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Chair: Ms. Ponce (Vice-Chair) . . . . (Philippines)
later: Mr. Luna (Vice-Chair) . . . . (Brazil)

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In the absence of Mr. Biang (Gabon), Ms. Ponce (Philippines), Vice-Chair, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda item 86: The rule of law at the national and international levels (*continued*) (A/73/253)

1. **Mr. Bawazir** (Indonesia) said that the rule of law was at the centre of multilateralism, since there could be no meaningful international relations without it. His delegation appreciated the capacity-building and technical assistance provided by the United Nations to support States in upholding the rule of law at the domestic level. Such assistance must be accessible, especially to developing and least developed countries; it must also be provided in line with their needs and with their consent.

2. There was no agreed definition of the rule of law. Even the Charter of the United Nations did not make a single reference to the rule of law; however, it was essential to agree that the principles expressed in the Charter constituted a body of standards considered as the rule of law. Among the key principles of the rule of law were the supremacy of law, equality before the law, accountability to the law, fairness in the application of law, separation of powers, participation in decision-making, legal certainty, avoidance of selectivity and double standards, transparency in decision-making and accessible legal remedies. Those should be the basis of the Committee's discussions and the reporting of the Secretariat.

3. As stated in the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, the rule of law applied to all States equally, and to international organizations, including the United Nations and its principal organs. Discussion of the rule of law at the international level would have a meaningful impact if it reflected that vision of the rule of law, particularly with a view to compensating for the absence of a balance of power at the United Nations. It was the international community's responsibility to strive for the application of rule of law principles in decision-making at the United Nations, particularly in the case of decisions that were legally binding on Member States, because the primary goal of the rule of law was to prevent the misuse of political power. Hence Member States needed to make use of the capacity-building and technical assistance provided by the United Nations to address their problems in giving effect in domestic law to United Nations instruments, particularly Security Council resolutions. The outcomes should be reflected in the annual report of the Secretary-General on the rule of law.

4. The rule of law was threatened in societies where conflict, atrocities and oppression were prevalent. It was impossible to discuss the rule of law without reference to the question of Palestine, which had been before the United Nations for 70 years, under various agenda items, and had been the subject of more than 80 Security Council resolutions, but was still unresolved. Palestine was definitely the litmus test for the rule of law at the United Nations.

5. At the national level, his Government had been engaging with non-governmental institutions, including universities, to disseminate international law through workshops, seminars and other training. Earlier in 2018, Indonesia had enacted a revision of its counter-terrorism law, combining a hard and soft approach to terrorism as a way of implementing various international counter-terrorism conventions and Security Council resolutions.

6. His delegation disagreed with the statement in paragraph 80 of the Secretary-General's report (A/73/253) that the death penalty was incompatible with fundamental tenets of human rights. Such an assumption was misleading, inconsistent with the objective of the report and outside the purview of the agenda item under discussion. It was also incompatible with the prevailing principles of international law, since the 1966 International Covenant on Civil and Political Rights recognized the legality of applying the death penalty. That issue was an inalienable component of the legal sovereignty of a State. The Secretariat should be more focused in preparing future reports under the current agenda item.

7. **Mr. Khoshroo** (Islamic Republic of Iran) said that multilateralism and collective security arrangements were major achievements of the United Nations system, but those achievements were now under attack. Unilateralism, a pressing challenge for the rule of law at the international level, had crystallized in the form of withdrawals from international treaties and protocols; withdrawals from important agencies; trade wars; the imposition of illegal extraterritorial sanctions; and other wrongful acts that challenged the foundations of international law and the international legal order.

8. For the first time in the history of the United Nations, and with total disregard for Article 25 of the Charter, the United States of America, a permanent member of the Security Council with veto power, was penalizing nations throughout the world, not for violating a Security Council resolution, but for abiding by it. On 8 May 2018, the United States Administration had withdrawn from the Joint Comprehensive Plan of

Action, which had been the culmination of more than a decade of negotiations and diplomacy and was incorporated into Security Council resolution 2231 (2015). The United States was now targeting the countries that had continued their economic ties with Iran in accordance with that resolution, which underlined that the Plan of Action was conducive for promoting and facilitating the development of normal economic and trade contacts and cooperation with the Islamic Republic of Iran and called upon all Member States to support its implementation and to refrain from actions that undermined it. By threatening revenge against those countries, it was weaponizing its economy and currency, thereby abusing the international financial system, with its drastic dependence on the United States dollar. Needless to say, those acts ran counter to well-established principles of international law, including the equal sovereignty of States, independence and non-intervention in the internal affairs of other States.

9. Such a serious threat to the Charter and international relations needed the swift and robust reaction of the international community. Each and every member of the community of nations had a duty to stand up against the wrongful acts of the United States and its contempt for the rule of law in international relations. There was no precedent for a situation in which a permanent member of the Security Council was asking other States to violate a Security Council resolution. If the international community were to allow that wrongful act to become a precedent, it would have to face the consequences. Those were fundamental questions that had nothing to do with the Joint Comprehensive Plan of Action. The General Assembly should take action in support of the primacy of the rule of law and multilateralism and stand against a Member State that was coercing others to disobey international law.

10. One of the primary goals of the United Nations, as stated in the preamble to the Charter, was to establish conditions under which justice and respect for international obligations could be maintained. The International Court of Justice was rightly placed to help achieve that goal. The Islamic Republic of Iran, in an effort to defend its legitimate rights, had chosen to have recourse to the International Court of Justice. On 16 July 2018, it had filed an application together with a request for provisional measures before the Court to protect the rights infringed as the result of the reimposition of sanctions previously lifted under the Joint Comprehensive Plan of Action. On 3 October 2018, the Court had issued an injunction against the United States Government's illegal move to restore unilateral sanctions against Iran. The Court's unanimous order was another clear testament to the illegality of the sanctions imposed by the United States on Iran, its people and its citizens.

11. The Court had reiterated that the United States was obliged, under its international commitments, to remove the obstacles created as a result of its actions and the illegal decisions made upon its withdrawal from the Joint Comprehensive Plan of Action, including the impediments to Iranian trade which had emerged in certain domains. The Court had also obliged the United States to ensure that it would grant the necessary licences for cases specified in the court order and that it would handle relevant payments and other transfers of funds. Confirming Security Council resolution 2231 (2015), the Court had recognized the irreparable harm that the United States had caused Iran and its international business relations and had rejected the efforts by the United States Government to dismiss the Court's jurisdiction and shirk its legal responsibilities.

12. Just hours after the issuance of provisional measures by the Court, the United States Government, instead of complying with a binding decision of the main judicial organ of the United Nations, had once again chosen to withdraw: in that instance, from the 1955 Treaty of Amity, Economic Relations and Consular Rights as well as the 1961 Optional Protocol to the Vienna Convention on Diplomatic Relations, concerning the Compulsory Settlement of Disputes, and had announced that the United States would review all international agreements that could expose it to a binding decision by the International Court of Justice. It had done so to safeguard itself from the consequences of its illegal actions. It was obvious that its withdrawals had no legal effects.

13. His delegation took note of the report of the Secretary-General (A/73/253). It welcomed the support provided by the United Nations to Member States and commended the role of the Rule of Law Unit in facilitating coordination between different parts of the United Nations system and engagement with Member States in providing technical assistance. The report alluded to controversial issues, such as the commencement of the work of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 and the moratorium on the death penalty. However, it failed to address the important findings which the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights had submitted to the General Assembly, although those findings fell within the scope of the report.

14. Last but not least, it should be emphasized that each nation had the sovereign right to shape its own model of the rule of law and administration of justice, based on its specific traditions, needs and requirements, and that there was no single model for the development of the rule of law. National legislation must not serve as a tool for unilateralism and violate the basic principles of international law or the sovereign rights of other States. The waiving of State immunity using an unsubstantiated legal doctrine that the international community did not recognize was an example of such a wrongful act. The United States had illegally, and in flagrant violation of international law, confiscated billions of dollars of assets of the Government and Central Bank of the Islamic Republic of Iran on the basis of rulings of United States courts. A public hearing on the case concerning *Certain Iranian Assets (Islamic Republic of Iran v. United States of America)* was under way in the International Court of Justice and would continue until 12 October 2018.

15. The challenges to the rule of law were deeply rooted in unilateralism, disregard for international law, foreign occupation and disrespect for the common interests of the international community as a whole. Reversing those trends could be considered a first step toward achieving a rules-based international order.

16. **Mr. Suan** (Myanmar) said that the rule of law was essential to every nation and institution for maintaining peace and stability, promoting development in line with the Sustainable Development Goals, preventing conflicts and protecting human rights. All countries, regardless of their size and population, power and wealth, must strictly observe the cardinal principles of the United Nations and international law in the conduct of international relations. Universally established norms such as respect for sovereign equality and territorial integrity, non-interference in the internal affairs of other States, the obligation to refrain from the threat or use of force, and the peaceful settlement of disputes must always be the guiding principles of inter-State relations amid emerging unorthodox global challenges, asymmetrical security threats and political uncertainties.

17. His Government had spared no efforts in nurturing democratic norms and practices among all its citizens. Those efforts included the promotion of the rule of law, good governance, the protection of human rights and the fostering of a vibrant civil society. The rule of law was fundamental to social and economic stability. In that regard, the State Counsellor of Myanmar had called on those directly responsible for the rule of law, especially legislative, executive and judicial bodies, to work together diligently, and had encouraged domestic and international development partners and civil society organizations to cooperate in that effort.

18. The Government had been undertaking measures to strengthen the judicial system and promote good governance, including by amending legislation or promulgating new laws. A modern code of ethics had been adopted recently to meet international standards in judicial proceedings. The Government was also taking steps to ensure fair treatment and appropriate legal protection for people in court or police custody. A fair trial guidance manual would soon be published and distributed to the public. Four newly established rule of law centres had already settled hundreds of complaints and three more would be founded in the near future. In addition, the Government was considering improving on the good practices of traditional dispute resolution as an alternative to the courts. Most people at the village and community levels sought judgments from their respective village and ethnic leaders, as the cost, time and distance required to travel to the courts made them reluctant to take cases to the official justice system.

19. Corruption was one of the main hindrances to the rule of law. The President of Myanmar had made fighting corruption a high priority and had stated that freedom from corruption was the *sine qua non* for building a clean government and good governance. He had urged the national anti-corruption commission to perform its duties with more diligence and to redouble its nationwide effort to reduce cronyism, bribery and malpractice. The commission was now discharging its duties with greater independence and a stronger mandate. It had taken significant steps towards improving investigation and enforcement mechanisms in combating corruption in both public and private sectors. Myanmar had signed the United Nations Convention against Corruption in December 2012 and its anti-corruption legislation had taken effect in September 2013. The Government had been implementing a strategic plan in order to reduce the erosion of State funds and bring bribery and corruption under control.

20. With regard to the allegations of human rights violations in Rakhine State, his Government was fully committed to ensuring accountability where there was evidence of such violations. It had recently established an independent commission of enquiry which would investigate all violations of human rights and atrocities committed in Rakhine State as part of efforts to address the issues of accountability, reconciliation, peace, stability and development in Myanmar.

21. His Government was seriously concerned at the report published by the Human Rights Council’s

independent international fact-finding mission on Myanmar (A/HRC/39/64). From the very beginning, Myanmar had objected to the formation of the fact-finding mission owing to genuine concerns about the advisability of its establishment, composition and mandate. The report, based on one-sided narratives and not on hard evidence, would only serve to inflame tensions further and potentially hinder the Government's efforts to foster much-needed social cohesion in Rakhine State.

22. His Government had resolutely rejected the decision of the International Criminal Court of 6 September 2018 in connection with Rakhine State. Myanmar was not a party to the Rome Statute, and the Court had no jurisdiction over it whatsoever. The Court's decision had been made on dubious legal grounds and applied to a situation in which domestic remedies had not yet been exhausted. That unprecedented decision by the International Criminal Court to impose its jurisdiction over a State not party to the Rome Statute was truly a matter of serious concern. It could only erode the moral and legal authority of the Court and would jeopardize the unity, solidarity and national reconciliation of the people of Myanmar at a critical time of democratic transition and nation-building.

23. Furthermore, his delegation strongly rejected the recent decision of the Human Rights Council to establish an independent mechanism to collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011. The selective decision was beyond the mandate of the Human Rights Council and undermined the national initiative to address the accountability issue in Rakhine State. It would also be detrimental to his Government's cooperation with the United Nations in an effort to solve the humanitarian problem and find a long-term solution for Rakhine State.

24. The primary responsibility for maintaining and enforcing the rule of law in a country rested with the Government and its people. The international community could only support national efforts through capacity-building or other forms of cooperation. Myanmar was committed to promoting the rule of law, an essential requirement for achieving its ultimate goal of building a democratic federal union where all people enjoyed peace, security and prosperity.

25. **Mr. Phonekeo** (Lao People's Democratic Republic) said that the rule of law was of fundamental importance for cooperation among States, the maintenance and promotion of peace and security, the peaceful settlement of disputes and the implementation of the 2030 Agenda for Sustainable Development.

26. In order to meet its international obligations for promoting the rule of law, his Government had ratified a number of international treaties under United Nations auspices and in international, regional and bilateral frameworks. To date, the Lao People's Democratic Republic was a party to more than 900 international conventions and treaties, and had ratified, approved, accepted or acceded to more than 460 multilateral instruments under the auspices of the United Nations and the Association of Southeast Asian Nations (ASEAN) and in other frameworks. The treaties it ratified were incorporated into national legislation and were implemented in good faith. His Government placed a high priority on establishing the rule of law in order to promote socioeconomic development. In that connection, in 2009, it had adopted a legal sector master plan to meet the critical challenges in that area. Through the implementation of the master plan, the legislative development process had been greatly improved and public awareness of legal rights and participation in the legal system had been enhanced. The implementation of international instruments had been made more effective.

27. **Mr. Musayev** (Azerbaijan) said that the challenges facing the world called for a strengthening of the international legal order and a rekindling of faith in multilateralism and of confidence in the United Nations. All States must strictly comply with their international obligations, particularly those relating to respect for the sovereignty and territorial integrity of States and the inviolability of their internationally recognized borders. The established principle that the use of force for the acquisition of territory was inadmissible, and the ensuing obligation not to recognize situations resulting from serious violations of international law, must be enforced unconditionally and without exception. Conflict settlement frameworks and mechanisms must not be exploited to entrench situations resulting from the unlawful use of force, war crimes, crimes against humanity, acts of genocide and ethnic cleansing.

28. It was equally important to ensure the implementation of resolutions adopted by the principal organs of the United Nations. It was unacceptable that armed aggression against sovereign States and the resulting military occupation of their territories continued, notwithstanding Security Council resolutions. The faithful implementation of international treaties was one of the prerequisites for harmonious international relations and for individual and collective efforts to confront the threats and challenges to peace, security and stability.

29. As the principal judicial organ of the United Nations, the International Court of Justice played an important role in promoting the rule of law and encouraging the settlement of international disputes by peaceful means. The value of judicial settlement was high. The Court's advisory opinions on legal questions could also be useful, especially in situations where actions in contravention of the Charter and international law were accompanied by apparent misinterpretation of legal norms and principles.

30. The imperative of shedding light on real facts and combating impunity was undeniable. Unfortunately, in some situations of armed conflict, including those of a protracted nature, issues of accountability for violations of international humanitarian and human rights law had not received due attention or a response at the national and international levels. As a result, wrongs of the recent past left unpunished and unrecognized continued to impede progress in achieving peace and reconciliation.

31. In his report (A/73/253), the Secretary-General reiterated the primary obligation of Member States to comprehensively and genuinely investigate and prosecute serious crimes under international law committed within their jurisdiction, noting that the absence of or delayed justice for victims and their families often prolonged conflicts, generated frustration and retaliation among communities and obstructed national reconciliation.

32. **Mr. Hidug** (Ethiopia) said that, given the profound political and security challenges in all parts of the world, his delegation concurred with the Secretary-General's view that the engagement of the United Nations in collective efforts to promote the rule of law at the national and international levels had never been more critical. It appreciated the activities undertaken by the Secretariat in promoting rule of law at the national and international levels, strengthening the administration of justice within the Organization and improving the coordination and effectiveness of rule of law assistance. It also applauded the Secretary-General for conducting strategic reviews of eight major peacekeeping operations in 2017 and 2018. The outcome of the reviews should be taken on board in mandate-renewal negotiations and should lead to a reorientation of mission priorities from long-term stabilization to protection of civilians and support for political processes and peace agreements. His delegation supported the system-wide approach adopted to chart a rule of law vision beyond the departure of a peace operation and particularly commended the approach being pursued with regard to the withdrawal of the United Nations-African Union Hybrid Operation in Darfur (UNAMID); however, funding gaps needed to be addressed as a priority. Otherwise, the impressive gains registered in Darfur would be unsustainable. The international community must remain financially and politically engaged not only in Darfur but also in other situations of mission drawdown.

33. There was no single model for the development of the rule of law at the national level. United Nations assistance should continue to be provided at the request of Member States in alignment with their needs. His Government was grateful for the support of United Nations entities in its efforts to strengthen the rule of law and was confident that it would receive continued support for the major reforms it was undertaking to ensure socioeconomic development, a broader political space, the rule of law, freedom of expression and respect for human rights.

34. **Mr. Mlynár** (Slovakia) said that the rule of law was at the heart of the current international order. In today's complex world, States and other subjects of international law were more than ever required to act in compliance with the relevant norms. Otherwise, the very foundations of the rules-based system might be damaged irreparably. States were required to conduct their relations in good faith and in an amical manner. Preventive mechanisms and approaches like good offices or mediation could be very important in avoiding disputes and conflicts. Should disputes arise, they must be settled in peaceful ways. The International Court of Justice was indispensable for the peaceful settlement of disputes. Its proceedings provided legal clarity and predictability for the parties to a dispute. Slovakia encouraged all States Members of the United Nations to join the 73 States, including Slovakia, that had accepted the compulsory jurisdiction of the Court.

35. The rule of law and justice in general could not exist without ensuring accountability for the most serious violations of international law. Bringing perpetrators of international crimes to justice was a basic requirement for the solution of conflicts and for subsequent reconciliation efforts. Exercising victim-oriented international justice, including by strengthening the rights of victims and establishing clear and simple procedures for them to obtain reparation for material and moral damages, was of the utmost importance. The International Criminal Court had a central and indispensable role to play in that regard. He called on Member States to join the 123 States Parties to the Rome Statute in the fight against impunity. Only a universally accepted Rome Statute, in combination with genuine cooperation by States, could eliminate the impunity gap.

36. The United Nations must continue to give priority to the rule of law. While the Sixth Committee, as the primary forum for the consideration of legal questions in the General Assembly, should reflect on more its theoretical and conceptual aspects, the rule of law, as a cross-cutting issue, must also be an integral part of considerations and policies in such important areas as peacekeeping, security sector reform and the achievement of the Sustainable Development Goals.

37. Concerning the subtopics proposed for discussion in the report of the Secretary- General, the role of international and regional organizations, including bodies of legal experts, in promoting the rule of law merited further consideration, as did the question of promoting accountability for serious crimes under international law at the domestic level. On the other hand, the existing institutional links between the Sixth Committee and the Commission seemed balanced and appropriate; it therefore did not seem necessary to explore the question of strengthening cooperation between the two bodies.

38. **Mr. Bručić-Matic** (Croatia) said that the rule of law constituted the very essence of a social contract between individuals and the Government, by which citizens were granted transparency, non-discrimination, fairness and equality in their standing before the law and in their social interactions. His country's recent experience with the tainted arbitration proceedings between Croatia and Slovenia before the Permanent Court of Arbitration had demonstrated that, without the independence and impartiality of international courts, the rule of law could not exist.

39. Croatia had entered into arbitration proceedings with Slovenia in good faith and had participated until the clandestine unlawful actions of Slovenia, aimed at swaying the Arbitral Tribunal in its favour, had been discovered and publicly disclosed in 2015. The transcripts of the conversations of the Slovenian agent with one of the arbitrators revealed that the two had colluded, arranged a strategy to influence the other arbitrators and introduced new material. As a direct consequence, the Croatian Parliament had reached a unanimous decision to withdraw from the arbitration proceedings. That compromised arbitration served as an example of how international judicial procedures should not and must not be conducted. It was harmful to the system of international arbitration, both within and outside the Permanent Court of Arbitration, including in the context of investor-State arbitration.

40. Such issues should be dealt with honestly, but constructively, to enhance and to improve the system for the benefit of the rule of law as a protective mechanism. Those who wished to attack the system as a whole or individual courts could seize on such practices to do very great damage. Actions compromising the impartiality or independence of international courts or tribunals, as in the case of the arbitration process between Croatia and Slovenia, undermined their integrity and authority and discouraged States considering third-party dispute settlement. The border issue between Croatia and Slovenia, which was a sensitive bilateral matter that concerned only two countries, thus remained unresolved. Croatia wished to solve it with its neighbour and ally Slovenia through bilateral dialogue.

41. Croatia strongly supported the full and unequivocal implementation of international humanitarian and criminal law, as well as all efforts aimed at ending the culture of impunity, including the full investigation and punishment of all atrocities. It was particularly important to scrupulously interpret and rigorously apply international humanitarian law in proceedings before international bodies, as well as to strictly observe due process guarantees.

42. As a State party to the Rome Statute, Croatia respected the independence of the International Criminal Court and strongly supported its work. The Court remained the most important instrument to fight impunity for the most serious international crimes. At the domestic level, Croatia did its own part in ensuring accountability. It placed great emphasis on peace, justice and strong institutions as an intrinsic part of the 2030 Agenda. Without peace and the rule of law, there could be no development.

43. **Mr. Jaiteh** (Gambia) said that the Gambia gave utmost priority to the rule of law as a structure through which the exercise of power was subjected to agreed rules guaranteeing the protection of all human rights. The rule of law required that legal processes, institutions and substantive norms were consistent with human rights, including the core principles of equality under the law, accountability before the law and fairness in the protection and vindication of rights.

44. The rule of law ensured that the principles of justice applied equally to all States and were adhered to by all. The proper functioning of the security sector of any country depended on the rule of law, which supported the consolidation of democracy. Security sector reform was one of the priorities in his country's national development agenda, which also emphasized the connection between the rule of law and development. As stated in the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, the rule of

law and development were strongly interrelated and mutually reinforcing.

45. The interrelationship between human rights, peace and security and the rule of law should also be recognized. Lack of understanding of that interrelationship could lead to dire consequences exacerbated by poor livelihoods, injustice, insecurity and social inequality. It was in that context that the Gambia was undergoing a major overhaul of its legal system to improve the consolidation of a rule of law that was consistent with internationally recognized best practices.

46. **Ms. Aldhefeery** (Kuwait) said that it was essential to ensure that domestic legislation kept pace with developments in international law, as the rule of law was strongly correlated with human rights, peace and security. Any country's constitution and laws should reflect its commitment to the rights and freedoms enshrined in the Universal Declaration of Human Rights. Accordingly, Kuwait had a democratic constitution that recognized the people as the source of legislative, executive and judiciary power and upheld the principle of the rule of law by ensuring that the three branches of government were separate but complementary. Having participated for nearly ten months in the deliberations of the Security Council, Kuwait was committed to international law and conventions, the maintenance of peace and security and the peaceful resolution of disputes. When international law was violated, the political will of the international community was undermined. A case in point was the Israeli side's persistent construction of illegal settlements and the destruction of entire Palestinian villages, such as Khan al-Ahmar. Those actions contravened all of the relevant United Nations resolutions. All available means should therefore be used to ensure that international law was respected and enforced without selectivity.

47. **Mr. Muhammad Bande** (Nigeria) said that the rule of law was linked or related to every aspect of human endeavour and development. Adherence to the rule of law was necessary to regulate the behaviour of States and hold them to higher ideals and standards for the attainment of peace and development, as embodied in the Charter. All the international and national instruments, norms and principles that governed the rule of law had proved beneficial to peaceful coexistence. Just as respect for and observance of the rule of law were enshrined in the Charter, there were corresponding regional and subregional instruments in Africa embedded in the Constitutive Act of the African Union and the protocols of the Economic Community of West African States.

48. The rule of law was also a fundamental element of Nigerian jurisprudence. It was considered to be a prerequisite for the administration of justice and a basis for peaceful coexistence and the prevention of armed conflict. The 1999 Nigerian Constitution provided the basis for a rule-of-law approach to governance at the national level. It prohibited discrimination on any grounds, including gender; the country's robust policy on gender issues bore witness to its adherence to the rule of law. The policy focused on women's empowerment and the elimination of harmful discriminatory practices. There had been tremendous progress towards parity in primary school education, for example.

49. Nigeria had also demonstrated strong political will to fulfil its international obligations through the domestication of relevant international instruments and recommended practices. A Freedom of Information Act had been enacted in 2011 to promote open government, while terrorism prevention and money-laundering prohibition acts had also been enacted the same year to give impetus to the global fight against terrorism, terrorist financing and economic crimes.

50. The Nigerian judicial system had continued to play a pivotal role in advancing the rights of the people through effective oversight of both the executive and the legislative branches of government and had created an enabling environment for peace and stability to thrive. Judicial decisions against the Government were complied with as a constitutional obligation, laying a firm foundation for the institutionalization of the rule of law at the national level. Several national anti-corruption agencies were working to ensure that due process was always observed.

51. At the international level, Nigeria had consistently pursued a foreign policy anchored in the promotion of global security and the protection of the dignity of all persons. It recognized the important role of the International Court of Justice and other international tribunals in the peaceful resolution of international disputes, as illustrated by its compliance with the Court's ruling in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*. In addition, its support for peacekeeping since its independence in 1960 demonstrated its commitment to international peace and security, including the rule of law.

52. Nigeria appreciated the sustained efforts of the United Nations to promote the rule of law and transitional justice in conflict and post-conflict societies. Addressing the global rule-of-law deficit should be considered an imperative for all. Member States should collectively work to attain a world where

the rule of law, accountability and social justice were the foundation for sustainable development and lasting peace.

53. **Mr. Al-Rumaihi** (Bahrain) said that his country, convinced of the importance of respect for the rule of law, had enshrined that principle in its Constitution and its national charter. The Constitution governed relations between the executive, legislative and judicial branches and provided for the Constitutional Court, an independent judicial institution, to ensure the constitutionality of regulations and laws. The rule of law was the main guarantor of a balance between the public interest, as represented by State authorities, and private interests, as expressed in the rights and freedoms of the individual. The rule of law was also the cornerstone of the legislative system and culture of Bahrain, and the country's leaders were committed to consolidating a modern State founded on the strengthening of democracy, reforms and respect for human rights and fundamental freedoms.

54. National legislation must be harmonized with international instruments on the rule of law. Terrorism and violent extremism were a real threat to peace and stability and undermined political, economic and social development throughout the world. Those phenomena must be countered through the dissemination of the rule of law and the collective efforts of the international community.

55. Bahrain was working to carry out political, legislative, economic and security reforms applicable to all State institutions, officials and citizens, resulting in major advances in the areas of development, politics, the economy and the legal and social sectors. All those efforts had created a peaceful and safe society. As part of its efforts to establish the rule of law and to guarantee human rights, his Government had set up numerous mechanisms to strengthen the culture of accountability and to combat impunity. With respect to international cooperation, Bahrain had been at the vanguard of the struggle against organized crime. It focused particularly on terrorism-related crimes, drug trafficking, money-laundering, the financing of terrorism and human trafficking. The United States Department of State had in fact elevated Bahrain to Tier 1 status in terms of combating human trafficking. Bahrain cooperated with the United Nations Office on Drugs and Crime (UNODC) in strengthening efforts to combat and eradicate those scourges and bring to justice those responsible.

56. The legislation and security measures of Bahrain were aimed at guaranteeing peace and security and strengthening good governance in the political, economic and social fields. The national institutions responsible for implementing the principle of the rule of law sought to provide clear legal frameworks for the application of legislation and the fulfilment of national objectives with a view to strengthening social harmony and guaranteeing prosperity and development.

57. **Mr. Dang** Dinh Quy (Viet Nam) said that although humankind was experiencing unprecedented development, ongoing wars, conflicts and tensions in many parts of the world remained unresolved. One of the main reasons for that situation was that international law had not been observed in good faith. Upholding and promoting the rule of law at both the national and international levels was critical to maintaining peace and security, achieving sustainable development and protecting and promoting human rights.

58. The promotion of the rule of law at the international level must be based on the fundamental principles of international law, particularly those enshrined in the Charter. All disputes must be resolved by peaceful means, in accordance with international law. The International Court of Justice and other international judicial institutions therefore had a fundamental role to play in the peaceful settlement of disputes, including through their advisory opinions. Together with other members of ASEAN, Viet Nam was striving to transform South-East Asia into a zone of peace, stability and prosperity. In the context of complex developments in the East Sea (also known as the South China Sea), Viet Nam called upon all parties concerned to exercise self-restraint and to settle disputes by peaceful means in accordance with international law, including the Charter and the United Nations Convention on the Law of the Sea; to fully respect diplomatic and legal processes; to implement the Declaration on the Conduct of Parties in the South China Sea in its entirety; and to expedite the conclusion of an effective and legally binding code of conduct.

59. The strengthening of the rule of law at the national level should take place in line with the universally accepted principles of international law as well as the specific conditions of each State and the aspirations of its people. In carrying out its national plan of action for implementing the 2030 Agenda, Viet Nam had significantly improved its legal and judicial systems, the rule of law and the protection of its people's fundamental rights in conformity with relevant international conventions. Viet Nam had also been actively engaged in the United Nations-led processes of codification and progressive development of international law. In May 2018, it had ratified the Treaty on the Prohibition of Nuclear Weapons, thus becoming the tenth State party to that Treaty.

60. Viet Nam strongly supported the central role of the United Nations in strengthening the rule of law at the international and national levels, and especially in providing assistance to developing States in formulating and implementing national legislation and international agreements.

61. **Mr. Diallo** (Guinea) said that when the law became the primary instrument for the organization of political and social life, international relations would no longer be based on power relations that were a source of conflicts, but rather on relations of sovereignty and equality that were conducive to peace and security. It was for those reasons that his country was participating in the efforts of the United Nations and the entire international community to strengthen the legal tools that regulated cooperation among States. His Government had committed itself to adapting its legislation in line with the legal instruments to which it was a party, in conformity with the provisions of international treaties and General Assembly resolutions. States could achieve no lasting peace, political stability or socioeconomic development without the underpinnings of the force of law and respect for human rights. In that regard, his delegation particularly welcomed the efforts made by the international community to promote respect for international humanitarian law, which was indispensable for achieving the Sustainable Development Goals.

62. His delegation welcomed the considerable support given by the United Nations to Member States, particularly developing countries, in strengthening their legal, judicial and security institutions, thereby permitting equitable access to justice for vulnerable groups. The President of Guinea had dedicated his first term to judicial, defence and security reforms in order to fuel an implacable fight against abuse. His Government would support initiatives and actions aimed at strengthening international cooperation and sharing good practices in order to promote good governance and respect for democratic principles. It was likewise willing to take part in United Nations efforts to improve respect for the rule of law and safeguard democratic institutions and human rights.

63. In the conduct of its international relations, Guinea complied with the legal instruments to which it was a party and would spare no efforts in fulfilling its commitments, with a view to maintaining peace and security worldwide. Convinced that it was through multilateralism that the world could find solutions to the numerous problems confronting it, his Government supported programmes to raise awareness among States regarding respect for human rights instruments, international humanitarian law and international human rights law. He called on all Member States to participate in efforts to achieve peace and security, while respecting international law, and emphasized the important role of the international community in achieving those objectives.

64. **Ms. Bourhil** (Tunisia) said that her delegation welcomed the report of the Secretary-General and agreed that situations of vacuum in the rule of law put at risk the social fabric of communities. It appreciated the updates provided on the progress made in several countries that had requested assistance in strengthening the rule of law at the national level as a way to advance domestic justice systems. It was unfortunate that the Sixth Committee had been unable to decide on a subtopic for the debate on the current agenda item. The impasse evident in 2017 should be considered an exception, and no effort should be spared to agree on a subtopic for 2019. She acknowledged with appreciation the Secretary-General's proposals to assist the Committee in that effort.

65. The principles enshrined in the Charter and international law were of paramount importance for international peace and security and essential to achieving equal and inclusive societies. The rule of law was an accelerator for the realization of the 2030 Agenda, the prevention of conflicts and the protection of human rights worldwide. From the ratification of major human rights treaties to the adoption of a new Constitution, Tunisia had laid the foundations for a nascent democracy in which the rule of law, human rights and gender equality were the cornerstones. Since the adoption of the Constitution in 2014, her Government had undertaken profound institutional reforms reflecting the new tenets of its political and legal system. Strengthening the independence of the judiciary and instituting stronger constitutional controls were guarantees of the viability of any democratic system. The need to respect individual liberties in accordance with international obligations had been clearly proclaimed.

66. Those achievements had been facilitated by multiple stakeholders that had emphasized dialogue as the sole viable way to address conflicts and their roots. Today, in an era of increasingly close interrelations between the national and international contexts, her delegation renewed its commitment to working to strengthen the rule of law and the peaceful and sustainable settlement of conflicts, including through the leading role of international and regional organizations.

67. **Mr. Dos Santos Pereira** (Timor-Leste) said that the world faced many challenges: climate change,

human displacement, human rights violations, migration, terrorism, the development of arms and nuclear weapons, and armed conflicts and territorial disputes that corroded international peace and security. Those challenges needed to be addressed based on the rule of law, which was essential for realizing the 2030 Agenda, preventing conflict, sustaining peace, protecting human rights and achieving justice for all, good governance and accountability. His delegation welcomed the report of the Secretary-General, which highlighted the engagement of the United Nations in collective efforts to promote the rule of law at the national and international levels. It also welcomed the efforts undertaken by the United Nations to continue supporting Member States on all continents to develop domestic capacities to strengthen the rule of law in the context of development, addressing fragility and dealing with conflict and peacebuilding. As such, it supported the Organization's efforts to improve the coordination and cohesion of its development, peace and security, humanitarian and human rights agendas.

68. As a young nation, Timor-Leste was committed to the implementation of the rule of law at the national and international levels. That commitment was reflected in its constitutional mandate to build a democratic society that could foster the rule of law, founded on respect for the Constitution, the laws and democratically elected bodies, good governance and accountability. Timor-Leste had adopted a civil law system that worked in tandem with traditional justice and customary law and that complied with the principles of human rights and the international legal order. Progress had been made in implementing that system by enacting regulations and laws for the development of the nation and its people. Legislation had been adopted to regulate basic aspects of access to justice, including in relation to women and children, social, educational, economic and environmental protection and core values of human rights. Some of the laws promoted gender equality and women's participation and prohibited discrimination. As a result of that legislation, one third of the members of the national parliament were women. The domestic violence law provided protection to women and redress when they experienced domestic violence.

69. With regard to the promotion of the rule of law at the international level, Timor-Leste had ratified most of the United Nations conventions on human rights and had also signed or ratified agreements on climate change, protection of the environment, migration, terrorism, international organized crime, the arms trade and the proliferation of nuclear weapons. In addition, Timor-Leste had turned to the international legal order for the peaceful settlement of disputes. It had made use of the compulsory conciliation mechanism under the United Nations Convention on the Law of the Sea, resulting in an agreement signed with Australia, on 6 March 2018, on the delimitation of maritime boundaries between the two countries.

70. Timor-Leste placed great emphasis on international cooperation in the fight against transnational crime at all levels. Addressing human trafficking and sexual exploitation, in particular of women and children, and international financial crimes and terrorism required cross-border cooperation. Timor-Leste also attached great importance to the role of international cooperation in the fight against extremism, radicalism, terrorism and piracy, which were serious threats to international peace and security and sustainable development.

71. **Mr. Beras Hernández** (Dominican Republic) said that the rule of law was a platform for launching productive dialogue among States, creating an atmosphere conducive to international cooperation. The Dominican Republic was constitutionally bound to safeguard the rule of law through respect for individual and collective rights, strengthening of institutions that were guarantors of peace, security and justice, and fulfilment at the domestic level of international commitments. His country was likewise committed to the application of and respect for existing international rules, including support for institutions like the International Court of Justice and other bodies that facilitated dialogue between States and the peaceful settlement of disputes.

72. The election of the Dominican Republic to serve on the Security Council as from January 2019 would provide it with an opportunity to reassert its commitment to strengthening international law, preventing conflicts, seeking peaceful solutions to disputes and promoting multilateralism, based on respect for human rights and the principles of coexistence. There was certainly a need to develop new ways of further strengthening the rule of law. His delegation accordingly supported the work to develop an international legally binding instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

73. His delegation supported United Nations activities to promote and disseminate international law, including the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, which had been beneficial to many jurists from various Member States. The United Nations Audiovisual Library of International Law also made an important contribution to disseminating the rule of law.

Mr. Luna (Brazil), Vice-Chair, took the Chair.

74. **Archbishop Auza** (Observer for the Holy See) said that Pope Francis, in his 2015 address to the General Assembly, had noted that the work of the United Nations could be seen as the development and promotion of the rule of law, based on the realization that justice was an essential condition for achieving the ideal of universal fraternity. The General Assembly, in its resolution 72/119, had echoed that insight by stating that the promotion of and respect for the rule of law at the national and international levels, as well as justice and good governance, should guide the activities of the United Nations and its Member States.

75. The Holy See welcomed the recognition that the rule of law at the international and national levels offered a firm foundation for a peaceful, prosperous and just world. At the heart of the rule of law lay respect for all human rights as recognized internationally, together with their effective domestic implementation. In other words, as expressed by Pope Francis in his 2015 address, "*iustitia est constans et perpetua voluntas ius suum cuique tribuendi* (justice is the constant and perpetual will to render to each his or her rights)". The Charter of the United Nations transposed that concept of justice into international law, affirming the foundational nature of human rights in themselves as essential means to attain the complementary pillars of peace and security, development and the rule of law. In ratifying the Charter, Member States pledged to take joint and separate action to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

76. Internationally recognized human rights must be acknowledged and respected domestically. The relevant treaties enshrined that principle in law by binding State parties to adopt concrete measures to realize and uphold those rights. The major human rights conventions imposed similar obligations and, in Sustainable Development Goal 16, Member States were called upon to provide access to justice for all. In fact, the just application of the rule of law at the national level was nothing less than full respect for human rights.

77. The rule of law could be effective only if the observance of human rights rested upon effective, accountable and inclusive procedures and institutions at the national level, as recognized in Sustainable Development Goal 16. Accordingly, States should empower domestic institutions to honour human rights obligations and should eliminate the procedural obstacles that far too often denied effective remedies to victims of human rights violations. States should also ensure that the lawyers, judges and human rights advocates who sought to ensure the domestic enforcement of human rights could freely pursue their professional duties in accordance with the applicable principles on the independence of the judiciary adopted by the General Assembly.

78. Regarding the future work of the Sixth Committee, the Holy See noted with interest the subtopics for debate suggested by the Secretary-General in his report. Among those items, it would be particularly interested in the discussion of proposed subtopic (d): "Implementation of the rule of law elements of the 2030 Agenda for Sustainable Development and sharing of best practices".

79. Speaking to the ambassadors accredited to the Holy See in early 2018, Pope Francis had stated that, as affirmed in the Universal Declaration of Human Rights, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family was the foundation of freedom, justice and peace in the world. Promoting the rule of law at the international and national levels remained an essential task for the whole family of nations as well as a sign of hope in the world, especially in its most troubled regions.

80. **Mr. Bamya** (Observer for the State of Palestine) said that it had taken two world wars to convince humanity to reign in its worst instincts and to act according to the better side of its nature. It had then built the United Nations, adopted the Charter and established the International Court of Justice. It had taken its first, imperfect, steps towards developing international criminal law. The Universal Declaration of Human Rights and the Geneva Conventions of 1949 had been adopted, and treaties forged to regulate international relations and enshrine national commitments.

81. The current generation, more than any other, bore the responsibility to preserve what had been so painfully achieved. Never before had racism, extremism, xenophobia and misogyny been expressed so openly and shamelessly. Some, in the name of patriotism, were eroding the rule of law, nationally and internationally, and challenging values and principles once thought to have been permanently established. They considered solidarity and humanity to be crimes, and foreign occupation and oppression to be justifiable. He wondered how such ideas had become popular.

82. The State of Palestine had placed its faith in the international system. It had chosen a peaceful, legal and political path to achieve its people's inalienable rights, the denial of which had extended over seven decades. The Palestinian people had been comforted in their ordeal by the fact that freedom was prevailing against

colonial domination, apartheid, dictatorships and oppression across the globe. But for the Palestinian people, the ordeal was far from over; the colonial occupation by Israel, instead of being brought to an end, was becoming further entrenched. The State of Palestine was being punished for acceding to treaties, becoming a member of United Nations agencies, joining the International Criminal Court, seeking to be part of a rules-based international order and pursuing justice. It was unacceptable to shield war criminals and attack judges. The right to self-determination was non-negotiable and should never be subject to the veto of an occupying Power.

83. The decision of the General Assembly to accord to the State of Palestine observer status, the accession of Palestine to international treaties, including core human rights and international humanitarian law instruments, and its accession to the Rome Statute, had brought great hope to the Palestinian people. However, that hope had yet to materialize. At the national level, the State of Palestine had yet to change its outdated and fragmented legislative framework, which was incompatible with the Palestinian Declaration of Independence and international obligations. The State of Palestine acknowledged its own shortcomings in that regard. That hope also had yet to materialize in an end to the occupation resulting in constant violations and violence against the Palestinian people and the denial of their most basic rights. Furthermore, it must materialize in the actions of States around the globe to help end occupation and achieve peace. If all Member States upheld their obligation to ensure respect for international law in relation to the question of Palestine, Israel would have no choice but to uphold its obligation to put an end to its colonial occupation and to the discrimination and segregation that were reminiscent of apartheid.

84. There was no rule of law without justice, and no justice without enforcement. Now was not the time for hesitation or damage control, but a time to move forward decisively and to fight back. In order to prevail, there was a need for consistency, as double standards eroded the credibility of the international system and its advocates. Clarity was also needed, as ambiguity and false compromises would not salvage the system but would render it further vulnerable to attacks. There was a need for determination in standing up for beliefs, whatever the odds or circumstances, as too much was at stake. Finally, there was a need for solidarity, as only by standing together could evil be defeated.

85. **Mr. Civili** (Observer for the International Development Law Organization (IDLO)), noting that his full statement would be made available on the PaperSmart portal, said that IDLO pursued its mandate within the policy framework set by the General Assembly in resolution 72/119 and its previous resolutions on the rule of law. The acknowledgement in the 2030 Agenda that the rule of law and access to justice were integral parts of development and key drivers in the process of making socioeconomic progress sustainable had been seen by his organization as recognition of the foresight of its founders in setting its unique mandate at the intersection of law and development. His organization’s strategic plan for 2017–2020 had been to maximize its contribution to progress towards the 2030 Agenda. During the first two years of implementation, significant progress had been made in advancing the two basic goals that framed the plan, namely, institution-building and legal empowerment.

86. Providing assistance in building effective, transparent and accountable institutions had traditionally been a central area of the work of IDLO. In 2017, as its largest ever capacity-building programme in Afghanistan had come to an end, lessons learned in transitioning training capacity to national institutions had been analysed and disseminated. Meanwhile, several other multi-year institution-building programmes, mostly with a focus on justice delivery, had been initiated or were being pursued in Africa and other regions. In Mali, IDLO was pursuing an innovative approach that engaged institutional actors – police, judges and corrections officers – as well as grassroots and community leaders to identify and address concerns about the functioning of the criminal justice system and enhance public confidence. In the light of that experience, it was developing, in close collaboration with UNODC, a multi-year programme to strengthen criminal justice systems and improve access to justice across the Sahel region. Programme areas in which demand as well as donor support were growing included anti-corruption work in Ukraine and the Philippines; community-based and informal justice in Somalia; and, most notably, work on the rights of women and girls.

87. A critical success factor in the rapid expansion of his organization’s gender-related work had been the dual approach of systematically mainstreaming gender and at the same time implementing dedicated projects for women and girls. Projects, largely focused to date on combating sexual and gender-based violence, were under way or had recently been concluded in Afghanistan, Honduras, Liberia, Mongolia and Ukraine, and new projects, particularly those aimed at the economic empowerment of women, were beginning in Uganda, the United Republic of Tanzania, Burundi and

Jordan. Along with programmes focused on gender equality and social inclusion, IDLO was expanding its work on commercial law and the legal dimensions of economic development. In 2017, it had entered into a memorandum of understanding with the Ministry of Commerce of China, which had opened up prospects for IDLO to provide legal support to countries engaged in the "One Belt One Road" initiative.

88. His organization's Investment Support Programme for the Least Developed Countries was relevant to a number of issues and concerns on the Committee's agenda. That new initiative, developed in cooperation with the Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, had received a significant pledge of support from the European Union.

89. IDLO had been encouraged by relevant United Nations agencies and programmes to step up its involvement in the two emerging thematic areas of migration and non-communicable diseases. In the area of migration, IDLO could build on projects currently being undertaken in support of Syrian refugees in Turkey and internally displaced persons in Somalia. With regard to work on non-communicable diseases, the organization could draw on its experience in both health and commercial law and ongoing projects focusing on the response to HIV/AIDS.

90. The IDLO portfolio of programmes was increasingly diversified not only thematically but also geographically. Africa now accounted for over half of the portfolio. At the same time, demand for its programmes was growing in other regions, particularly in Latin America, where a major new programme aimed at strengthening the capacity of the security sector to consolidate reforms of the criminal justice system was being initiated in Mexico and a range of other projects were being pursued in Honduras and other Central American countries.

91. IDLO appreciated the generous financial support provided by Italy, Sweden, the Netherlands, the European Union and the United States, and was also grateful to other current and potential donors for their engagement in the common effort to leverage the rule of law to build peace and sustain development.

92. **Ms. Matos Juárez** (Bolivarian Republic of Venezuela), speaking in exercise of the right of reply and responding to comments made by the representative of Peru in relation to the internal affairs of her country, said that her Government considered it unfortunate that a group of countries from the Latin American and Caribbean region, including Peru, following instructions from the United States regime, were making rapid progress towards the destruction of the multilateral system by promoting, justifying and applying unilateral coercive measures in violation of the Charter and international law. They were using a regional body, the Organization of American States, which was highly suspect because of its heavy dependence on the United States Department of State, to set up rigged proceedings that were subsequently used to call for the prosecution of a Head of State by the International Criminal Court. That sort of manipulation of human rights for political purposes weakened the bodies responsible for guaranteeing the application of international law by eroding their credibility.

93. **Ms. Seiferas** (Israel), speaking in exercise of the right of reply, said it was unfortunate that certain representatives had turned the Sixth Committee into a political forum by advancing political arguments instead of sticking to professional or legal discussion.

Agenda item 87: The scope and application of the principle of universal jurisdiction (A/73/123 and A/73/123/Add.1)

94. **Mr. Al Habib** (Islamic Republic of Iran), speaking on behalf of the Movement of Non-Aligned Countries, said that the principles enshrined in the Charter of the United Nations, particularly the sovereign equality and political independence of States and non-interference in their internal affairs, should be strictly observed in any judicial proceedings. The exercise by the courts of another State of criminal jurisdiction over high-ranking officials who enjoyed immunity under international law violated the principle of State sovereignty; the immunity of State officials was firmly established in the Charter and in international law and must be respected. The invocation of universal jurisdiction against officials of some States members of the Non-Aligned Movement raised both legal and political concerns.

95. Universal jurisdiction provided a tool for prosecuting the perpetrators of certain serious crimes under international treaties. However, it was necessary to clarify several questions in order to prevent its misapplication, including the range of crimes that fell within its scope and the conditions for its application; the Committee might find the decisions and judgments of the International Court of Justice and the work of the International Law Commission useful for that purpose.

96. The Movement would participate actively in the work of the working group on the topic. The discussions therein should be aimed at identifying the scope and limits of the application of universal jurisdiction; consideration should be given to establishing a

monitoring mechanism to prevent abuse. Universal jurisdiction could not replace other jurisdictional bases, namely territoriality and nationality. It should be asserted only for the most serious crimes and could not be exercised to the exclusion of other relevant rules and principles of international law, including State sovereignty, the territorial integrity of States and the immunity of State officials from foreign criminal jurisdiction.

97. In the view of the Non-Aligned Movement, it was premature at the current stage to request the International Law Commission to undertake a study on the topic of universal jurisdiction.

98. **Mr. Jaiteh** (Gambia), speaking on behalf of the Group of African States, said that the scope and application of the principle of universal jurisdiction had been included in the agenda of the General Assembly since its sixty-third session at the request of the Group, which was concerned about the abusive application of the principle, particularly against African officials. The Group recognized that universal jurisdiction was a principle of international law intended to ensure that individuals who committed grave offences did not enjoy impunity and were brought to justice. Under the Constitutive Act of the African Union, the Union had the right to intervene, at the request of any of its member States, or unilaterally if circumstances so demanded, in situations of genocide, war crimes and crimes against humanity.

99. However, abuse of universal jurisdiction could undermine efforts to combat impunity; it was therefore vital, when applying the principle, to respect other norms of international law, including the sovereign equality of States, territorial jurisdiction and the immunity of State officials under customary international law. The International Court of Justice had expressed the view that the cardinal principle of immunity of Heads of State should not be called into question. Some non-African States and their domestic courts had sought to justify arbitrary or unilateral application or interpretation of the principle on the basis of customary international law. However, a State that relied on a purported international custom must, generally speaking, demonstrate to the satisfaction of the International Court of Justice that the alleged custom had become so established as to be legally binding.

100. African and other like-minded States around the world called on the international community to adopt measures to end the abuse and political manipulation of the principle of universal jurisdiction by judges and politicians, including by violating the principle of the immunity of Heads of State under international law. The Group reiterated the request by African Heads of State and Government that arrest warrants issued on the basis of the abuse of universal jurisdiction should not be executed in any State member of the African Union, and noted that the African Union had urged its members to use the principle of reciprocity to defend themselves against the abuse of universal jurisdiction.

101. Finally, while the Group had taken note of the inclusion of a topic entitled “Universal criminal jurisdiction” in the long-term programme of work of the International Law Commission, it held resolutely to its position that the agenda item “The scope and application of the principle of universal jurisdiction” should also be retained among those allocated by the General Assembly to the Sixth Committee.

102. **Ms. Thomas** (New Zealand), speaking also on behalf of Australia and Canada, said that the three countries recognized universal jurisdiction as a well-established principle of international law that provided a legal basis for States to prosecute and punish the most serious international crimes, regardless of where the conduct occurred and the nationality of the perpetrator, and to ensure that the perpetrators did not receive safe haven anywhere in the world. Australia, Canada and New Zealand had recognized universal jurisdiction over the most serious international crimes such as genocide, crimes against humanity, war crimes, slavery, torture and piracy.

103. Universal jurisdiction offered a complementary framework to ensure that persons accused of serious international crimes could be held accountable in circumstances where the territorial State was unwilling or unable to exercise jurisdiction. As a general rule, the primary responsibility for investigating and prosecuting serious international crimes rested with the State in which that conduct had occurred. Those States were in the best position to see justice done, given their access to evidence, witnesses and victims.

104. Universal jurisdiction must be exercised in good faith and with regard to other principles and rules of international law, including laws related to diplomatic relations and privileges and immunities. It was critical that universal jurisdiction be applied in a manner consistent with the rule of law and the right to a fair trial.

105. Australia, Canada and New Zealand all had legislation establishing universal jurisdiction in respect of the most serious international crimes. They encouraged Member States that had not already done so to incorporate universal jurisdiction into their domestic legislation and to work cooperatively and collaboratively to hold perpetrators to account.

Both perpetrators and would-be perpetrators of the most serious international crimes must be deterred and know that their actions would not go unpunished.

106. **Ms. Schoulgin Nyoni** (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that the principle of universal jurisdiction had been incorporated into many national jurisdictions. It allowed national prosecutors to pursue individuals believed to be responsible for certain grave international crimes even when they were committed elsewhere and neither the accused nor the victims were nationals of that State. Such prosecutions were an increasingly important part of international efforts to hold perpetrators accountable, to provide justice to victims, to deter future crimes and to help ensure that there were no safe havens. Combating impunity for atrocity crimes was in the interests of the international community and was its common responsibility.

107. While the Committee continued to discuss the scope and application of the principle of universal jurisdiction, the Nordic countries noted that the topic of universal criminal jurisdiction had been included in the long-term programme of work of the International Law Commission. The principle of universal jurisdiction drew on developments in international law, including State practice, and on views of international courts and tribunals as well as scholars. That ongoing process should be allowed to evolve. It was not advisable to attempt to develop an exhaustive list of crimes for which universal jurisdiction would apply.

108. In most States, the application of the principle of universal jurisdiction rested with the national prosecutorial offices. A discussion on the scope and application of universal jurisdiction would need to take into account the practices and processes of those bodies, including prosecutorial discretion and mechanisms securing the independence of prosecutorial offices.

109. At the international level, the International Criminal Court played an important role in securing accountability for the most serious crimes. It provided an avenue for prosecution when States did not exercise jurisdiction, but the primary responsibility nevertheless rested with States. The development of other bodies at the international level, such as the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011, assisted both national and international jurisdiction in the fight against impunity. The International, Impartial and Independent Mechanism was not provided with any prosecutorial capacity of its own but could contribute to future proceedings before national jurisdictions applying the principle of universal jurisdiction or proceedings in international courts and tribunals. The contributions of the Mechanism and other possible future mechanisms could help shape the application of universal jurisdiction.

110. Bringing perpetrators to justice was not only about ending impunity but also about strengthening respect for international law and providing justice for victims. The application of the principle of universal jurisdiction was an important tool for States and international courts and tribunals to ensure that the most serious crimes did not go unpunished.

111. **Mr. Escalante Hasbún** (El Salvador), speaking on behalf of the Community of Latin American and Caribbean States (CELAC)), said that the member countries of CELAC attached great importance to the issue of the scope and application of the principle of universal jurisdiction. Past discussions in the Committee had focused on the elements addressed in the informal paper submitted by the working group on the topic at the sixty-sixth session of the General Assembly, namely, the role and purpose of universal jurisdiction and how it differed from other related concepts; its scope in terms of the range of crimes covered; and the conditions for its application. The working groups had certainly made progress in their seven years of work, moving from a concise road map to a combined set of elements relating to each of the three pillars of the United Nations, and culminating in a full set of policy indicators covering all of them.

112. Universal jurisdiction was an institution of international law of exceptional character for the exercise of criminal jurisdiction, which served to fight impunity and strengthen justice. It was international law, therefore, which established the scope of its application and enabled States to exercise it. CELAC was pleased that several delegations had reiterated their view that universal jurisdiction should not be confused with international criminal jurisdiction or with the obligation to extradite or prosecute; those were different but complementary legal principles that had the common goal of ending impunity. CELAC shared that understanding, which was consistent with the relevant applicable law, the diverse set of obligations of States under international law and the observance of the rule of law at the national and international levels.

113. CELAC welcomed the decision of the International Law Commission to include the topic of universal jurisdiction in its long-term programme of work. The Commission's study of that topic should

enable the General Assembly to make more progress in clarifying certain legal aspects of the principle under international law.

The meeting rose at 6 p.m.