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## Sixth Committee

### Summary record of the 13th meeting

Held at Headquarters, New York, on Thursday, 23 October 2008, at 10 a.m.

*Chairperson:* Mr. Sheeran (Vice-Chairperson) . . . . . (New Zealand)

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*In the absence of Mr. Al Bayati (Iraq), Mr. Sheeran (New Zealand), Vice-Chairperson, took the Chair.*

*The meeting was called to order at 10.10 a.m.*

**Agenda item 78: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization**  
(continued) (A/63/33, A/63/98 and A/63/224)

1. **Mr. Maqungo** (South Africa) urged Member States to make the most effective use of existing procedures and methods for the prevention and peaceful settlement of disputes. Sanctions were a vital tool in efforts to maintain international peace and security without recourse to the use of armed force. However, they should be imposed by the Security Council in conformity with the Charter of the United Nations and international law, and should only be considered after all means of peaceful settlement of disputes had been exhausted. Furthermore, sanctions should include clear objectives and conditions, and a time frame for lifting them should be specified. In that regard, South Africa welcomed the revised working paper submitted by the Russian Federation entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations" (A/C.6/62/L.6) and supported the idea of annexing it to a General Assembly resolution.

2. Care must be taken to limit the impact of sanctions on third States and on the general population of the target State. His delegation recognized that targeted sanctions were currently the best available mechanism for that purpose, but remained concerned at the imposition of unilateral sanctions by some powerful States and urged against continuance of that trend.

3. He wished to draw attention to an issue with legal overtones which the Committee might wish to consider in the future, namely, the procedure for electing members to the Security Council and specifically the "gentlemen's agreement" between Africa and Asia, according to which three of the five non-permanent seats allotted to those two regions under General Assembly resolution 1991 (XVIII) would go to African States and two would go to Asian States. It had subsequently been agreed that there would be an Arab "swing seat", meaning that every two years either the

African Group or the Asian Group would put forward the candidacy of an Arab State. However, that agreement had never been recorded in any resolution, and thus, in fact, countries from Asia and Africa contested the same seats in Security Council elections, a situation which could potentially leave one of the two regions without any representation on the Council. That outcome had thus far been averted because the President of the General Assembly had always advised States of the gentlemen's agreement prior to Security Council elections, but in a highly contested election such as the most recent one, the President's instructions might not suffice. His delegation therefore intended to propose that the distribution of seats decided in the gentlemen's agreement should be formally recorded and that there should be separate ballots for Asian candidates and African candidates.

4. **Mr. Ayoob** (Afghanistan) said that his delegation attached great importance to the work of the Special Committee and its role in the maintenance of international peace and security. The various proposals currently before the Special Committee, particularly those concerning the implementation of sanctions and assistance to third States affected by sanctions, deserved further consideration. His Government remained convinced that sanctions were important tools for restoring and maintaining international peace and security without recourse to the use of force. However, they should be carefully targeted, supported by clear objectives, effectively implemented and periodically reviewed. Any adverse impacts on civilian populations and third States should be minimized.

5. He was pleased to note that in the period covered by the Secretary-General's report on implementation of the provisions of the Charter related to assistance to third States affected by sanctions (A/63/224), no sanctions committees had been approached by Member States with regard to special economic problems arising from the implementation of sanctions. Nevertheless, his delegation continued to support the establishment of a mechanism to assist third States affected by sanctions. Afghanistan welcomed the progress made by the Security Council in establishing new procedures for the listing and de-listing of individuals on sanctions lists and called on the Council's sanctions committees to study each case and consider requests concerning listing and de-listing carefully.

6. His delegation welcomed the Secretariat's efforts to clear the backlog in publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, which were important as research tools and as a means of preserving the institutional memory of the Organization.

7. **Mr. Tchatchouwo** (Cameroon) observed that the discussion of the work of the Special Committee was evidence of Member States' continued commitment to enhancing the effectiveness of the Organization. Over the years, the United Nations had weathered many crises, but it had not evolved a great deal from a structural and functional standpoint. The Special Committee had an essential role to play in strengthening the Organization and thereby contributing to the maintenance of international peace and security.

8. His delegation had read with interest the report on the Special Committee's consideration of the revised working paper prepared by the Russian Federation on the subject of sanctions (A/C.6/62/L.6). The proliferation of conflicts in recent years had led to the frequent imposition of sanctions, some of which had had detrimental effects on third States and innocent populations. The imposition of sanctions must be carried out in conformity with the provisions of the Charter of the United Nations and international law. The various proposals on the matter deserved further consideration with a view to putting in place a sanctions regime that addressed three concerns: making certain that sanctions had clear objectives, striking a balance between effectiveness in achieving desired results and causing unintended side effects and ensuring that affected third States received appropriate assistance. In the latter regard, his delegation looked forward to the outcome of the work of the Department of Economic and Social Affairs aimed at revising the technical methods used to assess the impact and adverse economic consequences of targeted sanctions.

9. The issue of peaceful settlement of disputes, also addressed in the report of the Special Committee (A/63/33), was certainly not new, having been a central concern for the international community since the adoption of the Convention on the Pacific Settlement of International Disputes more than a hundred years earlier. His Government was deeply committed to the peaceful settlement of disputes, as had been amply demonstrated by its actions in the dispute between

Cameroon and Nigeria over the Bakassi peninsula. There was no crisis involving two States, and in particular no internal crisis, that could not be resolved peacefully. The principal means of resolving disputes peacefully was, in addition to dialogue, reliance on law. The international community should forcefully reaffirm its adherence to the rule of law in relations between States, including recourse to judicial settlement of disputes.

10. His delegation applauded the recent progress in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. However, while the contribution of academic institutions was welcome, the Secretariat had primary responsibility for producing the two publications. In order to fulfil that responsibility, it must have sufficient financial means. His delegation appealed to Member States to continue to make voluntary contributions to the trust funds for the *Repertory* and *Repertoire*.

11. **Mr. Lamine** (Algeria) underlined his delegation's disapproval of the imposition of unilateral sanctions. Unilateralism and politicization of sanctions were counter-productive and detrimental to collective action by the United Nations. With regard to third States affected by sanctions, he had taken note of the fact that, during the period covered by the Secretary-General's report on the matter (A/63/224), no sanctions committees had been approached by Member States with regard to special economic problems arising from the implementation of sanctions.

12. His delegation reiterated its firm support for the revised working paper submitted by the Russian Federation on the subject of sanctions (A/C.6/62/L.6) and wished to see continued discussion thereof with a view to its adoption during the current session. Algeria also favoured continued discussion of the working papers submitted by Cuba on strengthening the role of the Organization (A/AC.182/L.93 and Add.1), the ultimate aim of which was to restore to the General Assembly its rightful roles and responsibilities under the Charter. On the issue of maintenance of international peace and security, his delegation continued to support the proposal submitted by Belarus and the Russian Federation (A/60/33, para. 56) to request an advisory opinion from the International Court of Justice as to the legal consequences of the resort to the use of force without the prior authorization of the Security Council or outside the

context of self-defence. Such a sensitive issue would benefit from examination by the highest judicial body in the world, particularly in view of its implications for international peace and security.

13. Lastly, his delegation appreciated the Secretariat's efforts to ensure regular publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and encouraged it to continue those efforts.

14. **Ms. Kamal** (Malaysia) supported the proposal to bring to the attention of the Chairman of the Fourth Committee the working paper submitted by Belarus and the Russian Federation entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations" (A/53/33, para. 73). She also welcomed the revised working paper from the Russian Federation on the subject of sanctions (A/C.6/62/L.6). The guidelines in that document aimed to reflect legitimate concerns about the use of sanctions against target States and contained practical recommendations for minimizing the unintended consequences of sanctions for third States and civilian populations. The emphasis on targeted sanctions with adequate safeguards reflected a general consensus among Member States. All the rules of the Charter and of international law must be strictly adhered to when sanctions were imposed. Targeted States must be given the opportunity to be heard before any sanctions were imposed. Both permanent and non-permanent members of the Security Council should exercise the Chapter VII powers sparingly and judiciously, with due regard to whether the "trigger" in article 39 had been released. It was understood that the urgency of acting to maintain international peace and security must prevail, especially in response to situations of escalating violence. Her delegation, however, supported the proposal by the Russian Federation in its working paper for conditions applying to the use of sanctions, as summarized in the report of the Special Committee (A/63/33, para. 15). Remedial action was being taken by the Security Council, but the item should be kept on the agenda of the Special Committee, as a forum in which to raise concerns and as a check on the Council's exercise of its powers in the matter of sanctions. She also suggested seeking the views of Governments as to the continued relevance of the topic.

15. With regard to the revised working paper submitted by Belarus and the Russian Federation proposing that an advisory opinion be requested from the International Court of Justice (A/60/33, para. 56), further discussion and study was needed with a view to formulating suitable questions. In dealing with the second of the three questions proposed, concerning the determination of the existence of an act of aggression, it was necessary to bear in mind the provisions of General Assembly resolution 3314 (XXIX). She emphasized the important role of the International Court of Justice both in adjudicating disputes between States and in issuing advisory opinions.

16. She welcomed the progress made in preparing studies of the *Repertory of Practice of United Nations Organs* and in updating the *Repertoire of the Practice of the Security Council*, including the increased use of the internship programme of the United Nations and the expanded cooperation with academic institutions. She supported the Committee in calling for voluntary contributions to the two trust funds established for those purposes, and for increased sponsorship of associate experts to assist in the work.

17. Lastly, she agreed with the view that the current status of work in the Special Committee was due mainly to the lack of political will on the part of some Member States, not the Committee's working methods. The quality of the texts adopted by the Committee was more important than the length of time an item remained on its agenda. A reasonable amount of time should be allowed for proposals to be submitted, so that the Committee could consider them thoroughly.

18. **The Chairperson** drew attention to the recommendation of the Special Committee during its 2007 session on the proposal submitted by Belarus and the Russian Federation entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations". The recommendation read:

"The Special Committee recommends inviting the Chair of the Sixth Committee to bring the sections of the reports of the Special Committee referring to peacekeeping operations to the attention of the Chairman of the Fourth Committee."

That recommendation had been reaffirmed at the 2008 session. He invited the Sixth Committee to agree to it.

19. *It was so decided.*

20. **The Chairperson** said that a letter to that effect would accordingly be sent to the Chairman of the Fourth Committee.

**Agenda item 76: Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (A/63/118)**

21. **Mr. Rose** (Australia), speaking on behalf of the CANZ group of countries (Australia, Canada and New Zealand), said that the Additional Protocols extended crucial protections to civilians, and imposed constraints on the conduct of military operations in order to mitigate their humanitarian impact. Welcoming the recent accessions to Additional Protocols I and II, he called upon all States that had not yet done so to become parties to all three Protocols. He also welcomed the entry into force in January 2007 of Additional Protocol III, establishing the red crystal as an additional protective emblem for humanitarian workers. It would provide more flexibility for national Red Cross and Red Crescent societies in their choice of emblem, and help them to deliver humanitarian aid freely, safely and efficiently. More than 54 States had signed Additional Protocol III and 33 had ratified it.

22. He was happy to note the finalization, in September 2008, of the Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to the Operations of Private Military and Security Companies during Armed Conflict. The “good practices” aimed to ensure that only those companies likely to respect international humanitarian law and human rights through appropriate training, internal procedures and supervision would be able to provide services during armed conflict.

23. He welcomed the adoption in May 2008 of the Convention on Cluster Munitions, prohibiting the use, production or stockpiling of cluster munitions that indiscriminately scattered large numbers of bomblets, killing and maiming civilians long after the cessation of hostilities. Importantly, the Convention committed States parties to clearing cluster munitions and assisting victims and their communities. The CANZ countries acknowledged the steadfast efforts of the International Committee of the Red Cross (ICRC) to ensure that persons caught up in armed conflict were afforded the protection to which they were entitled.

24. **Mr. Alday González** (Mexico), speaking on behalf of the Rio Group, expressed the strong commitment of the Group to the respect and promotion of international humanitarian law. Members of the Group were willing to adopt all necessary measures for its full implementation at the national level, including the criminalization of forbidden conduct. States must use appropriate legal means to prosecute the perpetrators of war crimes. Welcoming the report of the Secretary-General on that subject (A/63/118), he encouraged countries that had not yet done so to provide the Secretary-General with information on the progress achieved in their domestic law-making relating to international humanitarian law, so enabling the Committee to understand fully the extent to which it was being applied at the national level, and to continue sharing with Member States the various mechanisms for its implementation at that level.

25. Contemporary armed conflicts brought serious consequences for civilians, especially the most vulnerable among them. All States must ensure the application of international humanitarian law, in line with their obligation under article 1 of the Geneva Conventions. The Committee could help them to do so by explaining and further codifying the law. Despite the significant progress made in applying international humanitarian law at the domestic and international levels, justice had not yet been achieved or impunity for war criminals brought to an end. The countries of the Rio Group would make every effort to secure the widest possible adherence by States to the Additional Protocols.

26. **Mr. Cabouat** (France), speaking on behalf of the European Union; the candidate country the former Yugoslav Republic of Macedonia, the stabilization and association process countries and Albania and Montenegro; and, in addition, Armenia, Iceland, the Republic of Moldova and Ukraine, said that respect for human rights and fundamental freedoms, as well as the rule of law, were key principles on which the European Union was founded. In December 2005 the European Union had adopted its Guidelines on promoting compliance with international humanitarian law, for the purpose of providing operational tools for the Union and its institutions. He urged States Members of the United Nations that had not yet done so to accede to the two Additional Protocols of 1977 to the Geneva Conventions, and to consider accepting the competence of the International Fact-Finding Commission,

established under article 90 of Additional Protocol I. He welcomed the adoption of Additional Protocol III and its entry into force in February 2007, and urged all States to become parties to it.

27. Most provisions of the Conventions and the 1977 Protocols were recognized as customary law. For the sake of full implementation of international humanitarian law, certain minimum standards, including common article 3, must be respected in all situations of armed conflict. He commended ICRC on its continuing efforts to strengthen and promote the dissemination of international humanitarian law. The comprehensive study by ICRC of customary international humanitarian law deserved careful study by Member States. He also welcomed national efforts to implement and disseminate international humanitarian law, whose norms would be devoid of practical relevance unless armed forces were given proper training.

28. Recalling the adoption, as an annex to General Assembly resolution 60/147, of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, he observed that the text was the first to address systematically, at the international level, the question of remedies to be provided for victims in their own jurisdictions. Another protective instrument recently adopted was the International Convention for the Protection of All Persons from Enforced Disappearance. The text of the Convention on Cluster Munitions had also recently been adopted, and would soon be open for signature.

29. The ad hoc international criminal tribunals, and the International Criminal Court promoted respect for international humanitarian law by prosecuting and trying perpetrators of genocide, crimes against humanity and war crimes. The existence of the Court also had an important deterrent effect, and its Statute allowed victims to take part in proceedings before the Court and to receive compensation. All States were called upon to ratify or accede to the Statute.

30. **Mr. Lundvist** (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that, although the Geneva Conventions had achieved universal acceptance and universal recognition as the principal legal basis for

protecting persons in armed conflicts, much had still to be done to secure universal compliance with their rules; joint efforts to that end must therefore remain a priority. Since many of the rules contained in the 1977 Protocols Additional to the Geneva Conventions had become part of customary international humanitarian law, they were applicable to all States and all parties to conflicts.

31. The Nordic countries welcomed developments in international humanitarian law, particularly the adoption of the Convention on Cluster Munitions and continued efforts to address the issue of cluster munitions within the framework of the 1980 convention on Certain Conventional Weapons. They likewise welcomed the Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict and commended the endeavours of States taking part in the "Copenhagen Progress" to tackle challenges related to the handling of detainees during international military operations.

32. While views clearly differed on the study on customary international humanitarian law conducted by ICRC, it would on the whole be very useful to States. The development of international humanitarian law was further evidenced by States' increasing willingness to promote it through a number of Security Council resolutions. The key challenge was to translate those resolutions into real action on the ground in order to protect civilians. States had a responsibility within their own borders to protect people from massive violations of international humanitarian law and human rights law. If a State was unwilling or incapable of doing so, the international community, including the United Nations, had a duty to protect.

33. The International Criminal Court played a paramount role in securing compliance with international humanitarian law and ending impunity for war crimes, crimes against humanity and genocide. Efforts must therefore continue to achieve universal accession to the Rome Statute. It was also vital that contracting States supported and cooperated with the Court. Moreover, there was a need to strengthen other existing mechanisms for obtaining compliance with international humanitarian law, such as the International Fact-Finding Commission.

34. It was essential that the international community should react to breaches of international humanitarian law at an early stage and deter such breaches through preventive measures such as awareness-raising campaigns and education in international humanitarian law.

35. ICRC and its National Societies were doing extremely valuable work in disseminating international humanitarian law, providing training on the subject and protecting persons in armed conflicts.

36. While respect for and the implementation of international humanitarian law was primarily a responsibility of each State, which must therefore provide its armed forces with instruction in the matter, all parties to an armed conflict must respect international humanitarian law and anyone who violated it must be held accountable under internal law and procedures. The investigation of suspected abuses of international humanitarian law was a necessity and a duty.

37. **Ms. Orina** (Kenya), speaking on behalf of the Group of African States, said that the Group strongly supported international humanitarian law, and especially the Additional Protocols, which were irreplaceable instruments for protecting human dignity during armed conflicts, since they embodied mostly customary international rules on the conduct of hostilities and were applicable to all parties to all armed conflicts.

38. Universal accession to the Geneva Conventions and the increasing number of ratifications of the Additional Protocols thereto were signs of the international community's growing readiness to protect victims of armed conflicts. The Group of African States commended the role of ICRC in promoting and disseminating international humanitarian law. Nevertheless, Member States also had a crucial part to play in that respect and they should therefore intensify their awareness-raising and training efforts. It was to be hoped that the resolutions adopted at the 30th International Conference of the Red Cross and Red Crescent would be soundly implemented in order to enable State and non-State actors to surmount their difficulties in applying the rules of international humanitarian law and complying with the Additional Protocols.

39. **Mr. Bichet** (Switzerland) said it was regrettable that some States had been unable to contribute to the

Secretary-General's report on the status of the Additional Protocols (A/63/118). In that connection, he drew attention to the software being developed by his country to facilitate the preparation of such contributions.

40. International humanitarian law was as relevant as ever and continued to provide protection to all victims of armed conflicts, but it had to contend with some major challenges such as terrorism, the legal framework for counter-terrorism, the use of cluster munitions and the larger role of non-State actors in armed conflicts. It was encouraging to note that the international community had made some significant progress in addressing such challenges, such as the adoption of the Convention on Cluster Munitions. To prevent those weapons causing further human suffering, the Convention must enter into force swiftly. His Government would be signing it in December 2008. It was also taking part in current negotiations on the Convention on Conventional Weapons and hoped that participating States would accept a compromise and settle their differences of opinion in a constructive spirit.

41. Progress had likewise been achieved in dealing with the role and impact of non-State actors in armed conflicts through the adoption of the Montreux Document which did not legitimize private military and security companies, but simply set out legal obligations and good practices in an effort to enhance compliance with international humanitarian law and human rights. Furthermore, all States should make use of the unexplored potential of the International Fact-Finding Commission set up under article 90 of Protocol I. Similarly, all Member States should support the work of the International Criminal Court, which was designed to enforce international humanitarian law and end impunity.

42. International humanitarian law still offered an adequate response to current conflicts. The problem was not a lack of rules, but the flouting of them. The current agenda item reminded States of their obligations and provided them with an opportunity to redouble their efforts to honour them fully.

43. **Mr. Abdelsalam** (Sudan) commended the report of the Secretary-General (A/63/118) and praised ICRC for the work it was doing to ensure respect for international humanitarian law. The Sudan and ICRC were continuing to cooperate with a view to ensuring

that the principles of international humanitarian law were incorporated into Sudan's national legislation. Furthermore, ICRC had conducted training courses on international humanitarian law for the Sudanese armed forces and police and provided pertinent assistance to Sudanese universities.

44. The Sudan was eager to honour its commitments under the Geneva Conventions and the Additional Protocols, and in early 2003 a national commission on international humanitarian law had been established in order to review the relevant national legislation. Although, the Sudan was the theatre of several internal conflicts, some of which pre-dated independence, the country had been careful to observe the Geneva Conventions, and in 2006 had signed the two Additional Protocols.

45. The Sudan accorded particular importance to Additional Protocol II, and believed that non-State actors should be obliged to respect its provisions. Some of the activities of such actors were irresponsible and endangered civilians and aid workers. The Sudan therefore welcomed the fact that Additional Protocol II held armed groups responsible for any violations of international humanitarian law, and believed that action should be taken to apply its provisions to such parties and protect civilians.

46. **Mr. Lamine** (Algeria) said that international humanitarian law could plainly help to mitigate the effects of the many crises and conflicts taking place in different parts of the world. States which had not already done so should therefore accede to the 1949 Geneva Conventions and their 1977 Additional Protocols, recognize the jurisdiction of the International Fact-Finding Commission and comply with those instruments which reflected customary international humanitarian law.

47. He commended the dedication of the ICRC Staff who strove to disseminate and secure compliance with international humanitarian law and human rights in conflict zones. Algeria and ICRC cooperated harmoniously through the ICRC delegation in Algiers. ICRC delegates regularly visited places of detention under the jurisdiction of the Ministry of Justice and held confidential interviews with persons deprived of their freedom.

48. Algeria was a party to the four Geneva Conventions and the two Additional Protocols of 1977. His Government's commitment to international

humanitarian law had been consolidated by the establishment of a commission on international humanitarian law, a standing advisory body responsible for providing the public authorities with opinions and studies on all related matters. It was also responsible for organizing meetings and conferences on the subject and for proposing measures to bring domestic law into line with the rules of international humanitarian law. Another of its tasks was to promote cooperation and exchange experience with regional and international organizations and with national commissions of third States.

49. The fact that occupying Powers must always respect international humanitarian law could never be stressed enough. Any breaches must be recorded and reported, since the international community must shoulder its full responsibility for combating crimes committed by armed forces in conflict zones.

50. **Mr. Kalinin** (Russian Federation) welcomed the entry into force of Additional Protocol III to the Geneva Conventions. The Additional Protocols were extremely important sources of international humanitarian law and their authority was being strengthened. However, there was still a long way to go before their provisions became generally accepted rules applicable in armed conflicts. He called upon those States which had not yet done so to consider adhering to them. The potential in conflict situations of the International Fact-Finding Commissions provided for in article 90 of Additional Protocol I, had not yet been sufficiently explored.

51. He acknowledged the role of international criminal justice in prosecuting grave breaches of international humanitarian law. However, the primary responsibility for the observance of its norms lay with States. His own country was committed to its principles and norms, and was working both to implement them and to disseminate knowledge of them. In the past two years it had prepared recommended methods for studying them, and the rules of international humanitarian law had also been included in manuals regulating the conduct of its armed forces. Fifteen two-week courses on the rules of armed conflict had been held for 350 military officers from the Russian Federation and the CIS countries, and in-service training courses on international humanitarian law were conducted in a number of Russian cities. Over 150 participants had so far attended the annual gatherings of staff officers on the



dissemination of knowledge of international humanitarian law among military personnel. There had been two conferences on the subject for the teaching staff of military institutions, and competitions testing the knowledge of students in those institutions.

52. The Convention on Cluster Munitions had been frequently mentioned, and had been hailed as a milestone of international humanitarian law. When the subject was discussed, as many interested parties as possible should be enabled to participate, not forgetting those engaged in initiatives inspired by the 1980 Convention on Certain Conventional Weapons.

53. **Ms. Vargas Walter** (Cuba) said that the armed forces were not the only people to be exposed to human rights violations occurring during armed conflicts; the civilian population were increasingly the victims and direct targets of such conflicts, as the situation of civilians in the Occupied Palestinian Territory showed. It was therefore more essential than ever before to consolidate the legal rules applicable to armed conflicts through their universal acceptance.

54. At a time when unilateralist, imperialist ideas had produced a sad trail of violations of international humanitarian law, the international community must guarantee strict compliance with the rules governing the protection of civilians in armed conflicts. Only if all States forswore war for expansionist purposes and committed themselves to multilateralism within the framework of the United Nations and its Charter would it be possible to enhance respect for humanitarian standards designed to protect civilians in any armed conflict. A great effort must likewise be made to implement international humanitarian law fully at the national level and to disseminate it widely.

55. As a party to the 1949 Geneva Conventions and their two Additional Protocols of 1977, Cuba had incorporated all the requisite guarantees in its domestic law to ensure strict compliance with the rules contained in those instruments, especially those regarding the protection of civilians. Her country also had wide experience of disseminating and teaching international humanitarian law. It had a centre for the study of international humanitarian law, backed by ICRC and the Cuban Red Cross, which had made a substantial contribution towards teaching international humanitarian law to members of the Cuban armed forces, officials of the Ministry of the Interior and civil servants. It had also helped to disseminate international

humanitarian law in Central American and Caribbean countries. Cuba was ready to give further assistance to ICRC in its noble task of spreading a knowledge of international humanitarian law in Cuban society and in other countries.

56. **Mr. Yokota** (Japan) said that in 2005 his Government had formulated national basic guidelines for the protection of civilians in emergencies. On the basis of those guidelines, all government departments, all prefectures and almost all municipalities had formulated plans to implement civil protection measures. In 2007 ICRC and the Japanese Government had organized a joint seminar on tracing missing persons for the staff of the Japanese Red Cross and the ICRC regional delegation in Kuala Lumpur.

57. In 2008, in accordance with the Civil Protection Law, a computerized information system had been introduced to gather data about the fate of foreigners and Japanese citizens in the event of an armed attack. That information would be made available to the Japanese Red Cross and local governments and people seeking information would be able to use the system.

58. As it was impossible to overemphasize the significance of international humanitarian law, Japan looked forward to closer cooperation with ICRC when the ICRC regional office opened in Tokyo.

59. **Ms. Gladstone** (United Kingdom) said that General Assembly resolution 61/30 offered one of the few opportunities for States to report on compliance with their obligations in the field of international humanitarian law. Unfortunately, the number of replies to the Secretary-General's request for information under the resolution had thus far been disappointing; her own delegation, after some delay, had just submitted its own reply and she urged other States to follow suit. ICRC was said to be considering whether a standard template would be helpful, and she encouraged it to pursue that initiative.

60. At the thirtieth International Conference of the Red Cross and Red Crescent, held in 2007, which had set that movement on a good course for the next four years, one of the commissions had been asked to consider the role of national societies as auxiliaries to the public authorities in the humanitarian field. Partnerships between governments and national societies would, of course, vary widely, but they could be fruitful for both sides; her delegation therefore

welcomed the inclusion in resolution 61/30, for the first time, of a reference to the role of those societies.

61. The preamble to the draft resolution under the agenda item referred to the ICRC study entitled "Customary International Law". While her Government recognized that there might be cases in which such law could supplement the extensive range of treaties in that field, it had reservations about volume I of the study. In particular, some of the examples provided were not, in its view, properly to be regarded as State practice for the purpose of the rules relating to the formation of customary international law. Furthermore, the study sometimes jumped too quickly to the conclusion that a rule had entered into the corpus of that law without sufficient evidence of State practice. On the other hand, volume 2 of the study was a valuable research tool which brought together a large amount of material that would otherwise be difficult to locate. She welcomed the update of that volume being conducted at the Lauterpacht Centre for International Law, in the University of Cambridge, with funding from the British Red Cross.

62. The draft resolution also referred to the Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict, in the drafting of which the United Kingdom had participated. In general, private companies provided a very good and, in some cases, indispensable service; however, the document's recapitulation of the legal obligations of States and list of potential good practices that they might wish to consider when deciding upon regulation in that field would prove useful.

63. The four Geneva Conventions had as much relevance to the modern world as at the time of their adoption in 1949; they were among the very few, if not the only, treaties to which all States were parties. However, it was also necessary to implement them as fully as possible in the interests of those who suffered during armed conflicts. The United Kingdom was, or had committed itself to becoming, a party to all the treaties in the field of international humanitarian law. In particular, it strongly supported and hoped soon to ratify Additional Protocol III to the Geneva Conventions, which had introduced the red crystal as a further humanitarian symbol, and was pleased that it had entered into force.

64. Her Government attached great importance to the role of journalists in reporting armed conflict and to their position under the Geneva Conventions. As civilians, journalists must be protected and deliberate attacks on them must be forcefully condemned. At the same time, journalists should respect the human dignity of those captured or interned during armed conflicts and ensure that they were not made the object of "public curiosity", a concept which, although mentioned in the Conventions, might be difficult to interpret in the current age of instantaneous media reporting. Guidance for the media on the relevant provisions of the Conventions, produced jointly by her Government and the British Red Cross, was posted on the website of the Permanent Mission of the United Kingdom to the United Nations.

65. **Mr. Moreno Zapata** (Bolivarian Republic of Venezuela) said that his country was a party to the main international humanitarian law instruments, including the Geneva Conventions of 1949 and the Additional Protocols of 1977, which had been incorporated in its domestic legislation. It would shortly be in a position to become a party to Additional Protocol III. In addition, it had also been a party since 2002 to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and since 2005 to the Convention for the Protection of Cultural Property in the Event of Armed Conflict.

66. His country was in the process of promulgating a special act on the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction and had already established a national authority to serve as the focal point for liaison with the Organization for the Prohibition of Chemical Weapons and other States parties.

67. **Mr. Adi** (Syrian Arab Republic) said that Islam had provided an important early form of international humanitarian law which had, inter alia, governed the treatment of prisoners and wounded persons. Current international humanitarian law must apply not only to the weak, but to those who were violating its provisions in every way. Since its establishment in 1948, Israel had pursued a policy of deliberately targeting civilians, killing children and the elderly, destroying infrastructure, polluting the environment and displacing populations in order to replace them with settlers. It had also destroyed Christian and

Muslim places of worship, uprooted trees, destroyed archaeological sites and built the separation wall. In its wars of aggression, it had tortured prisoners, and killed or buried alive wounded soldiers.

68. On many occasions, through the United Nations and the International Criminal Court, the international community had affirmed that the Geneva Conventions and their Additional Protocols applied to the occupied Arab territories and demanded that Israel, the occupying Power, should comply with their provisions. Numerous reports, including by the Special Rapporteur for Human Rights in the Occupied Palestinian Territory, had indicated that Israel had violated the most basic principles of international humanitarian law and that its actions constituted war crimes under the Fourth Geneva Convention, from its obligations under which it could not be exempted. The fact-finding mission to Beit Hanoun, led by Archbishop Desmond Tutu, had found that what had taken place there might have constituted a war crime and that the international community should end the culture of impunity. The crimes that had been committed by Israel and its disregard for the most basic tenets of international humanitarian law, combined with its impunity and lack of accountability, were indicative of the brutal nature of its occupation and its military and political leadership and of international weakness in dealing with and ending those violations. Israel was protected against international condemnation and the application of international resolutions and continued to target Palestinian civilians and expand its settlement activity. In the face of the International Court of Justice ruling, it continued to build the separation barrier, which not only infringed the rights of the Palestinians and appropriated their natural resources and land, but also affected any possible peace settlement.

69. The terrorist and aggressive practices pursued by Israel in Palestine were also adopted in the occupied Syrian Golan, where tens of thousands of Syrian citizens had been dispossessed and settlements had been built on the ruins of their villages, in blatant disregard of international resolutions. In addition to changing the demography of the Golan, Israel was burying nuclear waste in that occupied territory and diverting its water resources to its own settlements. Under international humanitarian law, all those acts constituted crimes against humanity. During its 2006 war against Lebanon, Israel had used unprecedented aggression and in a mere two days, after Security

Council resolution 1701 (2006) had called for a full cessation of hostilities, had dropped more than 1 million cluster bombs on southern Lebanon. Many of those bombs were designed to look like toys, with a view to killing or maiming Lebanese children.

70. Against that background, and as the Geneva Conventions and other international instruments provided, resistance to foreign occupation was legitimate. The international human rights bodies must demonstrate their ability to protect the victims of armed struggles.

71. **Mr. Mansour** (Tunisia) said that his country attached the greatest importance to strengthening compliance with international humanitarian law and was actively seeking to promote its principles at the national level. It had ratified the Geneva Conventions of 1949 and the Additional Protocols of 1977. Under the Tunisian constitution, international treaties, once ratified, became part of the national legal order and a source of mandatory law that prevailed over legislation.

72. In 2006 Tunisia had established the National Commission on International Humanitarian Law to disseminate the culture of humanitarian law by conducting studies and organizing awareness-raising and training activities. The Commission was also called upon to issue advisory opinions on the appropriate means of applying the rules of international humanitarian law. It played a primary role in the intensive campaigns and programmes being conducted in Tunisia to raise awareness among young people and those in the professional categories most concerned. Among those activities it might be mentioned that the Ministry of Justice and Human Rights, in collaboration with ICRC, had organized a training session for Tunisian magistrates; the Chamber of Deputies had held a day-long seminar on international humanitarian law; and in May 2008 Tunisia had hosted a session on international humanitarian law organized by the Council of Arab Justice Ministers in collaboration with ICRC.

73. Despite universal acceptance of the Geneva Conventions — a very welcome development — universal application of the rules of international humanitarian law remained a goal to be achieved and a priority that demanded greater commitment and collective effort. The international community must respond firmly to violations whenever they occurred.

74. His delegation was following with interest the debate inspired by the 2005 publication of the ICRC study on customary international humanitarian law and welcomed the recent publication “Increasing respect for international humanitarian law in non-international armed conflicts”. Deliberate targeting of civilians, pillage and destruction of civilian property, forced displacement of population and indiscriminate attacks were unfortunately common in non-international armed conflict throughout the world. Notwithstanding the development of customary international law, the clarification and possibly the development of the law applicable to non-international armed conflicts remained a major task to be undertaken.

75. The trend to contract out to private military and security companies tasks normally performed by national armed forces or official security agencies meant that such enterprises were increasingly coming into contact, in situations of armed conflict, with persons protected by international humanitarian law. Such private actors of indefinite status, who often could not be identified as either civilians or combatants, threatened to erode the distinction between those two categories, which was fundamental to international humanitarian law. Therefore, setting aside the current debate about the legality of subcontracting the use of force, the presence of such actors raised questions about how to apply international humanitarian law; how to define the duties and obligations of the parties involved; and how to exercise effective national or international control over the services that such private companies might be furnishing. His delegation therefore welcomed the Swiss initiative in cooperation with ICRC that had resulted in the Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict.

76. **Mr. Al-Nasser** (Qatar) commended the work undertaken by ICRC with a view to alleviating the suffering of the victims of armed conflict. The vast majority of such victims were innocent, disinterested civilians and Qatar therefore believed that it was essential to ensure real respect for international humanitarian law and improve protection for civilians in situations of armed conflict. It urged all countries that had not yet become signatories to international humanitarian law instruments and, in particular, the Additional Protocols to the Geneva Conventions, to accede thereto forthwith and accept the International Fact-Finding Commission provided for in Additional

Protocol I, article 90. Qatar itself was a party to the four Geneva Conventions and the Additional Protocols as well as other international humanitarian law instruments, all of which formed part of its national legal system: under the Qatari constitution, all such instruments had the power of law once ratified.

77. Qatar had taken many measures to strengthen, implement and raise awareness of international human rights law and protect the Red Cross and Red Crescent emblems; it had criminalized certain acts perpetrated in time of war and had established the National Disarmament Committee. It was punctilious about training in international humanitarian law, which was taught at many academic institutions, and diplomatic and military personnel took part in regional and international conferences on international humanitarian law. Furthermore, the local Red Cross Committee was very active and effective in promoting international humanitarian law.

78. **Mr. Limon** (Israel), speaking in exercise of the right of reply, said that the Committee had been engaged in an important and fruitful discussion of international humanitarian law, a topic vital to all Member States and to the international community as a whole. It was regrettable that a certain Member State, which was well known for its active participation in supporting terrorism in the Middle Eastern region and was under investigation by the United Nations for its terrorist activities, had shamefully abused the forum provided by the Committee to promote that State's own narrow political agenda. All those who truly cared about the work of the Committee should condemn that shameful waste of its time, as his delegation certainly did.

79. **Mr. Adi** (Syrian Arab Republic), speaking in exercise of the right of reply, said that, despite the limited time allotted to discussion, the Organization nonetheless remained the appropriate place to relate the sufferings of those under occupation and the actions that threatened their livelihood. The Israeli violations of international humanitarian law clearly set out in his earlier statement were on record in several other forums within the Organization. It was regrettable that a person should attempt to justify such practices by casting accusations, especially since the Israeli representative himself had been part of the legal team of the army that had committed the violations.

*The meeting rose at 12.35 p.m.*