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Chair: Mr. Salinas Burgos..... (Chile)

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The meeting was called to order at 10.05 a.m.

Agenda item 78: Criminal accountability of United Nations officials and experts on mission
(A/66/174 and Add.1)

1. **Ms. Revell** (New Zealand), speaking on behalf of Australia, Canada and New Zealand (CANZ), said that criminal accountability was a fundamental pillar of the rule of law and should apply to everyone. Holding United Nations officials and experts on mission accountable for their criminal acts was critical to the integrity, credibility and effectiveness of the Organization and also served as a deterrent. Some improvements had been made over the past six years in ensuring accountability. In that regard, the CANZ group applauded the referral of the cases of six United Nations officials and two experts to the States of nationality for investigation and possible prosecution.

2. States, however, needed to do more to close jurisdictional gaps. The CANZ group called on all Member States to consider establishing jurisdiction over serious crimes committed by their nationals while serving as United Nations officials or experts on mission and to report on efforts taken to investigate and, where appropriate, prosecute their nationals for such crimes. While there might be immunity in the host State, there should not be impunity at home. The CANZ group supported the proposal for a convention requiring Member States to exercise criminal jurisdiction over their nationals participating in United Nations operations abroad, as a way of strengthening the legitimacy and integrity of such operations.

3. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran), speaking on behalf of the Movement of Non-Aligned Countries, said that, as major contributors and recipients of peacekeeping personnel, the countries of the Non-Aligned Movement attached great importance to the issue of accountability. While acknowledging the outstanding contributions and sacrifices of United Nations peacekeepers, the Movement stressed that all United Nations peacekeeping personnel should perform their duties in a manner that preserved the image, credibility, impartiality and integrity of the Organization. It also emphasized the importance of maintaining a policy of zero tolerance in all cases of sexual exploitation and sexual abuse committed by peacekeeping personnel.

4. Implementation of the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel adopted by the General Assembly in its resolution 62/214 would help to mitigate the suffering endured by victims of sexual exploitation and abuse. Likewise, General Assembly resolution 61/291 on the comprehensive review of the whole question of peacekeeping operations in all their aspects should be implemented without delay, as it would strengthen accountability mechanisms and help to ensure due process in the investigation of sexual exploitation and abuse.

5. In that connection, full implementation by all Member States of General Assembly resolutions 62/63, 63/119, 64/110 and 65/20 could help to eliminate any jurisdictional gaps. Subsequently, an assessment could be undertaken to determine whether further action by the General Assembly was required. Important policy and remedial measures had been agreed upon but still needed to be implemented. The Non-Aligned Movement continued to believe that progress on short-term measures was needed and that it was premature to discuss a draft convention on criminal accountability of United Nations officials and experts on mission.

6. **Ms. Quezada** (Chile), speaking on behalf of the Rio Group, said that criminal misconduct by United Nations officials and experts on mission must not go unpunished, as it harmed not only the victims but also the reputation of the Organization and had a detrimental effect on the fulfilment of mandates. While the report of the Secretary-General (A/66/174 and Add.1) showed that some States had taken steps to establish jurisdiction over such offences, it also made clear that much more needed to be done to ensure collectively that impunity was not tolerated. In that connection, it was important to clarify the meaning of terms such as “criminal accountability”, “United Nations officials” and “experts on mission”, to ensure that all States had a common understanding of the scope and definition of the issue.

7. It was important for the Committee to continue to receive information on substantiated allegations of criminal activity or abuse by United Nations officials and experts on mission, although it was doubtful that the number of reported cases reflected the true extent of the problem. It would be helpful to have more information on the reporting and tracking methods used and the criteria applied in distinguishing serious

misconduct from criminal behaviour. The Rio Group noted the efforts being made by the Secretariat to establish a standard procedure for notifying the Member States concerned of serious allegations of misconduct involving uniformed personnel deployed as experts on mission. The same procedure should be followed for incidents involving United Nations officials and non-uniformed experts on mission.

8. The Rio Group reaffirmed its full support for the policy of zero tolerance of sexual exploitation and abuse or other criminal conduct, while reiterating the need for observance of the rule of law and due process in the implementation of that policy. Moreover, the United Nations should be setting the standard in assistance to those whose rights had been violated. The Secretary-General and Member States had a shared responsibility to take every measure to prevent and punish criminal activities committed by persons working for the United Nations and to enforce standard of conduct in that regard. The Group therefore welcomed the practical measures described in the report of the Secretary-General (A/66/174) concerning training and awareness-raising on United Nations standards of conduct and endorsed the three-pronged strategy of prevention, enforcement and remedial action to address sexual exploitation and abuse. Discussions between the Secretariat and Member States on the training of United Nations officials and experts on mission and on the conscientious exercise of the waiver of privileges and immunities should continue. While there were many areas where cooperation could be improved, some areas, such as investigations in the field and during criminal proceedings and the provision and assessment of evidence in administrative and jurisdictional proceedings, presented greater challenges.

9. **Mr. Kamau** (Kenya), speaking on behalf of the Group of African States, said that the agenda item under discussion was of great importance to the African countries, as a large number of United Nations officials and experts were currently deployed in Africa. While commending the contributions and sacrifices of United Nations peacekeepers, officials and experts on mission, the Group noted with concern the instances of sexual exploitation and abuse committed by a few among them. Such irresponsible conduct undermined the Organization's image, integrity and credibility and caused grave harm to the victims. It was of paramount importance to ensure that criminal acts never went unpunished and that perpetrators were prosecuted. A

zero-tolerance policy with regard to sexual abuse and other criminal acts should remain the guiding principle.

10. Jurisdictional gaps could lead to a rise in criminality and suffering and must be addressed. The Group therefore welcomed the efforts of many Member States to establish jurisdiction over crimes of a serious nature committed by their nationals while serving as United Nations officials or experts on mission. Many Member States had also indicated their readiness to afford assistance in criminal investigations and extradition proceedings. The African Group stressed the importance of cooperation through information-sharing, exchange of experience and legal assistance to strengthen national judicial capacity.

11. The Group of African States commended the improved predeployment training materials developed by the Conduct and Discipline Unit and encouraged troop-contributing countries to highlight the issues of sexual abuse and other criminal acts during the mandatory predeployment training. General Assembly resolutions 62/63 and 63/119 contained important policy and remedial measures which, if fully implemented, would be useful in addressing the issue of criminal accountability of United Nations officials and experts on mission.

12. **Mr. Salem** (Egypt) said that ensuring the accountability of United Nations personnel on mission for any criminal acts committed was crucial for preserving the Organization's integrity and also sent a strong message of deterrence. In cases where credible allegations had been made against United Nations officials and experts on mission, the United Nations should cooperate with the law enforcement and judicial authorities of Member States against whose nationals allegations had been made.

13. Training and awareness-raising was also a key preventive tool used by peacekeeping operations and special political missions. As a major troop-contributing country, Egypt stressed high standards of conduct and provided mandatory predeployment training to all its military and police personnel. Moreover, Egyptian laws offered a wide scope for extraterritorial jurisdiction *ratione personae*, which allowed for the prosecution of Egyptian nationals who committed crimes abroad. Egypt had also entered into various bilateral mutual legal assistance agreements that facilitated cooperation in criminal investigations.

14. His delegation reiterated its firm support for the zero-tolerance policy and called for continued and enhanced cooperation among States and between Member States and the United Nations. The task at hand was to find the best way to ensure accountability in accordance with the principles of the rule of law and due process and in conformity with the Charter of the United Nations.

15. **Mr. Stuerchler** (Switzerland) said that United Nations officials and experts must be held accountable for crimes committed, because such acts undermined the credibility and legitimacy of the Organization. Member States and the Secretary-General had an obligation to the people of the host country to prevent and punish such offences. States should ensure that their nationals who committed a crime while on mission for the United Nations could be brought to justice, if necessary by adapting their legislation to include the active personality principle. While his delegation was pleased with the adoption of General Assembly resolution 65/20, which strongly urged States to consider establishing to the extent that they had not yet done so jurisdiction over crimes committed by their nationals while serving as United Nations officials or experts on mission, it also noted that the resolution did not refer to military personnel.

16. His delegation wished to see an improvement in the Secretary-General's reporting system, which could include the submission of annual reports on each incident, stating the nationality of the alleged perpetrator and measures taken to ensure that such incidents did not recur. The Secretary-General might draw up a list of States already applying the active personality principle with regard to their officials and experts on mission in order to encourage other States to do so. In the long term, the most appropriate solution would be to draft a comprehensive international convention covering all categories of personnel on peacekeeping operations and missions.

17. **Ms. Enersen** (Norway) said that there was broad agreement that serious crimes should not go unpunished. Sexual exploitation and abuse could be a means of warfare and might even constitute war crimes. Such acts by United Nations officials and experts on duty in conflict and post-conflict situations challenged the very core of what the United Nations stood for and damaged the credibility and legitimacy of the United Nations. Her delegation fully supported the United Nations zero-tolerance policy towards crimes

committed by its officials and experts, as impunity fostered anger, suspicion and mistrust. While awareness-raising and training on standards of conduct was necessary, reparatory measures must also be in place in the event that crimes were committed despite such training.

18. Her delegation urged all States to establish jurisdiction over serious crimes committed by their nationals serving as members of a United Nations mission: if the crime was committed in a conflict or post-conflict State, there might be no other viable option. It also urged States to cooperate with one another and with the United Nations when allegations of serious crimes were revealed. General Assembly resolutions 65/20 had offered concrete recommendations for stronger cooperation. However, a number of those recommendations were qualified by a reference to States' domestic law. While it was obvious that cooperation must be carried out in compliance with domestic law, it was equally clear that current domestic law could not serve as a justification for non-cooperation. Rather, States must be prepared to consider amending their domestic law when that was warranted.

19. Although the Secretary-General's report (A/66/174) contained useful information on cases where credible allegations had been brought to the attention of the State of nationality of the alleged perpetrator, her delegation noted with concern that the United Nations had received few responses from those States. Her delegation would appreciate the Secretariat's providing an assessment as to whether or not the number of cases reported accurately reflected the true situation. Consideration should be given to putting in place reporting mechanisms easily accessible to potential victims.

20. **Mr. Ruiz** (Colombia) said that the issue of the criminal accountability involved two cardinal principles of the United Nations: combating impunity and maintaining international peace and security. Although Colombia had not contributed military contingents to United Nations peacekeeping missions, it had contributed military personnel to other multinational forces and had sent police contingents to serve as observers in several United Nations missions; it therefore had some experience in the matter.

21. The deployment of military personnel by the United Nations into any Member State was based on

the consent of that Member State. However, deployment could be effected without such consent in exceptional cases authorized by the Security Council in derogation from the domestic jurisdiction principle enshrined in Article 2, paragraph 7, of the Charter. Nonetheless, military officials involved in such missions were still expected to act within the mandate set out by the relevant Security Council resolution, which was to be interpreted restrictively, and any conduct that exceeded that mandate would be considered a private act not subject to protection under any status-of-forces agreement or recognized functional immunities.

22. While the model memorandum of understanding between the United Nations and troop-contributing countries indicated that the latter had the exclusive right to exercise criminal jurisdiction over their nationals participating in United Nations operations abroad, it did not include an obligation to have alleged offenders prosecuted. The same legal norm that deprived the territorial State of the right to prosecute mission members should specifically require the troop-contributing State to do so.

23. With regard to sexual offences, sadly those most commonly committed in the course of peacekeeping operations, the Secretary-General's Bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13) alluded to the referral of such cases to national authorities for criminal prosecution, but made no mention of a specific legal obligation to subject the alleged offenders to criminal prosecution or disciplinary measures. The norms in the Bulletin should become a legal requirement included in all written agreements between the Secretary-General and troop-contributing States. In any event, if the norms were adopted unilaterally by States, they would become rules of customary international law, without the need for specific agreements.

24. **Mr. Kurien** (India) said that his country was concerned about the serious crimes committed by United Nations officials and experts on mission in spite of the zero-tolerance policy and codes of conduct put in place by the Organization. All officials found guilty of a serious offence should be prosecuted and held accountable, for such acts had a serious impact not only on the victim and the host country, but also on the credibility and image of the United Nations. His delegation therefore welcomed General Assembly resolution 65/20, and hoped that its implementation

would help fill jurisdictional gaps in Member States that did not currently exercise extraterritorial jurisdiction over crimes committed by their nationals abroad. His country was already complying with that resolution; its Penal Code covered extraterritorial offences committed by Indian nationals serving at home or abroad.

25. With regard to the call for States to cooperate with one another in the conduct of investigations and prosecution of alleged criminals, India had well-developed laws on mutual legal assistance in criminal matters, which were contained in its Code of Criminal Procedure. It had also entered into a number of bilateral mutual legal assistance agreements designed to facilitate cooperation in criminal investigations and extradition proceedings. The Indian authorities cooperated with all jurisdictions, as well as with the United Nations, in the investigation of offences committed by any Indian official or expert on mission. The Extradition Act provided for the extradition of persons guilty of extraditable offences. In the absence of a bilateral treaty on extradition or mutual assistance in criminal matters, the Government could offer assistance on a reciprocal and case-by-case basis and could use an international convention as the legal basis for considering extradition.

26. His delegation welcomed the efforts of the Organization to provide training and raise awareness of sexual exploitation and of the standards required of its officials or experts on mission. Dealing with the issue of accountability did not require the development of an international convention. Instead, Member States must ensure that their laws provided jurisdiction for prosecuting criminal conduct by their nationals serving as United Nations officials or experts abroad and had provisions for international assistance in the investigation and prosecution of the crimes involved.

27. **Mr. You Ki-Jun** (Republic of Korea) said that failure to bring United Nations officials and experts on mission who committed crimes to justice created the false impression that they used the immunities given to them for personal benefit; immunities were accorded to United Nations personnel for the independent exercise of their functions, not for personal benefit, and could be waived when they impeded the course of justice. Recurring abuses could seriously damage the credibility and impartiality of the Organization.

28. In that context, his delegation welcomed the referral in the last reporting period of eight cases of allegations against United Nations officials and experts on mission for investigation and possible prosecution by the States of nationality and the ensuing exchange between two of those States and the Office of Legal Affairs. Such referrals represented an effective step towards ensuring the criminal accountability of United Nations personnel. States of nationality should take the necessary steps with regard to investigation and prosecution and inform the Organization of their findings on cases within their jurisdiction.

29. Regular training in the Code of Conduct for United Nations Staff was essential for the prevention of misconduct by United Nations personnel. His delegation commended the efforts of the Conduct and Discipline Unit and of the troop-contributing countries to provide predeployment training, which helped ensure the highest standards of conduct and address discipline-related issues in the field.

30. His delegation encouraged the Secretary-General to continue to protect United Nations officials that reported misconduct by other officials and experts on mission against possible retaliation. Lastly, human rights standards, including due process, should be applied by the State exercising jurisdiction throughout the entire criminal proceeding, in accordance with relevant international and domestic laws.

31. **Mr. Maza Martelli** (El Salvador) said that his delegation wished to reiterate its position that criminal acts committed by United Nations officials and experts on mission, particularly during peacekeeping operations, were unacceptable. The concept of criminal liability was basic to any system of justice and reflected the principle that all individuals, regardless of their position or function, were subject to the rule of law. Crimes of a serious nature, such as crimes against life, personal integrity or liberty should not be covered by immunity, since United Nations officials and experts were required to perform their functions in accordance with domestic and international law and the principles of the Charter. Such crimes were contrary to the very nature of their functions and undermined confidence in the Organization.

32. Salvadoran courts recognized the principle of territoriality, which allowed for the application of Salvadoran law to any criminal act committed on national territory, including by United Nations officials

or experts on mission. Salvadoran legislation also recognized the active personality principle, which allowed for the prosecution of Salvadoran nationals who committed crimes abroad, if they were not prosecuted by the courts of the State where the crime was committed.

33. In addition, States should cooperate among themselves and with international organizations to make effective prosecution possible. It was vital to maintain ongoing training for officials engaged in United Nations peacekeeping operations, to foster mutual legal assistance and extradition, and to support mechanisms to help States strengthen their capacity to investigate and prosecute the perpetrators of serious crimes and ultimately provide redress for victims.

34. **Mr. Kalinin** (Russian Federation) said that the measures approved by the General Assembly based on the work of the Sixth Committee had significantly improved the situation with regard to combating crimes committed by United Nations officials and experts on mission. His Government fully supported the zero-tolerance policy for such crimes and was particularly concerned by recurring cases of sexual exploitation and abuse perpetrated by United Nations staff.

35. The Secretary-General's report (A/66/174) showed that the Member States and the Organization had access to a wide range of tools for combating impunity. The full implementation of existing standards was key, and there was a need to continually strengthen communication channels between States and the United Nations. The State of nationality of United Nations staff suspected of misconduct should play the leading role in asserting criminal jurisdiction, thereby ensuring that the right to a fair trial was protected. In that context, the Criminal Code of the Russian Federation and the international treaties to which it was a party contained provisions under which persons could be held criminally liable for crimes committed abroad. Most importantly, the Secretariat needed to ensure the complete and timely exchange of information with States whose nationals were concerned. Given that the majority of the crimes reported had been motivated by the prospect of financial gain and that the number of cases was small, each one called for careful examination and appropriate preventive measures.

36. His delegation commended the predeployment training provided to United Nations personnel and

welcomed the steps taken to protect them against unfounded accusations. Persons whose reputations had been damaged had a right to appropriate compensation. His Government was in favour of removing legal obstacles to criminal prosecution. The matter warranted careful examination before the need for a legally binding document, such as an international convention, was discussed.

37. **Mr. Ramafole** (Lesotho) said that criminal accountability was a fundamental pillar of the rule of law, and the conduct of United Nations officials and experts on mission should set the highest standard in that respect. Holding them accountable for criminal acts safeguarded the integrity and credibility of the United Nations.

38. His delegation subscribed to the policy of zero tolerance of sexual exploitation and abuse set out in the Secretary-General's report on the subject (A/65/742); the policy was an indispensable part of the United Nations management principles and ensured the accountability of United Nations personnel. The question at hand was how best to accomplish that in accordance with the principles of the rule of law and due process and in conformity with the Charter.

39. Greater cooperation and information sharing among Member States and between the United Nations and Member States could best be achieved by creating a binding international legal framework and by encouraging States to establish and exercise criminal jurisdiction over their nationals participating in United Nations operations who committed crimes in a host State, thereby filling the jurisdictional gaps that prevented prosecution. Crimes committed by personnel participating in United Nations operations had a serious impact on the victim, the host country and the confidence that the international community placed in the United Nations. The problem required a comprehensive response.

40. **Ms. Tupa** (Democratic Republic of the Congo) said that the Secretary-General's report (A/66/174) had not shown evidence of great progress in combating impunity since the previous year's report, owing in large part to the inefficacy of the Committee's approach. Her delegation renewed its call for an international convention on the criminal accountability of United Nations officials and experts on mission.

41. General Assembly resolution 65/20 acknowledged that United Nations personnel had

committed serious crimes, including sexual exploitation and abuse, while on duty. Her Government had benefited from United Nations peacekeeping operations and recognized that the Organization's personnel often worked in difficult and dangerous conditions. It was grateful to the international community for the sacrifices of the past years and deplored the fact that they were tarnished by the scandalous behaviour of several individuals.

42. Accusations of sexual exploitation and abuse against United Nations personnel during United Nations peacekeeping operations in Bosnia and Herzegovina, Kosovo, Cambodia, Timor-Leste, West Africa and ultimately her own country had led the United Nations to make systematic efforts to put an end to the incidents and to adopt a policy of zero tolerance of sexual exploitation and abuse. In that context, the General Assembly had established the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission for the purpose of elaborating a draft convention on the matter.

43. Her delegation called on Member States to take urgent measures to ensure that United Nations personnel could be held criminally accountable and to establish national jurisdiction over serious crimes committed by their nationals while serving in United Nations operations. In cases of serious crimes, particularly those involving sexual violence, which United Nations officials and experts on mission were alleged to have committed, their immunity should be waived to allow them to be brought to justice in the jurisdictions to which they were assigned, where the crime was committed. The principle of dual liability of the perpetrator and the Organization should also be applied, in the event that the perpetrator was unable to provide compensation to the victim.

44. **Mr. Patrachai** (Thailand) said that, as a troop-contributing country, Thailand attached great importance to the issue of criminal accountability of United Nations officials and experts on mission and was deeply disturbed by the high rate of criminal cases involving them. It fully supported the policy of zero tolerance of crimes committed by United Nations officials, particularly crimes involving sexual abuse, violence and exploitation of women and children. For the perpetrations of such crimes to go unpunished would undermine the integrity and credibility of the United Nations peacekeeping missions and the Organization as a whole.

45. His Government strongly supported General Assembly resolution 65/20, which urged States to establish jurisdiction over crimes of a serious nature, as recognized in existing domestic criminal laws, committed by their nationals while serving as United Nations officials and experts on mission. Equally important was cooperation in criminal investigations and proceedings between the State of nationality of the alleged offender and the host State and between States and the United Nations.

46. The burden of preventing such crimes fell both on the United Nations and on those Member States whose nationals served on United Nations missions. States needed to select competent personnel and put in place effective monitoring mechanisms, while the Organization needed to ensure that all personnel received adequate mandatory predeployment training. The ongoing efforts of the Department of Peacekeeping Operations and the Department of Field Support in that regard were appreciated.

47. **Ms. Tajuddin** (Malaysia) said that her Government supported the policy of zero tolerance of serious crimes, including sexual exploitation and abuse, committed by its officials and experts on mission. It viewed with concern any act that tarnished the noble efforts and sacrifices of United Nations personnel and experts on peacekeeping and other missions. The Malaysian Peacekeeping Training Centre, which had been established in 1996 to promote integrity among its peacekeeping personnel, had since become a world-class training facility that emphasized international humanitarian law and respect for the rule of law.

48. Her Government was concerned that jurisdictional gaps made impunity possible. States and the relevant international organizations needed to agree that criminal acts should be addressed with the appropriate criminal and disciplinary sanctions. To that end, investigations and prosecutions must be conducted without delay. Her Government acknowledged the commitment that had been made to bring to justice those responsible for the recent death and injury of two Malaysian journalists in a conflict area, which sent a clear signal that criminal misconduct by peacekeeping forces would not be tolerated.

49. As most of the categories to which the draft convention would apply were already adequately governed by domestic laws, United Nations status-of-

forces agreements and international humanitarian law, the working group on criminal accountability of United Nations officials and experts on mission should identify substantive issues and explore solutions independent of the proposals contained in the draft convention prepared by the Group of Legal Experts on the issue.

50. **Mr. Kotze** (South Africa), referring to the cases mentioned in paragraph 61 of the Secretary-General's report (A/66/174), said that his delegation found the reports of alleged sexual abuse of minors particularly regrettable but commended the fact that proper investigations of the allegations had been instituted. It welcomed the domestic measures that States had taken in establishing jurisdiction over crimes of a serious nature, recognized in their domestic law, committed by their nationals while serving as United Nations officials or experts on missions those measures signalled the desire of those States to prevent the tarnishing of the United Nations image. Only through reciprocity, information-sharing and timely responses to requests for information by Member States and the Organization itself could the scale of criminal acts allegedly committed by United Nations personnel be determined. South African courts had extraterritorial jurisdiction over international crimes under its legislation implementing the Rome Statute of the International Criminal Court and over acts of terrorism under its counter-terrorism legislation. His delegation welcomed the measures undertaken by the United Nations in the form of training and awareness-raising programmes, the protection of whistle-blowers and the activities of its Conduct and Discipline Units.

51. **Mr. Zemet** (Israel) said that it was important to hold criminally accountable any United Nations official or expert on mission who committed a serious crime in the course of a United Nations operation. In addition to harming the immediate victims, such criminal activity was deeply damaging to the host country, the effectiveness of the United Nations mandate and the image of the United Nations. His Government supported General Assembly resolution 65/20 and urged States to take all appropriate measures to prevent impunity including by closing jurisdictional gaps and asserting jurisdiction over serious crimes committed by their nationals serving abroad on behalf of the United Nations. Enhanced cooperation among States and between States and the United Nations could also serve as a good basis for progress.

52. His Government welcomed the measures undertaken by the Secretariat to eradicate misconduct, including its induction training programme and the development of a three-pronged strategy by the Department of Peacekeeping Operations and the Department of Field Support to address sexual exploitation and abuse. The United Nations could play a constructive role in enabling States to develop national legislation to address criminal activity by their nationals on United Nations missions.

53. In the light of disagreement among States over the negotiation of a new convention on criminal accountability, his Government believed that it would be more effective to address substantive and practical measures and leave the question of form to a later stage.

54. **Mr. Arbogast** (United States of America) said that it was critical for United Nations officials and experts on mission to be held accountable for the crimes they committed. His Government appreciated the referral of credible allegations against United Nations officials to the States of nationality during the past reporting period and urged those States to take appropriate action and report to the United Nations on the disposition of the cases. States were the key to curbing abuses by their nationals serving in a United Nations peacekeeping force and in other capacities. All States stood to benefit from the Secretariat's reporting on efforts taken by States to investigate and prosecute referred cases. United Nations efforts to strengthen predeployment and in-mission training on standards of conduct were also commendable.

55. His Government was not convinced that the negotiation of a multilateral convention was the most effective means for ensuring accountability, particularly since it was unclear that lack of jurisdiction was the principal reason for difficulties in carrying out prosecutions. A convention that closed theoretical gaps in jurisdiction would not make a significant contribution if the impediments to accountability lay in a lack of political will, a lack of resources for prosecuting cases effectively or local laws that did not adequately address the age of consent.

56. **Mr. Almanzooqi** (United Arab Emirates) said that the issue of accountability was particularly important in view of its bearing on the image, credibility, neutrality and impartiality of the United Nations. A zero-tolerance approach must apply with

respect to all criminal acts, including sexual exploitation and abuse and financial misconduct, perpetrated by United Nations official and experts, who must be justly punished for such acts, since they not only harmed their victims but also undermined the reputation of the United Nations and impeded its effectiveness. His delegation advocated strengthening the awareness-raising and training activities provided for United Nations personnel, including those working in peacekeeping and on mission, with a view to ensuring their adherence to standards of conduct, including respect for the laws of the country in which they were working. Firm criteria should be established for waiving the immunity of such personnel who committed crimes in the host country, so as to enable the judicial authorities of that State to exercise jurisdiction and prosecute offenders.

57. His country had enacted laws to fight impunity for crimes committed not only inside but also outside its territory in the circumstances prescribed under the bilateral, regional and international instruments to which it was a party. It had likewise acceded to various instruments relating to mutual legal and judicial assistance. It complied with the provisions of all such instruments and was actively engaged in cooperation in the areas of exchanging information, extraditing criminals and investigating serious crimes, including some involving United Nations officials and experts.

58. **Mr. Eden Charles** (Trinidad and Tobago) said that the contribution of United Nations officials and experts on mission in promoting international peace and security was evident in his region, for example following the 2010 earthquake in Haiti. However, if those who violated domestic and international laws were not brought to justice, with full respect for due process and judicial guarantees, the United Nations could be accused of contributing to a culture of impunity. Holding perpetrators accountable would help to restore trust among the victims of the crimes, while failure to do so would have deleterious effects on the work of the United Nations. His Government welcomed the continued efforts of the Secretary-General to promote his zero-tolerance policy with respect to crimes, in particular sexual exploitation and abuse, committed by United Nations officials. His Government had found the Secretary-General's report (A/66/174), with its compilation of actions taken by States to make possible the prosecution of their nationals who had committed crimes while engaged in

United Nations operations, to be very useful for examining its own laws to ensure compliance with its international obligations.

59. In keeping with General Assembly resolution 65/20, his delegation urged closer cooperation between the United Nations and its Member States to ensure that evidence could be obtained for successful prosecution of offenders and also for acquitting those who were wrongly accused. At the domestic level, there was a need to close legislative gaps and ensure legal certainty. At the international level there was an urgent need for the establishment of a common set of rules, irrespective of existing domestic legal systems, to enable States to bring to justice United Nations personnel for criminal misconduct. The Sixth Committee should continue its consideration of the agenda item in the future, since work on the issue of accountability was indispensable for the promotion of the rule of law at the national and international levels.

60. **Mr. Hassan Ali Hassan Ali** (Sudan) said that his delegation welcomed the measures taken by some States to bring to justice those of their nationals who had committed crimes while serving on United Nations missions. As in past years, his country continued to host the largest presence of United Nations missions anywhere. In that regard, the experiences of the concluded United Nations Mission in the Sudan (UNMIS) and the continuing United Nations-African Union Mission in Darfur (UNAMID) reaffirmed the importance of the debate on the current item.

61. It was essential to pursue a zero-tolerance policy with respect to all crimes perpetrated by United Nations peacekeeping personnel, in particular those involving offences against decency, especially when committed in traditional and conservative communities. To show tolerance or leniency towards any criminal conduct could severely disrupt the performance of missions, which might come under accusation or attack, be diverted from their key tasks or, in the worst-case scenario, become part of the conflict. All actions at odds with the peace mission of such personnel must be firmly addressed in the interest of maintaining the professionalism and integrity of United Nations peacekeeping missions and ensuring their acceptance in the host country. Measures must also be taken to guarantee compliance with United Nations standards of conduct for its personnel in all spheres, whether sexual, professional or otherwise. The policies set forth in General Assembly resolutions

63/62 and 63/119 must be implemented; not only were they key to the success of the United Nations role in maintaining international peace and security but they could also foster better communication with Member States and close gaps between domestic and international law.

62. **Ms. Habtemariam** (Ethiopia) said that United Nations officials enjoyed the privileges and immunities that were necessary for the independent exercise of their functions but were not exempt from their obligation to respect international law and the laws of the host country. United Nations officials and experts on mission must be held accountable for crimes committed in violation of those laws. Under international law, States could exercise criminal jurisdiction over persons with immunity on the basis of the universally accepted principle of nationality. They were not obliged to do so, however, and it was up to States whether to grant their courts jurisdiction over crimes perpetrated by their nationals while serving on United Nations missions. Ethiopian courts had jurisdiction to prosecute nationals serving as United Nations officials or experts on mission for crimes that were punishable under both Ethiopia's Criminal Code and the law of the host State. Legal actions taken against United Nations officials need not compromise the purpose for which the immunity was granted: immunity was accorded to United Nations officials and experts on missions solely in the interests of the Organization, not for the personal benefit of the individuals. Member States should take all the necessary measures to establish jurisdiction over criminal acts alleged to have been committed by their nationals while serving as United Nations officials or experts on mission to ensure accountability.

63. **Ms. Umoren** (Nigeria) said that her country was a major contributor to United Nations missions. Her Government believed that United Nations personnel were, first and foremost, nationals of their own States. The immunity granted to them was strictly for the purpose of upholding the integrity of the United Nations and was not to be used for their personal benefit. When United Nations personnel used the cloak of immunity to perpetrate gross acts of misconduct, such as sexual abuse, it gave rise to the fear that the Organization was lending itself to a culture of impunity. Her delegation commended the United Nations for adopting a zero-tolerance policy with

respect to serious misconduct by United Nations officials and experts on mission.

64. However, the Member States themselves needed to establish jurisdiction to deal with the crimes committed by their nationals when serving in those capacities. Nigeria's solution was to prosecute such offenders. When the Sixth Committee considered the item at the sixty-seventh session, she urged States to look at all grey areas in which consensus had not been reached and address the lack of political will or the lack of extraterritorial jurisdiction in some States, in order to produce an globally accepted instrument.

The meeting rose at 12.20 p.m.