punishment of crimes against humanity.

44. **Ms. Ajayi** (Nigeria) said that her country condemned crimes against humanity in their totality and called for more concerted efforts to be made to tackle them. The topic of crimes against humanity continued to be of interest to Nigeria because of the devastating impact that those crimes had on their victims and on humanity as a whole. Such acts destroyed families, shattered dreams, displaced persons and had lasting impacts even on survivors.

45. Every responsible Government must therefore put in place structures to fight such crimes to the full extent permitted by international law. Nigeria would continue to make efforts to strengthen its existing laws and mechanisms to combat such crimes, and to collaborate with the international community to ensure that the international legal framework for preventing and punishing such heinous crimes was fully utilized. Accordingly, her Government had established a complex-case work group to address issues relating to crimes against humanity. It was working assiduously to create an electronic case file and evidence database to serve as a repository for such crimes, including terrorism. That database would help prosecutors to build better cases against perpetrators of egregious crimes and to better address impunity. The Government had also appointed investigators and prosecutors as members of serious crimes response teams to address alleged serious human rights violations and other crimes committed within the Nigerian territory.

46. For any meaningful and sustained progress to be achieved, the international community must do more to

ensure equity and fairness in the dispensation of justice and in prosecutions through global mechanisms set up for combating those crimes. Nigeria, which wholeheartedly supported the Rome Statute of the International Criminal Court and would continue to be guided by its principles, called on States that had not yet acceded to the Statute to do so. Her delegation commended the International Law Commission for its draft articles on prevention and punishment of crimes against humanity and for its recommendation for the elaboration of a convention on the basis of the draft articles. It would continue to support open, constructive, and inclusive dialogue that would lead to a consensus at the resumed session scheduled for April 2024.

47. Nigeria supported the provision in draft article 12 that States should take all necessary measures to ensure that complainants, victims, witnesses and their relatives and representatives, as well as other persons participating in any investigation, prosecution, extradition or other proceeding within the scope of the draft articles were protected against ill-treatment or intimidation. Nigeria also welcomed draft article 14, which provided that mutual legal assistance should be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State with respect to investigations, prosecutions and judicial and other proceedings.

48. With regard to draft article 2, on the definition of crimes against humanity, her delegation disagreed with the Commission's decision not to include in the draft articles the reference to article 7, paragraph 3, of the Rome Statute, purportedly on the ground that it was outdated. Nigeria called for transparency and openness in that discussion moving forward. It supported the position of the Group of African States to include slavery and all forms of exploitation as crimes against humanity, because those crimes were not captured in either the Convention on the Prevention and Punishment of the Crime of Genocide or the Geneva Conventions of 1949. Her delegation looked forward to a constructive and collaborative exchange of ideas and views at the resumed session in April 2024 and was committed to working with all other countries to collectively rid the world of impunity for crimes against humanity and to ensure accountability.

49. **Mr. Hernandez Chavez** (Chile) said that the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission and other related initiatives reflected the concern of the international community about preventing and punishing certain especially reprehensible types of conduct, such as crimes against humanity. For that reason, it was necessary to have a robust and effective

criminal justice system that could enable the prevention and punishment of such crimes at both the domestic and the international levels. The draft articles made a clear contribution to the development of international criminal law and reflected the consensus of the international community that certain types of conduct were unacceptable, and must be investigated and punished, with a view to ending impunity.

50. A legally binding instrument developed on the basis of the draft articles would impose on States a number of specific obligations aimed at preventing, investigating and punishing such conduct, including the adoption of domestic laws criminalizing conduct that constituted crimes against humanity, and would provide a broad range of jurisdictional bases for preventing, to the extent possible, the existence of territories where perpetrators of such crimes could escape justice.

51. For those reasons, the draft articles made a vital contribution to the strengthening of international criminal law and also reflected the consensus within the international community as to which types of conduct were considered crimes against humanity. The draft articles should therefore be aligned with the Rome Statute of the International Criminal Court, for example, and the mutual legal assistance initiative. It was therefore important for the concepts and terms used in a potential treaty on crimes against humanity to be consistent with those used in instruments governing inter-State cooperation in the investigation and prosecution of such crimes, in order to avoid duplication of effort or discrepancies between both sets of instruments.

52. Chile welcomed the contribution of the draft articles to the strengthening of international criminal law with a view to establishing individual responsibility for the perpetrators of the most serious crimes for the international community. It welcomed the work undertaken by the International Law Commission on the current topic and on other topics, and believed that due consideration should be given to the texts the Commission developed as well as to its recommendations. Given their quality, the draft articles might serve as the basis for the negotiation of a future convention.

53. His delegation was open to considering other approaches that might be put forward, since it considered that a future convention should enjoy a broad consensus and should be ratified and acceded to by a sufficient number of States. It hoped that the negotiations would result in the adoption of a convention that would be backed by a sufficient number of ratifications and accessions. It also believed that the resumed session scheduled for April 2024 would be held

in the same spirit of constructive dialogue seen at the resumed session held in April 2023.

54. **Ms. Alamri** (Saudi Arabia) said that the decades-long occupation of Palestine had perpetuated the Palestinian-Israeli conflict, which claimed more innocent lives with each new generation. In the light of the tragic events that had occurred since 7 October 2023, as a result of which hundreds of innocent people had died and thousands had been displaced, her delegation recalled its repeated warnings that the situation in the region could be inflamed so long as the occupation persisted, and so long as the Palestinian people were denied their rights, and systematic acts of provocation continued to take place at their holy sites. In coordination with all relevant international and regional actors, Saudi Arabia was doing everything in its power to bring an end to the current escalation. It rejected the targeting of civilians under any circumstances and emphasized the need to comply with international humanitarian law. It consistently supported efforts to achieve a just and comprehensive solution to the question of Palestine that would enable the Palestinian people to exercise their rights.

55. With regard to the draft articles on prevention and punishment of crimes against humanity, her delegation believed that it would not be appropriate 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” 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 international community had not reached consensus with regard to the principle of universal jurisdiction or the exercise thereof, the draft articles should be considered without undue haste, and consensus should be built among Member States. It was important to examine the considerable variance in the approaches taken in the legal systems of Member States 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.

56. **Mr. Tun** (Myanmar) said that the General Assembly had recognized crimes against humanity as being among the most serious crimes of concern to the international community. Accordingly, such crimes should be prevented and their perpetrators punished. The lack of a convention addressing crimes against humanity left a gap in the international legal system that needed to be filled in order to end the culture of impunity for perpetrators. The International Law

Commission's draft articles on prevention and punishment of crimes against humanity were a solid foundation for negotiations on such a convention.

57. The international consensus was that crimes against humanity must be prevented and punished, along with genocide and war crimes. It was understandable at the current stage that there were differing views on some aspects of the International Law Commission's draft articles on prevention and punishment of crimes against humanity as well as concerns over potential abuses and politically motivated applications. However, those concerns should not prevent the process leading to the negotiation of a convention from moving forward. Instead, they should be addressed through inclusive, transparent and constructive dialogue.

58. Such a convention was urgently needed, especially for a nation like Myanmar, where the military operated with impunity. Since the illegal military coup of February 2012, which had been resolutely rejected by the people, the military junta had been conducting a campaign of brutal violence against the people across the country. In its 2022 report to the Human Rights Council (A/HRC/51/4), the Independent Investigative Mechanism for Myanmar had acknowledged that crimes had been committed in Myanmar "on a scale and in a manner that constitutes a widespread and systematic attack against a civilian population". In its 2023 report (A/HRC/54/19), the Mechanism had reaffirmed that "there is strong evidence indicating that serious international crimes are being inflicted against the people in Myanmar" and that "there is also strong evidence that crimes against humanity have been committed, including rape in detention".

59. In a statement delivered before the Human Rights Council on 26 September 2023, the United Nations High Commissioner for Human Rights had laid out three specific military tactics deployed by the illegal military junta to systematically attack the civilian population: airstrikes, mass killings, and burning of villages. On 9 October 2023, at around midnight, the military junta had conducted aerial attacks on the Munglai Hkyet internally displaced persons camp in Laiza, Kachin State, killing 30 civilians, including 13 children, and injuring many others and destroying a school, a hospital, a church and many homes.

60. The international community, particularly the Security Council, must address the military impunity in Myanmar in order to create conditions for a sustainable solution to the current crisis. Given the mounting evidence of atrocity crimes, including crimes against humanity and war crimes, being committed in Myanmar, the Security Council should refer the situation to the

International Criminal Court, as it had done on two occasions in the past, and as the United Nations High Commissioner for Human Rights had repeatedly urged it to do.

61. The National Unity Government of Myanmar had informed the International Criminal Court of its acceptance of the Court's jurisdiction under article 12, paragraph 3, of the Rome Statute as an effort to find justice for the victims. The people of Myanmar urgently needed international legal protection from the military junta's international crimes. The United Nations, in particular the Security Council, should not fail Myanmar; otherwise, the people of country would be left to fend for themselves in their quest for justice and protection from crimes against humanity.

62. **Mr. Saranga** (Mozambique) said that crimes against humanity were among the most serious crimes of concern to the international community and must be prevented in accordance with national and international law. The increasing number of statements made by Member States on the topic at the previous session and the Committee's decision to hold two resumed sessions, in April 2023 and April 2024, with a view to an exchange of substantive views on all aspects of the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission showed the importance of the topic, not only for States as the main subjects of international law, but also for the other members of the international community as a whole.

63. Cooperation among all the members of the international community was required if progress was to be made in the prevention and punishment of crimes against humanity. There seemed to be a consensus that the draft articles provided a good basis for the negotiation of a convention on crimes against humanity, and that the primary responsibility for preventing such crimes lay with States. Nonetheless, the debate on the issue remained inconclusive, with a considerable number of States insisting that a consensus had not yet been reached on many other important aspects of the topic to allow for the development of an international convention.

64. His Government had continued to update its legal framework and to strengthen its institutional capacity to criminalize crimes against humanity by establishing territorial jurisdiction over its nationals as well as foreign nationals; establishing extraterritorial jurisdiction over its nationals if they had not been tried by competent foreign courts; and providing for legal and judicial cooperation and extradition in the context of international cooperation in the fight against crimes against humanity. His delegation would continue its

constructive engagement and collaboration in the negotiations aimed at the adoption of an international convention on the prevention and punishment of crimes against humanity on the basis of the International Law Commission's draft articles.

65. **Mr. Konforou** (Mali) said that throughout its long history, his country had always considered human life to be sacred and as something to be properly respected. The fundamental values and principles of its ancestors had been enshrined in all the successive constitutions of Mali, allowing national cohesion, peaceful coexistence and peace and security to flourish for centuries. Unfortunately, since the military intervention by the North Atlantic Treaty Organization in Libya in 2011, Mali and several countries of the Sahel region had been facing the most odious organized crimes, ranging from terrorism and violent extremism to drug and human trafficking and money-laundering. Those countries had never experienced as many mass killings, refugees and internally displaced persons as was currently the case.

66. To address that difficult and complex situation at the national level, the Government had made it a priority to increase the defence and security forces in order to allow the State to restore its authority across the country. The Government had also adopted a new Penal Code, in which genocide and war crimes were recognized as crimes against humanity. It also confirmed that certain crimes, such as terrorism, could not be subject to any statutes of limitation. The Code also criminalized acts such as slavery, human trafficking, trafficking of migrants and violence against women and children. The Government had also adopted measures at the institutional level, including expanding the powers of the special judicial unit to combat terrorism, transnational organized crime, war crimes, crimes against humanity and the crime of genocide. The National Human Rights Commission was also working to prevent and combat torture.

67. Aware of the transnational nature of organized crime, the Government of Mali remained open to working with all other Governments to formulate an adequate regional and international response. In that connection, Burkina Faso, Mali and Niger had adopted the Liptako-Gourma Charter establishing the Alliance of Sahel States in September 2023, for the purpose of securing their common borders in order to address the challenge of terrorism and related crimes. Mali was also a party to many international legal instruments protecting persons against crimes and abuse. However, despite its willingness and efforts, Mali still faced many challenges, including inadequate human, technical and financial resources, and the fact that judicial processes were often delayed or impeded by insecurity in some

areas of the country. International cooperation therefore remained important.

68. **Ms. Nyakoe** (Kenya) said that the members of the international community had a collective duty to prevent crimes against humanity and to uphold the centrality of accountability in the quest for justice, peace and prosperity. Her delegation commended the International Law Commission for its draft articles on prevention and punishment of crimes against humanity and took note of the Commission's recommendation on the potential final outcome of its work. The draft articles provided a good basis for discussion to strengthen the international framework for the prevention of the most serious international crimes.

69. However, sufficient time must be allowed for a comprehensive analysis of all proposals put forward during the discussion. That exercise should also encompass the related objectives of establishing a framework for States to develop and strengthen their capacities to tackle crimes against humanity and providing the necessary structure for them to engage in international cooperation, starting from within their respective regions. Her delegation would therefore continue examining the Commission's proposals and looked forward to the discussions of the resumed session scheduled for April 2024.

70. *Ms. Lungu (Romania), Vice-Chair, took the Chair.*

71. **Mr. Aron** (Indonesia) said that his country believed in the sanctity of human life, the inviolable dignity of each individual and the timeless tenets of the Universal Declaration of Human Rights. It was therefore resolutely committed to preventing any act that undermined the very essence of human existence. It called on the global community to work tirelessly to prevent crimes against humanity, hold perpetrators accountable and ensure that victims received justice.

72. Indonesia had continuously demonstrated its commitment to prevent and punish such crimes by ratifying the numerous international instruments that sought to achieve that goal and had meticulously integrated them into its legal order. Its new Penal Code contained an article devoted entirely to the criminalization of crimes against humanity, which delineated the defining characteristics of those crimes and prescribed stringent punitive measures for perpetrators. His delegation welcomed the fruitful exchange of substantive views on the draft articles on prevention and punishment of crimes against humanity that had taken place during the resumed session in April 2023, and looked forward to continuing the discussions at the next resumed session in April 2024.

73. **Mr. Sowa** (Sierra Leone) said that his delegation would continue to engage actively and constructively in the resumed session scheduled for April 2024 to exchange substantive views on all aspects of the International Law Commission's draft articles on prevention and punishment of crimes against humanity and the Commission's recommendation that a convention be elaborated on the basis of the draft articles. His delegation welcomed the exchange of substantive views during the resumed session in April 2023, which reflected the collective will of the international community to make progress in the consideration of the substance of the draft articles and the Commission's recommendation.

74. For Sierra Leone, the Rome Statute of the International Criminal Court should be the point of departure for a future convention on crimes against humanity. Any proposals to address gaps and broaden the scope of the prohibitive acts that would constitute such crimes must be in full compliance with the Statute, which was a necessary negotiated compromise amongst States. Although the definition of crimes against humanity in the Statute was considered to largely reflect customary international law, there had been proposals to engage in progressive development in appropriate circumstances, particularly to expand the definition. In that regard, his delegation continued to believe that the list of prohibited acts should be expanded to include, for instance, economic, land and mineral exploitation and environmental degradation. While such expansion would represent progressive development, it might just be a necessity in contemporary times.

75. It was regrettable that, while the Rome Statute identified enslavement and sexual slavery as crimes against humanity, which the Commission had transplanted into draft article 2, it did not contain any provisions concerning slave trade. Given its experience with the prohibitive act of forced marriage and other acts in furtherance of the notion of the so-called bush wife, which were all acts of slavery and slave trade, Sierra Leone had put forward a proposal to amend the Rome Statute to identify slavery and slave trade as crimes against humanity, which ipso facto should also be the case in the draft articles. Slave trade must be included in the list of crimes against humanity in any future convention on the topic.

76. It was equally important for any future convention to provide for the establishment of a monitoring body or mechanism, which could be based on available precedents, including the Human Rights Committee and the Committee against Torture. The body or mechanism should reflect the lessons learned and best practices developed by such bodies in order to lessen reporting

burdens on States. The body or mechanism could be composed mainly of States, although it could also be composed of independent experts serving in their personal capacities, and it might be particularly effective if it were also given a capacity-building and technical assistance mandate.

77. **Mr. Khaddour** (Syrian Arab Republic) said that the Committee's deliberations at the resumed session held in April 2023 had shown that members remained divided, both as to whether there existed a gap in international law with regard to the prevention and punishment of crimes against humanity, and as to whether a draft convention should be elaborated promptly. A large number of delegations had argued that further substantive discussions were needed, and that a cautious and considered approach should be taken. There were still essential differences with regard to most of the draft articles, particularly as to key concepts and States' practical approach to crimes against humanity.

78. As the Committee was meeting, thousands of families in Gaza were being besieged and relentlessly bombarded. Those attacks were widespread and systematic, and therefore met the definition of crimes against humanity. The Israeli killing machine had claimed the lives of thousands of Palestinian civilians, but the heinous, widespread and systematic crimes of Israel failed to shock the consciences of those States whose representatives were hectoring other delegations about the need to codify crimes against humanity. Worse still, those States had unleashed an unhinged, widespread and systematic media campaign to support Israel and portray the situation in the Occupied Palestinian Territory as the result of a unilateral attack carried out by supposed saboteurs or terrorists against a peace-loving State. The campaign was intended to blur the historical record and dismiss the resistance struggle of the Palestinian people against the worst apartheid settler entity in recent history. The Minister of Defence of that entity had recently stated that the Israeli army was fighting "human animals" in Gaza, a barbaric and hateful formulation that betrayed an absence of even the most basic humanitarian values. Such statements were a testament to the criminal means that were being employed to eliminate civilians in the Gaza Strip. What was happening in the Gaza Strip met all the legal criteria for genocide. The intent had been expressed clearly; the Minister's statement gave the Israeli occupation army free rein to eliminate the inhabitants of the Gaza Strip.

79. On 5 October 2023, 80 people had been killed and more than 200 injured in a drone attack on a military graduation ceremony in Homs, in the Syrian Arab Republic. Most of the victims had been family members of the graduates, including a personal friend of his and

that friend's two daughters. On 12 October – only a few hours earlier – the Israeli Air Force had attacked and badly damaged the civilian airports of Damascus and Aleppo. That act of aggression was part of a series of systematic attacks carried out by the occupying entity against civilian facilities and residential areas in the Syrian Arab Republic.

80. One might ask whether, under the current international legal framework, including the draft articles under discussion, those actions were crimes against humanity or merely commonplace events that did not require even condemnation. The victims surely counted as civilians; but it seemed as though a distinction was now being made between good and bad civilians. It should come as no surprise that many self-proclaimed defenders of humanity had failed to condemn the attacks. However, it would be impossible to hold the perpetrators to account under the current international legal framework, including the framework established by the draft articles, simply because they were deemed to be the virtuous kind of criminal, namely the clients of certain influential States. Similarly, in the absence of a comprehensive international convention to define and criminalize terrorism, there were two kinds of terrorist: good terrorists who served the interests of certain States and bad terrorists who undermined them.

81. At the resumed session of the Committee in April 2023, many delegations, including his own, had suggested that the scope of crimes against humanity should be expanded to include terrorism, unilateral coercive measures against civilians, the expropriation of natural resources and agricultural produce, and the exploitation of water as a means to pressure civilian populations. It would not be feasible to make progress towards elaborating a convention on crimes against humanity so long as most of the concerns that had been raised with regard to the definition, characterization and scope of crimes against humanity had not been addressed. The issue of scope was particularly contentious, as new forms of conflict had not been taken into consideration in the current formulation. reflect

82. *Mr. Chindawongse took the Chair.*

83. **Mr. Hitti** (Lebanon) said that it was imperative to prevent and punish crimes against humanity, something which could only be achieved by strengthening the international legal framework. Unlike for war crimes and the crime of genocide, there was currently no legally binding international instrument governing crimes against humanity. It was therefore important to move towards 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 help to fill legal gaps and reinforce the international legal framework. It would also help to strengthen domestic legal systems and inter-State cooperation and send a strong signal to victims and about the fight against impunity.

84. In order for such an instrument to be effective, it would have to be as widely accepted as possible, hence the need for an inclusive process and a substantive dialogue on the draft articles. It was in that spirit that his delegation had supported the adoption of General Assembly resolution [77/249](#), which had set out a framework for a structured and inclusive dialogue on the draft articles and the Commission's recommendation, without prejudging the way forward. While the draft articles constituted a solid basis for discussion, they also contained elements that could be improved or amended. His delegation hoped that the substantive dialogue during the resumed session scheduled for April 2024 would be held in a constructive and productive atmosphere and would lead to real progress.

85. **Mr. Bouchedoub** (Algeria) said that it was essential to prevent crimes against humanity in all their forms and ensure that the perpetrators were brought to justice. 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 references to instruments that were not universal and did not enjoy consensus, such as the Rome Statute of the International Criminal Court, which enshrined 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. In order to reach consensus on the other specific issues, it was essential to use the recognized terms that were enshrined in international conventions and had been adopted by numerous States in their domestic law.

86. The Committee's deliberations in the previous 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 continued to believe that it would be premature for the Committee to take a decision regarding the Commission's recommendation that an international convention be elaborated on the basis of the draft articles, or that a conference of plenipotentiaries be convened for that purpose. Member States should be given sufficient time to examine and discuss the draft articles, in accordance with their

domestic law, and no attempt of any sort should be made to impose points of view that did not enjoy consensus.

87. His delegation would welcome any constructive discussions at the resumed session, to be held in April 2024, with a view to resolving certain ambiguities in the draft articles and converging towards a consensus. 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.

88. Algeria unreservedly supported the Palestinian people, who were experiencing the worst forms of crimes, crimes against humanity and genocide. International organizations must intervene immediately to protect civilians and lift the inhumane siege on the Gaza Strip.

89. **Mr. Panier** (Haiti) said that although the current agenda item was vitally important for Haiti, his delegation would focus its statement primarily on the issue of enslavement, which was intrinsic to the history of Haiti. Crimes against humanity, including enslavement, remained the most serious crimes, which certain ideologies had unfortunately sought to justify by the superiority of one race over another. In addressing the thorny issue of crimes against humanity, Haiti could not overlook the depth and persistence of the scars left by enslavement. Haitians were the living embodiment of a revolution that had seen enslaved men and women rise up against injustice, challenging the biggest colonial powers of the day, to claim their inalienable right to freedom and dignity.

90. Slavery, in all its forms, was one of the biggest betrayals of humanity against itself. It entailed not just physical chains, but also mental and emotional chains that lasted for generations after the last pieces of iron had been broken. Haiti was a living witness, having paid the price of its freedom, not only through the blood shed during its revolution, but also through the socioeconomic and political challenges that had ensued since its independence. The Haitian revolution, which had led to the emergence of Haiti as the first Black republic in the world, had put an end to a centuries-old system of exploitation based on race and racial discrimination. The fight against crimes against humanity must also be a fight for memory, for truth and for justice. Recognizing slavery as a crime against humanity meant affirming that the dignity of the human person remained intangible and inalienable at all times and in all situations. As the descendants of brave

revolutionaries, Haitians were calling on the international community to unite against any form of discrimination, particularly slavery.

91. It was painful to see that Haiti, a nation with an immensely rich history and culture, was often reduced to alarmist headlines in certain international media, which often focused on temporary crises and ignored the lasting and significant contributions of Haiti to the history of the world. The Haitian revolution had helped not just to free Haitians from the tyranny of slavery, but had also sounded the death knell for systems of slavery in the Americas, inspiring freedom movements around the world. The contribution of Haitians to the liberation of South America, where they had fought alongside Simón Bolívar, had been vital for the emancipation of the continent. Yet, Haiti was often depicted only through a prism of disasters, political upheavals and instability.

92. It was undeniable that the primary responsibility for the future of Haiti lay with the Haitian people. However, the world could not overlook the weight of external factors on the country's trajectory ever since it broke the chains of slavery. The challenges it currently faced were, in part, the result of decisions taken two centuries ago, when its aspirations had been punished rather than celebrated. His delegation reiterated its support for the elaboration of a convention based on the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission.

93. **Mr. Mohammed Moussa** (Djibouti) said that his delegation welcomed the draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission. Crimes against humanity represented the darkest episodes of human history which must not be repeated. Decades since the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide and the Geneva Conventions of 1949, there was still no universal convention on crimes against humanity. The draft articles were intended to close that gap. Nonetheless, the resumed session of the Committee held in April 2023 had been marked by deep disagreements over the content of the draft articles. Those disagreements could constitute a veritable roadblock to the adoption of an international convention on the prevention and punishment of crimes against humanity, even though the international community condemned such abuses wherever they were committed in the world.

94. It was the responsibility of each Member State to prevent any act that might be considered a crime against humanity and to combat impunity. Seventy-five years since the adoption of the Universal Declaration of

Human Rights, it seemed important to recall that the obligation of all Member States to protect the right to life, liberty and security of person was set forth therein. That obligation had now been incorporated into almost all regional and global legal instruments on the protection of human rights. It was therefore vital that the discussions around the issue be depoliticized and be kept in the legal domain. In that process, the cultural sensitivities, particularities and perceptions of each player must be respected in order to arrive at a common, indisputable interpretation and application. Having the international community speak as one on the issue of mass crimes was not meant to create one single line of thought, but only to ensure that all members of the international community worked together to achieve a common goal. They must harmonize their interpretations of crimes against humanity in order to block off all escape routes for perpetrators.

95. His delegation was concerned at the devastating situation in Palestine, which stemmed from the international community's inability to state what the law was, thus leaving the victims with no real international protection, regardless of the side to which they belonged. It was regrettable that there were civilian victims on both sides, but the issues that had led to the current situation could not be overlooked. The legal origins of such situations must be borne in mind if a convention against crimes against humanity that would be viable for generations to come were to be developed. For several decades, Palestine has been under colonial rule and all the human rights of its people had been violated.

96. His delegation reaffirmed its consistent and irrevocable position of support for the Palestinian people in the achievement of their aspirations and the upholding of all their legitimate rights, including the right to establish an independent State with East Jerusalem as its capital. Djibouti called for an immediate cessation of hostilities, the lifting of the blockade against the Gaza Strip and the immediate delivery of humanitarian aid. The world was dealing with a humanitarian bomb which, if not defused through the rules of international law, would explode and the consequences thereof would push the international community even further back from the goal of adopting an international convention against crimes against humanity that was unanimously accepted and endorsed.

97. **Mr. Balobaid** (Yemen) said that it was impossible to speak of crimes against humanity without calling to mind the plight of the Palestinian people over the previous 75 years. It was essential to establish an independent State of Palestine, with East Jerusalem as its capital, within the borders of 4 June 1967, in

accordance with the agreed terms of reference, the resolutions of the United Nations, the Arab Peace Initiative and international law. His Government condemned the killing of civilians and the collective punishment inflicted on the Palestinian people in Gaza. The events of the previous week were a result of the continuing occupation of Palestine and the imprisonment of thousands of Palestinian families. The occupying Power was committing systematic crimes against humanity in the Gaza Strip and elsewhere in the Occupied Palestinian Territory. A total of 1,417 people, including 447 children, had been killed to date. The priority must be to stop the bloodshed, protect civilians, and put in place humanitarian assistance corridors. The occupying Power must fulfil its responsibilities under the Geneva Conventions by protecting civilians and civilian infrastructure and by granting access to humanitarian aid. The scenes of the previous few days stemmed from a failure to engage in earnest with the question of Palestine; the international community had been content to manage the conflict instead of working towards a just and comprehensive solution.

98. **Mr. Shibl** (Libya) said that the occupying entity was bombarding the Gaza Strip and cutting off the supply of food, fuel, electricity and water in an act of collective punishment. Such actions amounted to war crimes and were inconsistent with the most basic principles of international humanitarian law. All Member States must uphold international law and international humanitarian law and ensure that the perpetrators were held to account.

99. **Mr. Bamyia** (Observer for the State of Palestine) said that after the Second World War, the international community had come together to develop rules to prevent the recurrence of such tragedies. The ability to uphold those rules depended on their consistent, just and equal application, without discrimination or double standards. It should not be acceptable for some civilian lives to be considered worthy of being saved, while others were not. There would be no human rights law if discrimination on the basis of religion, race or national origin was accepted; there would be no international humanitarian law if the principles of distinction and humanity were abandoned; there would be no criminal law if crimes were somehow justified; and there would be no Charter of the United Nations if its provisions were to be rewritten in order to accommodate the individual interests of each State.

100. It was difficult for his delegation to be delivering a statement in the Committee while the Gaza Strip was being bombed into oblivion; 1,500 Palestinians having been killed in the previous four days, more than 500 of them being children and over 300 of them being women.

His delegation wondered whether there was anything in international law to justify the targeting or indiscriminate killing of civilians; whether anyone could explain why it was acceptable to kill entire families or any number of members of one family, including grandparents, parents, children and grandchildren; and whether such actions could be termed anything other than the targeting or indiscriminate killing of civilians.

101. The official representatives of a State had put out videos or gone on television to announce a siege on two million people, saying they would cut off – and indeed had cut off - electricity, fuel, water and food supplies to those people. The Israeli Minister of War had announced publicly that his country was fighting “human animals” and was therefore acting accordingly; Israeli generals had been saying that the Palestinians in Gaza had asked for hell, and hell they would receive. Indeed, hell was being unleashed on the Palestinians in the Gaza Strip. Some people found it difficult to reject such action, to call for an immediate end to the bloodshed and the killing, and to declare that such a siege was unlawful. It was difficult for some people to say that the siege should be lifted, that there should be unimpeded and immediate delivery of humanitarian aid, that civilians should be protected, and that international law should be upheld. The fact that it was difficult to do those things when the people being killed were Palestinians called into question the application of the rules developed by the international community.

102. There had already been many accusations of double standards even before the current events. There were no winners when those accusations were confirmed in such a glaring manner on international screens around the world. People were providing complex answers when asked very simple questions, in order to avoid declaring what the law stated. It was hard to imagine what would happen if the roles were reversed; what the reaction would be if a representative of the State of Palestine delivered a statement to the Committee justifying the killing of civilians; if the representative treated Israelis as “human animals”; if the representative told the Committee that collective punishment in that case was accepted; or that even though civilians were being killed, it was their fault or the fault of somebody else, and that the people dropping the bombs were actually the people on the receiving end.

103. The fact that it was even hard to acknowledge the humanity of Palestinians in those circumstances was unacceptable. The Palestinian people had lived through very difficult circumstances, having endured 75 years of dispossession, 56 years of military occupation and 17 years of blockade of the Gaza Strip. The Palestinian

people could not be used to justify the mass killing of civilians; they could not be used to justify the violation of the rules of international law. When it came to the people on the other side, however, things were different. When they were the ones being killed, the rules were different. There was only one explanation: that was a supremacist, racist way of looking at things. The Palestinian people believed in the uniformity of rules and subjected themselves to them, but they also expected others to do the same. They did not deny the rights of others, but also could not find it acceptable that their rights were being denied and had been denied for so long. They did not deny the humanity of others, but did not find it acceptable that their humanity was being denied.

104. His delegation was calling on the international community because, once again, Palestinian families in Gaza were going to sleep in darkness and under the bombs, not knowing whether hospitals would be able to operate; and because journalists and ambulances and houses and entire neighbourhoods were being targeted and there were no assurances that there would be water or food for the people. The international community should not start accepting starvation as a weapon of war or collective punishment as a method of war; or justifying indiscriminate killing as a method of war. His delegation had one simple message: justice, not vengeance. The Israeli Prime Minister had spoken of mighty vengeance, but that was not the law. His delegation had come to the Committee with a message: international law and peace were the only way out of the darkness.

105. **Archbishop Caccia** (Observer for the Holy See) said it was regrettable that since the Committee’s last consideration of the current agenda item, numerous crimes against humanity had continued to be committed, causing unspeakable suffering and violating human dignity. Urgent and effective action was therefore needed to prevent and punish such crimes. Although said crimes were prohibited under existing customary law, a universal, multilateral treaty that would codify that law and promote international cooperation for the prevention and punishment of those crimes was needed.

106. The Holy See was of the view that any definition of crimes against humanity must be rooted in existing customary international law. 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. For States parties to the Rome Statute of the International Criminal Court, in particular, maintaining a consistent definition would ensure legal coherence and strengthen complementarity. Conversely, attempting to

modify the already agreed definition, over objections by States, would not only undermine efforts to achieve consensus, but would also undermine the coherence and effectiveness of international law.

107. In that regard, his delegation did not agree with the Commission's decision not to include in its draft articles on prevention and punishment of crimes against humanity 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. In addition, 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*. It was indeed imperative to maintain an accurate view of human nature when addressing crimes that disproportionately affected women and girls, such as rape, sexual slavery and prostitution.

108. In any efforts to prevent and punish crimes against humanity, it should be ensured that the principle of complementarity and State sovereignty were respected and that interference in the internal affairs of States was avoided. Any new convention should therefore follow the well-established precedents of other crime-prevention treaties, building upon the duty of States to prosecute crimes within their borders and to cooperate with each other in extraditing perpetrators and providing assistance to victims. The new Convention should also ensure that the victims have the opportunity to seek justice and to have their voices heard. In that regard, the Holy See welcomed draft article 12, paragraph 2. In addition, the future Convention should encourage assistance to fragile or weak judicial and law enforcement systems.

109. Moreover, adequate national and international measures to facilitate judicial cooperation were needed in order to effectively prevent and punish crimes against humanity. His delegation therefore welcomed draft article 14, which dealt with mutual legal assistance. It also supported draft article 5, on the principle of *non-refoulement*, which stipulated that no person should be returned to a place where he or she would be in danger of being subjected to a crime against humanity. Similarly, no person should be extradited to a jurisdiction where he or she might be subject to torture or the death penalty.

110. Lastly, it was necessary to reflect on the interaction between the draft articles and the recently concluded Ljubljana-The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against

Humanity, War Crimes and other International Crimes. While the Convention, agreed upon by a group of willing States, was significant, it could not be a substitute for a universally accepted consensual legal instrument crafted under the auspices of the United Nations.

Statements made in exercise of the right of reply

111. **Ms. Bhat** (India) said that, at the previous meeting, the representative of Pakistan had made some unsolicited remarks that impinged on the domestic affairs and sovereignty and territorial integrity of India. Her delegation dismissed and condemned those frivolous remarks with the contempt that they deserved. The entire union territory of Jammu and Kashmir, and Ladakh, including the areas currently under the illegal occupation of Pakistan, was and remained an integral and inalienable territory of India. No amount of rhetoric or propaganda from any country could deny that fact. The desperate and deliberate attempts by Pakistan to peddle falsehoods and its habit of abusing the sanctity of multilateral forums deserved the collective contempt of the international community, and perhaps sympathy as well.

112. **Mr. Musayev** (Azerbaijan) said that the statement made by the representative of Armenia showed that he had no knowledge of the International Law Commission's draft articles on prevention and punishment of crimes against humanity and of the functions of the Committee on the topic under consideration. It was ironic that the representative of Armenia, a country that bore responsibility for the aggression unleashed against Azerbaijan, committing the most serious crimes during the conflict and carrying out ethnic cleansing on a massive scale, would talk enthusiastically about international justice. That Armenia was liable for such grave offences, including crimes against humanity, was well documented not only in the official investigation in Azerbaijan, but also in numerous independent and impartial sources, including in documents of international organizations and reports of eminent international lawyers, foreign journalists, human rights advocates and international non-governmental organizations. It was notable that Armenia not only refused to prosecute and punish those responsible for atrocity crimes and to offer an appropriate remedy or redress for its breaches, but also venerated and glorified the perpetrators of such crimes as national heroes and promoted them to the highest political and military positions in the country.

113. The reliance of Armenia on the biased and pseudo-expert opinion of Mr. Ocampo, the former Prosecutor of the International Criminal Court, could in

no way be a source of proof of imaginary acts and their consequences. As pointed out in the letter dated 28 August 2023 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General (A/77/1008), that so-called opinion was a fundamentally flawed exercise in legal reasoning, as its oversights or omissions did not reflect the methodology of a comprehensive, independent and fair-minded expert report. It presented a patently incomplete account of the relevant factual and legal context, failed to undertake a rational and balanced analysis of the available evidence and mischaracterized the proceedings in the International Court of Justice. It was noteworthy that the representative of Armenia had quoted an incompetent opinion of a person with a discredited reputation in an attempt to impose its fabricated narratives.

114. The common feature of all actions that Azerbaijan was compelled to take in response to the unlawful use of force and terrorist activities by Armenia was their compliance with the Charter of the United Nations and international law. The actions that had been taken on 19 and 20 September 2023, which Armenia groundlessly called military attacks against the peaceful population, were in fact local counter-terrorism measures taken by Azerbaijan on its sovereign soil in the Karabakh region, in full accordance with the rights and responsibilities vested in States under the Charter and international law and in strict compliance with international humanitarian law.

115. The allegations of the representative of Armenia about the civilian casualties or ethnic cleansing resulting from those measures contradicted even the pronouncement made by that country's own Prime Minister, who had stated on 21 September 2023 that rumours about mass casualties among the civilian population were not true, and that there was no direct threat to the civilian population. The claims voiced by the representative of Armenia had been effectively refuted also by United Nations officials who had visited the region. On 2 October 2023, the United Nations mission that had visited the Karabakh region of Azerbaijan a day earlier had reported that it had seen no damage to civilian public infrastructure, including hospitals, schools and housing, or to cultural and religious structures, and had not come across any reports, neither from the local population interviewed nor from the interlocutors, of incidents of violence against civilians following the ceasefire.

116. Furthermore, the representative of Armenia had made selective and inaccurate comments in respect of the measures indicated by the International Court of Justice. For example, in his comments, he had failed to

mention the measure indicated by the Court at the request of Azerbaijan on 7 December 2001, in which it had ordered Armenia to take all necessary measures to prevent the incitement and promotion of racial hatred, including by organizations and private persons in its territory targeted at persons of Azerbaijani national or ethnic origin. Against that background, the delegation of Armenia should not lecture others about principles, values and norms which its Government had consistently disregarded and opposed; rather, Armenia should focus on respecting its own international obligations, engaging faithfully in normalizing inter-State relations and building peace in the region.

117. **Mr. Cappon** (Israel) said that he had personally had to leave the discussion earlier because he had received photographs and evidence of the massacre in the south of Israel, marking one of the hardest moments of his life. He had had to review the photographs and evidence just a few hours previously and many of the bodies had not even been recognizable. Nonetheless, he wanted everyone in the world to see what Israelis had been witnessing since the previous Saturday. He was convinced that every human being who saw those photographs of intentionally and brutally burned and desecrated bodies of babies would never try to compare the two sides, and those who continued to do so must ask themselves who they were, what was their moral compass, and what were their values.

118. Those who had listened carefully to the statement delivered earlier by his delegation would have noticed the absence of two words: Palestinian Authority. His delegation had directed its criticism at the genocidal terror organization Hamas, which had committed grave violations of international law and openly aimed to annihilate the State of Israel. It was shocking that the representative and supporters of Palestine had chosen not to condemn, in a loud and clear voice, one of the most brutal and cruel terrorist organizations in the region. Israel and its supporters were different. They expressed their condolence for all Palestinians who had been living under the brutal rule of Hamas over the past 16 years. They felt for the Palestinians who were being put in harm's way, and were being used as human shields by Hamas and its terrorist allies. They did not intend to equate the Palestinian Authority with Hamas, but it was the decision of Palestine and its supporters to support and not to condemn in an unequivocal way the violation of international law by Hamas. As Israel had emphasized just a week previously, even before all the horror had rained down upon it, terrorism was terrorism, and there could be no justification whatsoever for terrorist acts. Any alleged so-called root causes of the

prolonged conflict were simply irrelevant. There was no justification for the brutal murder of babies in their beds.

119. It was regrettable that all Member States could not collectively agree on that fundamental moral principle. Israel was in a war with a terrorist organization in the Gaza Strip. Hamas had started the war and Israel was preparing for a prolonged military response to remove the threat posed by that organization. Hamas was the ruler of the Gaza Strip, controlling all aspects of life there. Hamas was behind the attack and it would be held accountable for the results of those events. The leadership of Hamas bore full responsibility for the current deterioration and for the actions that Israel must take in response. Israel would do everything necessary to protect its citizen and its territory. It was not driven by revenge. It was defending its citizens and maintaining security in its region. It was driven by the deep moral conviction that the situation in the Gaza Strip needed to change, not only for the children on the Israeli side, but also for the Palestinian children.

120. Israel and its supporters could find a place in their hearts to mourn the loss of innocent lives, all innocent lives, because they were human lives. That was the difference between Hamas and its supporters and Israel and its supporters. Israel called upon the Palestinian representatives and their supporters to choose to do the right thing and not to align themselves with that genocidal terrorist organization and to condemn in a loud and clear voice its brutal massacre and grievous violations of international law.

121. **Mr. Bamya** (Observer for the State of Palestine) said that he wondered how the representative of Israel would feel if the Palestinian Government had killed Israelis and then presented its condolences to them, indicating that it was someone else who was responsible for the killings. The representative of Israel had also said that there was no justification for the brutal murder of babies in their sleep. However, that they had been killed by bombs from the air did not change the fact of their dying in their sleep. He had said that everyone should take full responsibility for their actions, but the Palestinian Government had been clear, even in the darkest of hours: the Palestinian people rejected the killing of civilians, all civilians, without distinction.

122. The Palestinian people had legitimate aspirations; they were being denied their rights. They were trying to exercise those rights and fulfil their aspirations by peaceful means, living by the principle of non-violence, regardless of the violence that had been unleashed by Israel against them. Those were not easy choices. It was never easy for people to make the right choices when they were being killed. But it was for moments like the

current one that rules were put in place. If the rules were applied solely in times of peace, then they would be irrelevant. They were elaborated precisely to prevent States from acting the way Israel was.

123. The assertion by the representative of Israel that Israel would do everything necessary to protect its citizens raised a number of questions: if Israel considered that war crimes were necessary, would such crimes become legitimate and lawful? If it considered that crimes against humanity were necessary, would those crimes become legitimate and lawful? If it considered that besieging two million Palestinians and bombing entire neighbourhoods were necessary, would those actions become lawful?

124. It was not for Israel to make such calls. It was not for Israel to determine what the law said. Accordingly, the State of Palestine expected other countries to uphold the law, to ensure that nobody was blinded by the pain or the loss, or the suffering, or the anger or the sense of vengeance, because all peoples might have reason to be so inclined one day or another. The Palestinian people had had reasons to do so every day, for the past 75 years. They could not be told that they were not allowed to express their pain, suffering, loss and anger by killing civilians, only for them to see the world – or rather some in the world, as they had heard many messages of assistance which they saluted and hoped that the assistance would come in time to save lives – explain that the Israelis were justified to kill Palestinian civilians.

125. His delegation was not asking Israel to mourn, or to present condolences for the death of Palestinians. It was asking Israel to stop killing them. The message from the Palestinian authorities to the Palestinian people had always been to choose the path of peace, even in the darkest of hours. That message had long been heeded, despite the difficulties.

126. The representative of Israel had said that he had not pronounced the word “Palestine” in his statement, but that was because his Government did not recognize Palestine. The representatives of the State of Palestine had chosen the right path by being present at the United Nations, by saying what they were saying, by doing what they were doing, and by trying to find a peaceful way to uphold the law and the resolutions of the United Nations. Palestine recognized Israel, but Israel did not recognize Palestine. The current Government of Israel had said that it would never allow the independence of Palestine, nor the freedom of the Palestinian people. It was not the Government of Palestine that was bombing Israeli cities. It was the Government of Israel that was bombing Palestinian cities.

127. The representatives of the State of Palestine were not at the United Nations to justify the killing of anyone. They were there to call for protection of all civilians and to ask for the law to be applied, not for reasons to continue violating the law. They were not asking that any rights be denied, only that the rights of the Palestinian people be upheld.

128. Some delegations had asked his delegation to understand that emotions were running high in their capitals and that there were domestic political difficulties that should be taken into consideration. However, those delegations seemed to forget that emotions were running just as high in Palestine. The killing of 1,500 people in four days could not be explained away by domestic political difficulties. The State of Palestine was expected to be non-violent and to respect the law, yet Israel was expected to do something different, and was being encouraged to decide how to respond. Again, the parties would have time to examine each other's choices in the days to come, but the current priority should be to stop the bloodshed.

129. His delegation called on all those who had not been able to call for a ceasefire so far or for an end to the assault on the Palestinian people in the Gaza Strip to do so. Whether they did so privately or publicly was immaterial. They just needed to do it. All those who had been silent about the siege imposed on the Palestinian people should speak out now. They had to act now, to ensure that the siege was lifted so that humanitarian aid could be delivered. Some countries that had said one year earlier that such Israeli actions were horrific war crimes and acts of terrorism were now trying to say that the actions represented some form of right to self-defence. Yet, there was no right to self-defence that allowed for the massacre of civilians. There was no right to self-defence that allowed for a people to be besieged and starved. There was no right to self-defence that allowed for the killing of entire families.

130. **Ms. Ijaz** (Pakistan) said that her delegation was obliged to exercise its right of reply in response to a delegation that was a chronic violator of international law and that continued to make misleading and erroneous assertions about the Indian illegally occupied Jammu and Kashmir. Jammu and Kashmir was an internationally recognized disputed territory and not a so-called integral part of India, nor was it a domestic matter of India. Repeating a wrong position would not make it acceptable at any point or in any forum. In all its resolutions on Jammu and Kashmir, the Security Council had decided that the final disposition of the territory should be determined by its people through a plebiscite supervised by the United Nations. India had accepted those resolutions and was bound to comply

with them in accordance with Article 25 of the Charter. According to the resolutions, India had no right to take any unilateral action to change the status of the territory.

131. India was currently shamelessly crushing the legitimate request of the people of Kashmir for self-determination with an occupation army of 900,000 troops. Since 1989, over 100,000 Kashmiris had been killed and a systematic colonial project was under way and the tale of atrocities was continuing. Instead of crying foul all the time, if India had any respect for international law and any moral courage, it should end its reign of terror, withdraw its troops and let the people of Kashmir freely decide their future in accordance with the resolutions of the Security Council.

132. **Mr. Galystyan** (Armenia), speaking in response to the comments made by the representative of Azerbaijan, said that the Committee was once again witnessing a disturbing case of a Member State attempting to justify actions that had led to an ethnic cleansing, and doing so during the debate on crimes against humanity. Something was profoundly wrong with any combination of words and sentences that sought to justify the cleansing of a territory of its Indigenous population. The more than 100,000 people of Nagorno-Karabakh were currently displaced. Regardless of how the delegation of Azerbaijan tried to frame and describe the event that had led to that mass displacement, the result was the same: a territory had been cleansed of its entire population. Facts could not be fought with narratives.

133. As to the false accusations and historical manipulation brought by the delegation of Azerbaijan as justification for the current atrocities, it was worth recalling that historical grievances were not a justification, but only one of the narratives used by perpetrators to create conditions that led to mass atrocities. That was precisely why a new convention on the prevention and punishment of crimes against humanity was needed and why the international toolbox to end impunity for perpetrators and bring them and their supporters and enablers to justice had to be strengthened.

134. **Mr. Musayev** (Azerbaijan) said that there was nothing surprising about the groundless and unethical comments made by the representative of Armenia at the current meeting. His allegations had once again confirmed eloquently that such notions as international law, the rule of law and justice were alien to Armenia. Rather than listen carefully to the statement of the representative of Azerbaijan, the representative of Armenia had preferred to read a text written in advance that contained the standard set of false narratives. For example, the representative of Armenia had not made

any comments about the words of the Prime Minister of Armenia, who had said that rumours about mass casualties were not true, nor about the findings of the United Nations mission that had visited the region on 1 October 2023.

135. Instead, the representative of Armenia had made claims and allegations at the core of which was an obvious attempt to conceal old misdeeds, hate crimes and undisguised racist policies. It was the President of Armenia who had invented the concept of ethnic incompatibility; it was Armenia that had become uniquely monoethnic and had methodically and systematically pursued a policy of erasing any traces of other cultures in the territories under its control. It was Armenia that was liable for numerous war crimes, crimes against humanity and acts of genocide. It was in Armenia where terrorists, war criminals and even Nazi generals were national heroes. Considering the claims made by Armenia at the current meeting, it was critical to ensure, for the sake of truth, peace and well-being, that the intentions of those falsifying history, sowing dissension, misinterpreting international law and trying to conceal their own responsibility for the most serious crimes never succeeded.

136. **Mr. Galystyan** (Armenia) said that the repetitive comments made by the representative of Azerbaijan were in no way a response to the comments made by the representative of Armenia. They only showed that the blockade of Nagorno-Karabkh was simply a method of warfare and military aggression against a population that was already experiencing an acute shortage of food and essentials. The opening of a blockaded corridor for one-way use for the population to leave was part of a premeditated and planned ethnic cleansing. Those were all facts.

137. It was also a fact that the United Nations mission had visited Nagorno-Karabkh, for first time in history, at a time when it had already been cleansed of its ethnic Armenian population. The European Parliament, on 5 October 2003, and the Parliamentary Assembly of the Council of Europe, on 12 October 2023, the day of the current meeting, had both adopted resolutions in which they not only condemned the aggression by Azerbaijan against Nagorno-Karabkh, but also stated clearly that the mass displacement of the entire population had been a direct result of the actions of Azerbaijan. Regardless of the pretexts, there was not and could not be any justification for an ethnic cleansing.

138. **The Chair** recalled that resolution [77/249](#), adopted the previous year, had already established the pattern of work for the seventy-eighth and seventy-ninth sessions, and that the inclusion of the agenda item in the

provisional agenda of the seventy-ninth session of the General Assembly had already been anticipated in paragraph 9 of that resolution. Accordingly, there was an understanding among delegations that there was no need for a resolution to be adopted at the current session on the agenda item.

139. In accordance with paragraph 4 of resolution [77/249](#), the Sixth Committee would resume its session for six days, from 1 to 5 April and 11 April 2024, in order to exchange substantive views, including in an interactive format, on all aspects of the draft articles on prevention and punishment of crimes against humanity, and to consider further the recommendation of the International Law Commission contained in paragraph 42 of its report on the work of its seventy-first session for the elaboration of a convention by the General Assembly or by an international conference of plenipotentiaries on the basis of the draft articles. The programme of work for the resumed session had been agreed on earlier in the year and was available on the website of the Committee.

140. Finally, he had been requested by the Secretariat to remind delegations that, pursuant to paragraph 6 of resolution [77/249](#), States were invited to submit, by 1 December 2023, written comments and observations on the draft articles and on the recommendation of the Commission. A report by the Secretary-General containing a compilation of the comments and observations received would be prepared for the following year's session of the Committee.

The meeting rose at 6.10 p.m.