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Chairperson: Ms. Picco . . . . . (Monaco)

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10-58587 (E)

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

Agenda item 85: The rule of law at the national and international levels (*continued*) (A/65/318)

1. **Ms. Farhini** (Malaysia) said that Malaysian practice on the implementation of international law was based on the transformation of international instruments into domestic law by parliamentary enactment. The Government put in place legislation and policies corresponding to the provisions of any international treaty to which it intended to become a party before it did so. For example, Malaysia had acceded to the Convention on the Rights of Persons with Disabilities in April 2008 but had ratified it only in July 2010, after the promulgation of legislation, adoption of policies and establishment of institutions on persons with disabilities. Pursuant to Malaysia's ratification of the Convention on the Rights of the Child, it had undertaken numerous legislative and policy reforms to safeguard the welfare of children, including strengthening the Penal Code in that domain and promulgating a law specifically designating trafficking in and abduction of children as an offence.

2. **Mr. Dahmane** (Algeria) noted that an important provision of the Algerian Constitution laid down the principle of the primacy of international treaties over domestic legislation; accordingly, there were no particular difficulties with the incorporation of international standards into the domestic legal framework. That process was facilitated by presidential decrees and regulations, with the result that provisions of the international instruments to which Algeria had acceded, particularly those on human rights, could be invoked directly in the courts by Algerian citizens. Moreover, Algeria had been one of the first countries to accede to the African Peer Review Mechanism, which promoted the consolidation of the rule of law among African countries.

3. Future reports by the Secretary-General should cover the use of international counter-terrorism standards to reinforce the rule of law. The increasingly widespread practice of hostage-taking by terrorist groups and the release of the hostages against large ransom payments merely contributed to terrorism, adversely affecting the populations in the areas where such events unfolded and undermining the capacity of the States affected to ensure the rule of law.

Agenda item 86: The scope and application of the principle of universal jurisdiction (*continued*) (A/65/181)

4. **Mr. Al Habib** (Islamic Republic of Iran) said that the extension of the scope of universal jurisdiction to include a wide range of crimes violated some fundamental principles of international law, in particular the principle of the immunity of State officials from foreign criminal jurisdiction. Under international law, no State could exercise jurisdiction over crimes committed in the territory of another State unless it had a link with the offender or the offended or the crime was universally recognized — as in the case of piracy — or established in treaty law. That rule was derived from a number of international treaties that authorized the exercise of jurisdiction by Member States over some of the gravest international crimes, irrespective of territorial or national links, although the scope and conditions for its application were to be defined in accordance with the treaties in question. Furthermore, as some of the judges of the International Court of Justice had pointed out in the case concerning the *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*), universal jurisdiction in absentia was unknown in international law.

5. His country's Penal Code empowered Iranian courts to exercise criminal jurisdiction over crimes that were punishable under international treaties and could be prosecuted wherever the alleged perpetrators were found, if the suspects were detained in Iran. Thus, the exercise of criminal jurisdiction by Iranian courts over international crimes was subject to Iran's adherence to the relevant international instruments and to the presence of the alleged offender in Iranian territory.

6. **Ms. Quezada** (Chile) said that universal jurisdiction should apply only in respect of serious crimes defined by international law, and specifically in cases of piracy, as stipulated in the United Nations Convention on the Law of the Sea. It could, however, sometimes be applied with the ultimate goal of ending impunity for serious crimes, namely crimes against humanity, war crimes and genocide. A number of common elements that could govern the exercise of universal jurisdiction and would be acceptable to States could be discerned.

7. First, the basic principle to be followed was that of territoriality: it was the courts of the State in which

the crimes occurred that should first assume the task of investigating the crimes and punishing those responsible. Secondly, a State's competence to exercise jurisdiction must be established in a broadly accepted international treaty: it could not be based solely on domestic legislation. Lastly, a State could not exercise its jurisdiction unless the State that normally should do so was not prepared or was unable to carry out the investigation or prosecution.

8. Given the potential uncertainty as to how to apply the principle of universal jurisdiction properly and the possibility that it might be abused, the international community should agree on rules involving either recourse to the traditional procedural channels for appeals or other methods that might be devised.

9. **Ms. Schonmann** (Israel) noted that although a significant number of States recognized that universal jurisdiction was a complementary mechanism in the collective system of criminal justice and many States agreed that the accused should be present in the territory of the forum State, there was still a considerable divergence of views as to the material scope of the concept. The existence in an international treaty of an obligation to extradite or prosecute did not imply that a given offence amounted to a serious crime under international law that was necessarily subject to universal jurisdiction.

10. Primary among the necessary safeguards relating to universal jurisdiction was that it should be exercised only as a last resort, in deference to the State with the primary jurisdictional links, and only after all other relevant channels had been explored. Even where States had the authority to assert universal jurisdiction, they must use broad prosecutorial discretion in determining whether to do so. That was a complex exercise, requiring a careful balancing of often conflicting considerations. In Israel and in other countries, the consent of a senior governmental official was a prerequisite to the initiation of criminal proceedings on the basis of universal jurisdiction, the rationale being that such authorities were able to weigh up carefully whether or not such proceedings were politically motivated or the result of the abuse of procedures. Proper safeguards were needed to deter potential abuse and ensure the guarantees of due process.

11. **Mr. Böhlke** (Brazil) said that his delegation supported the proposal that a working group of the Sixth Committee should be established to deal with the sensitive issue of universal jurisdiction. The General Assembly should request the Secretary-General to draft a report covering the relevant rules and standards and pertinent jurisprudence.

12. There were still more questions than answers when it came to the scope and application of universal jurisdiction: for example, clarification was needed as to whether it was a principle, a norm or a rule. An incremental approach should therefore be taken, starting with an attempt to find an acceptable definition of universal jurisdiction. Fortunately, the positions of Member States did not seem to be very far apart on that point. For many, universal jurisdiction was an exception to the principles of territoriality and personality (or nationality). The aim of the procedure was to prosecute individuals allegedly responsible for very serious crimes that violated peremptory norms of international law (*jus cogens*).

13. More complex matters should now be addressed, such as the kinds of crimes that entailed the exercise of universal jurisdiction, its subsidiary character in relation to the principles of territoriality and personality and whether the State where the crime took place needed to give formal consent and the alleged criminal had to be present in the territory of the State wishing to exercise universal jurisdiction for the purpose of prosecution. One of the most contentious issues was how universal jurisdiction could be applied while upholding the jurisdictional immunities of State officials.

14. Brazil's legal order was based mainly on the principles of territoriality and active personality, but its legislation also provided that Brazil had jurisdiction over individuals who committed a crime that it was obliged to combat according to its obligations under international treaties.

15. **Mr. Lundkvist** (Sweden) said that a clear distinction must be drawn between the right to exercise universal jurisdiction and the obligation to respect the rules on the immunity of certain State officials. States had the right and obligation to either prosecute or extradite persons suspected of having committed genocide, crimes against humanity, war crimes or torture: indictments of foreign nationals in national forums were by no means all made on the basis of universal jurisdiction.

16. He referred delegations to the Secretary-General's report (A/65/181) for details on how Sweden exercised universal jurisdiction over crimes against international law.

17. Given the complexity of the subject and the fact that the International Law Commission was already studying related topics, including immunity of State officials from foreign criminal jurisdiction, one option might be to recommend that the Commission consider the topic of universal jurisdiction in conjunction with those topics. That option gained relevance in the light of the current debate, in which concern had been expressed not about the exercise of universal jurisdiction as such, but about its interplay with the pertinent rules pertaining to the immunity of State officials.

18. **Mr. Valero Briceño** (Bolivarian Republic of Venezuela) said that the principle of universal jurisdiction was still at its inception — there was no legal clarity yet as to its application and scope. Clear and transparent mechanisms for its impartial application should be developed in order to prevent decision-making on the basis of any biased interpretations that might lead to violations of the principle of non-interference in the internal affairs of States.

19. Universal jurisdiction did not require any effective link of nationality, territoriality or sovereignty with the State exercising its criminal jurisdiction: its basis was the existence of certain heinous crimes that could leave no State indifferent. It should not, however, be confused with the obligation to extradite or prosecute with the aim of enhancing international cooperation in combating international crimes. The two were related but did not have the same conceptual origin or treatment.

20. His Government considered that the principle of universal jurisdiction should be applied solely in the light of the jurisdictional immunity guaranteed by international law to State officials and outside the conceptual framework of the International Criminal Court. Great care must be taken in assessing the scope and application of the principle to ensure that it was not subject to politicization or selective enforcement.

21. His Government welcomed the idea of establishing a working group of the Sixth Committee to begin the study of the subject. Given its technical nature, however, and to avoid politicization, the results of that study must be submitted to the International Law Commission.

22. **Mr. Ajawin** (Sudan) said that the principle of universal jurisdiction was still in its infancy and there was no international consensus as to its scope and application or on the safeguards and rules of evidence associated with it. The lack of legal clarity with regard to its application had led the International Court of Justice to reaffirm diplomatic immunity as a cardinal and well-established principle of customary international law. Any attempt to redefine that immunity could therefore lead to confusion, insecurity and legal anarchy. Piracy and slavery were the only crimes traditionally considered to be subject to universal jurisdiction, despite attempts to extend the concept to include crimes against humanity, genocide, war crimes, torture, terrorism and hijacking.

23. The acid test for the concept of universal jurisdiction was the case concerning the *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*) brought before the International Court of Justice. In that case, the Court had found that the Government of Belgium had failed to respect the immunity of the Minister for Foreign Affairs of the Democratic Republic of the Congo by issuing an arrest warrant against him. The Court had also admitted that there was not even a generally accepted definition of that jurisdictional ground under customary and conventional international law.

24. However, there was a misconception that if States were signatories to the Universal Declaration of Human Rights and parties to the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, their citizens were automatically subject to the principle of universal jurisdiction. Not only was that contention academically and intellectually false, it also ignored the noble intentions of the drafters of those instruments, who had believed that they were stating general principles rather than enacting laws that would be enforced by national courts against the citizens of other States.

25. Lastly, his delegation agreed with the suggestion contained in the Report of the Secretary-General (A/65/181) that a working group of the Sixth Committee should be established to identify the similarities in how States treated universal jurisdiction,

based primarily on the information they provided in response to General Assembly resolution 64/117.

26. **Mr. Abu** (Malaysia) said that the Secretary-General's report confirmed that the scope and application of universal jurisdiction remained very much a matter of political and legal debate and that its exercise varied widely, as evidenced by the decisions of international tribunals and academic writings. The issue should therefore be approached with caution.

27. In order for Malaysia to give effect to a treaty obligation, including those establishing universal jurisdiction, it must first enact domestic legislation. The list of crimes provided by Member States in table 1 of the report included some that were not in fact grave or heinous. Malaysia reiterated its position that extraterritorial jurisdiction applied solely to certain classes of crimes covered in its domestic legislation and reflecting customary international law, such as offences under the Geneva Conventions of 1949 or sea piracy; a jurisdictional link had to be established with respect to terrorism-related offences.

28. The suggestion in paragraph 112 of the report that a working group should be established merited further consideration. However, since only 44 Member States had responded to the Secretary-General's request for information on their practice with regard to universal jurisdiction, Malaysia believed it was premature to establish the group.

29. The obligation to extradite or prosecute should be studied separately from the application and scope of the principle of universal jurisdiction, in line with General Assembly resolution 64/117. Discussions on the latter issue should first be exhausted within the Sixth Committee before they were moved elsewhere.

30. **Ms. Adams** (United Kingdom) said that the term "universal jurisdiction" properly referred to national jurisdiction over a crime, irrespective of the place of perpetration, nationality of the suspect or victim and other links between the crime and the prosecuting State. It should be distinguished from the jurisdiction of international judicial mechanisms, including the International Criminal Court; from the jurisdiction established under treaties providing for an extradite or prosecute regime; and from the extra-territorial jurisdiction of national courts to prosecute crimes committed by a State's nationals overseas.

31. Under international law, universal jurisdiction was clearly established only for certain specific crimes: piracy and war crimes, including grave breaches of the Geneva Conventions. Some States considered that a further group of crimes, such as genocide and crimes against humanity, called for universal jurisdiction, but there was no international consensus on that issue.

32. Her country's legal system was built on the tradition that it was generally the authorities of the State in whose territory an offence was committed that were best placed to prosecute the crime. The exercise of territorial jurisdiction was not always possible, however, and it would never be the option of first resort; however, it could be a useful tool to ensure that perpetrators of serious crimes did not escape justice. However, safeguards should be put in place to ensure that universal jurisdiction was exercised responsibly.

33. In view of the diversity of views on the scope, application and conditions for the exercise of universal jurisdiction, it would be premature to conclude that the time was ripe for the adoption of new international instruments on the issue.

34. **Mr. Choudhary** (India) said that in order to foster the rule of law at the national and international levels, there must be no impunity for serious crimes. The principle of extradite or prosecute was important in that regard, but a distinction must be drawn between the exercise of extraterritorial jurisdiction and that of universal jurisdiction. A variety of scenarios and complex issues had been raised and required further examination in a more focused and structured manner. His delegation was flexible as to the format for such discussions.

35. **Mr. Barriga** (Liechtenstein) said that it was generally agreed that the underlying rationale for universal jurisdiction was the goal of ending impunity for the worst crimes of international concern. The primary responsibility to prosecute perpetrators lay with the States on whose territory the crimes had been committed, but other jurisdictional links, such as the nationality of the perpetrator and victim, were also universally accepted.

36. The scope of universal jurisdiction, as reflected in treaty law and customary international law, was sufficiently clear, but his delegation would have no objection if the General Assembly were to request the International Law Commission to study the matter,

particularly as the Commission was already dealing with the obligation to extradite or prosecute.

37. Universal jurisdiction must be clearly distinguished from the jurisdiction of international courts and tribunals, in particular that of the International Criminal Court. The norms of international law relating to immunity of State officials from foreign jurisdiction did not differentiate as to the basis for jurisdiction in a particular case, and thus the application of the principle of universal jurisdiction raised no particular issues in that regard. His delegation saw no need to establish any regulatory mechanism for potential disputes between States over the exercise of universal jurisdiction or of other forms of jurisdiction. The States involved should use existing mechanisms for dispute resolution, in particular the International Court of Justice, as had been done in the *Arrest Warrant* case.

38. **Mr. Ramafole** (Lesotho) said that it was generally agreed that universal jurisdiction was the exercise of jurisdiction by one country over a national of another State: in other words, where there was no national connection. His country's acceptance of universal jurisdiction for certain crimes of a serious nature was based on its support for the fight against impunity. Nevertheless, some practical challenges and legal complexities had to be addressed, including politicization through selective application of the principle of universal jurisdiction to the African countries and the need to establish areas where it could be exercised in the absence of a treaty. In Lesotho's view, that could be done in respect of genocide, war crimes and crimes against humanity, but even in such cases, there must be no political influence or motivation.

39. The complexities of the topic suggested that the International Law Commission would be well placed to deal with it, but the question of how long it might take the Commission to complete its work had to be considered. To help to determine the future course of action, the Secretary-General should be requested to prepare a report.

40. **Ms. Laose** (Nigeria) said that one of the major achievements of international law in recent decades had been the growth of a shared understanding that there should be no impunity for serious crimes. The international community definitely needed to come up with clear rules and approaches to the application of the principle of universal jurisdiction. There was also a need to clarify the rights and obligations of States, to minimize the potential for abuse and to maximize the benefits of extraterritorial jurisdiction.

41. The danger of uncontrolled and unregulated application of the principle, as well as ambiguities in its scope, should be addressed by establishing benchmarks for a common understanding, clarifying the scope and limitations so as not to diminish the objectives. Further work should be done to put in place tested guarantees against abuse of the principle. Its application should be approached with caution and entrusted to the International Law Commission.

42. **Mr. Young** (International Committee of the Red Cross) said that as all States had ratified the Geneva Conventions of 1949, they were required to exercise universal jurisdiction over serious violations of humanitarian law and other grave breaches defined in those Conventions. States parties to the First Additional Protocol to the Geneva Conventions (Additional Protocol I) also had the same obligations for the grave breaches defined therein. Nonetheless, universal jurisdiction should be exercised only as a last resort. The traditional bases of criminal jurisdiction — personal and territorial jurisdiction — should remain the main tools for doing so.

43. His delegation called upon all States to establish the proper national legal framework to govern the prosecution of perpetrators of grave breaches of the Geneva Conventions and other war crimes.

Agenda item 82: Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (A/65/138)

44. **Mr. Janssens de Bisthoven** (Belgium), speaking on behalf of the European Union; the candidate countries Croatia and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Armenia, Georgia and the Republic of Moldova, said that the European Union would continue to encourage efforts to improve compliance with international humanitarian law by States and non-State actors in armed conflict in order to ensure the protection of civilians. To that end, it would continue to improve the mainstreaming of humanitarian law into its external policies. In 2009, for example, it had helped organize a conference to

address the obstacles to enhancing compliance with international humanitarian law. It had also updated its Guidelines on promoting compliance with international humanitarian law, which were closely linked to the guidelines on human rights, children and armed conflict, violence against women and torture.

45. The European Union's action on international humanitarian law supported and complemented that of the United Nations, including the implementation of relevant Security Council resolutions. Minimum standards of humanity, including those enshrined in article 3 of the Geneva Conventions, must be respected in situations of armed conflict. The European Union urged all Member States to accede to all three Additional Protocols to the Conventions and to consider accepting the competence of the International Humanitarian Fact-Finding Commission pursuant to article 90 of Additional Protocol I. In that regard, the European Union noted with appreciation that the Commission had been granted observer status by the General Assembly, and that the Security Council had decided in its resolution 1894 (2009) to consider the possibility of using the Commission to gather information on alleged violations of applicable international law relating to the protection of civilians.

46. The European Union commended the International Committee of the Red Cross for its work as a guardian of international humanitarian law. It also welcomed the various efforts made by States to implement and disseminate international humanitarian law, as described in the Report of the Secretary-General (A/65/138).

47. Other instruments which played an important role in the development of international humanitarian law included the Convention on Cluster Munitions, which came into force in 2009, and international criminal tribunals such as the International Criminal Court, whose jurisdiction had been extended to cover certain war crimes. That Court played an important role in investigating and prosecuting alleged perpetrators of genocide, crimes against humanity, war crimes and possibly crimes of aggression. The European Union therefore called on all States to accede to the Rome Statute of the International Criminal Court.

48. Lastly, the European Union would continue to do its utmost to promote an international order based on the rule of law where no State or individual was above the law and no person was denied protection under the law, especially in situations of armed conflict.

49. **Mr. Lundkvist** (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that many rules in the 1997 Additional Protocols to the Geneva Conventions had become part of customary international humanitarian law and were therefore universally applicable to all States and parties to conflicts. International law was continuing to be refined and expanded, as evidenced by the entry into force of the Convention on Cluster Munitions, along with ongoing efforts to comprehensively address the issue of cluster munitions within the framework of the Convention on Certain Conventional Weapons.

50. The International Committee of the Red Cross (ICRC) played a key role in the dissemination of international humanitarian law and protection of victims of armed conflict. In that connection, the Nordic delegations welcomed the ICRC initiative to hold discussions on the improvement of protection for victims of armed conflict. They also welcomed its updated database on the study of customary international humanitarian law.

51. The International Humanitarian Fact-Finding Commission could and should also play a role in ensuring compliance with international humanitarian law. The Nordic countries urged States to accept the competence of the Commission to enquire into allegations of grave breaches of international humanitarian law, as provided for in article 90 of Additional Protocol I. They welcomed the Security Council's decision in its resolution 1894 (2009) to consider the possibility of using the Commission to gather information on alleged violations of applicable international law relating to the protection of civilians.

52. The international community should carry out awareness-raising campaigns to ensure respect for international humanitarian law. Given the paramount importance of the International Criminal Court in that endeavour, it was important to continue efforts to achieve universal adherence to the Rome Statute of the International Criminal Court. The Nordic delegations called on all States and entities to respect the existing body of international humanitarian law, particularly with regard to the obligations of belligerents to ensure the protection of civilians.

53. **Ms. Quezada** (Chile), speaking on behalf of the Rio Group, said that all States should provide information to the Secretary-General on progress in their national systems regarding the application and promotion of international humanitarian law. The Sixth Committee could contribute towards the promotion of international humanitarian law, for example, by clarifying or complementing codified humanitarian law in the light of the new challenges posed by contemporary armed conflicts. Many States, including the majority of countries of the Rio Group, had also established national committees on international humanitarian law. States could continue those efforts by making international humanitarian law an integral part of the training of judges and other public officials.

54. The Rio Group encouraged Member States to consider accepting the jurisdiction of the International Humanitarian Fact-Finding Commission, which was entrusted with investigating alleged violations of international humanitarian law. The Group also welcomed the establishment of the International Criminal Court as another step in the promotion of respect for international humanitarian law.

55. Despite the commendable efforts made to implement international humanitarian law in many States, much remained to be done to end the impunity of war criminals. The Rio Group therefore reiterated its commitment to make every effort to secure the accession of as many countries as possible to the 1997 Additional Protocols to the Geneva Conventions of 1949.

56. **Mr. Mwanyula** (Malawi), speaking on behalf of the Group of African States, said that all 53 African States had ratified the four Geneva Conventions, and the great majority had ratified Additional Protocols I and II. Most of the conflicts on that continent, however, involved armed groups. Conflict in turn caused displacement; there were over 10 million internally displaced persons in East and Central Africa. He urged African States that had not yet done so to ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, incorporate their provisions into national legislation and develop plans of action to address the issue.

57. 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. 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.

58. The Group of African States commended the role of the International Committee of the Red Cross (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. While welcoming the launch in August 2010 of a new database on customary international law, the Group would be grateful for further clarifications on the concerns highlighted in that study, in particular with regard to non-international armed conflicts.

59. **Mr. Gouider** (Libyan Arab Jamahiriya) said that although the United Nations had long reaffirmed its responsibility to protect the victims of armed conflict, occupying forces in numerous regions had been able to act as they pleased. Impunity was rife, as were such unlawful practices as the recruitment of dubious private security companies.

60. Numerous reports, including that of the United Nations Fact-Finding Mission on the Gaza Conflict, had documented indiscriminate attacks on civilians, the use of landmines and cluster bombs in civilian areas, imprisonment and administrative detentions, expulsions, internal displacement and collective punishment. The infrastructure and the economy had been targeted. A blockade, which remained in place, affected hospitals, medicines, humanitarian aid and the means of its delivery. Cultural identity was under attack. Properties and refugee camps were being bulldozed in order to make space for settlements. Such actions constituted war crimes or grave violations of international law.

61. The international community had failed to take effective action, a failure that had led to humanitarian tragedies in the past. Moreover, the occupying Power refused to accept any credible investigation or accountability. It was essential to enforce the implementation of the Additional Protocols without selectivity or double standards.

62. **Mr. Gonzales** (Monaco) said that according to the Secretary-General's report, the protection of

civilian populations in a changing environment remained unsatisfactory. In a discussion held on 7 July 2010, the Security Council had stressed the need to define the mandate of peacekeeping operations and the resources necessary for those operations. Civilian populations were being subjected to indiscriminate and disproportionate violence, and rape had become a weapon of war. Children were increasingly at risk, notably as a result of forced conscription. It was vital that all Member States should ratify the Additional Protocols. His own country had done so in 2000, and had become a party to the Convention on Cluster Munitions in 2010.

63. Significant progress had been made in recent years on protecting civilians, in particular with regard to the elaboration of laws and control mechanisms. The International Humanitarian Fact-Finding Commission was now an observer at the General Assembly. However, several areas required urgent attention. National authorities had a responsibility to facilitate the provision of humanitarian aid, and humanitarian workers must not be targeted.

64. The nature of the violence was changing: inter-State conflict was giving way to the emergence of non-governmental armed groups, engendering further harm to civilian populations. The humanitarian response should be adapted accordingly. The human rights system did not always provide satisfactory protection, and international humanitarian law often did not cover all forms of violence, especially intra-State violence. The United Nations should work to uphold fundamental and intangible human rights in all situations without exception.

65. **Mr. Avramenko** (Belarus) said his country was a party to Additional Protocols I and II and was completing the formalities for accession to Additional Protocol III. Its efforts to implement them included analysis of how the law on the Belarusian Red Cross Society was being applied in practice, with a view to the adoption of a new version of that law in 2010, and the institution of instructions for the application of the norms of international humanitarian law in the armed forces and transport units.

66. Among the efforts undertaken by Belarus to disseminate knowledge about international humanitarian law were the yearly conferences held on the subject and the international youth olympiads, “Youth for Peace”. In 2009, a number of events were organized to celebrate significant anniversaries of the International Movement of the Red Cross and Red Crescent. In September 2009, a conference devoted to the sixtieth anniversary of the signing of the Geneva Conventions had been the occasion for the inauguration in Minsk of a resource centre on international humanitarian law.

67. The Commission on the Implementation of International Humanitarian Law, among its many efforts to further the cause of international humanitarian law, had assisted the Belarusian Red Cross Society in the erection of a statue in memory of Henry Dunant, who had devoted his life to bringing together people of all nations to assist the victims of armed conflict. At a recent conference of the Commonwealth of Independent States (CIS), Belarus’s experience in implementing international humanitarian law, and in particular the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, had been acknowledged.

68. **Mr. Abdelaziz** (Egypt) said that despite the huge efforts of the United Nations, civilians around the world continued to suffer in massive numbers. Priority should be given to promoting knowledge and observance of the obligations of States parties under international law and, in particular, the 1949 Geneva Conventions and the 1977 Additional Protocols. All parties in armed conflicts should redouble their efforts to comply with their obligations, notably by prohibiting the targeting of civilians and civilian property. All parties must provide protection against any risk to civilian installations, hospitals, relief materials and their means of distribution.

69. His delegation condemned the growing number of attacks on humanitarian personnel and urged Member States to ensure their protection. At the same time, humanitarian agencies and their staff should respect international humanitarian law and the guiding principles of humanitarian assistance as set forth in General Assembly resolution 46/182. They should comply with the laws of the countries in which they operated, and refrain from interfering with their cultural, religious and other values.

70. His delegation stressed its concern at the continued existence of weapons of mass destruction and, in particular, nuclear weapons. The successful conclusion of the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of

Nuclear Weapons was an encouraging sign, particularly in view of its provisions for the establishment of a nuclear-weapon-free zone in the Middle East.

71. His country regretted and condemned the serious human rights violations and breaches of international humanitarian law perpetrated during the Israeli military operations against the Gaza Strip, including the destruction of facilities of the United Nations World Food Programme and the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The international community should ensure that such grave breaches did not recur, and should demand that Israel abide by its obligations under international law and international humanitarian law. Reprisals against protected persons were prohibited under the Fourth Geneva Convention.

72. In accordance with General Assembly resolutions 64/10 and 64/254, the international community had a responsibility to follow up the recommendations contained in the report of the United Nations Fact-Finding Mission on the Gaza Conflict. In particular, it had been recommended that the Government of Switzerland, in its capacity as depositary of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, should reconvene as soon as possible a Conference of High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure its respect. As depositary of the four Geneva Conventions, the Government of Switzerland should follow up their applicability and ensure their implementation. All States in a position to do so should provide financial, technical and humanitarian assistance for mine clearance and social and economic rehabilitation of victims, in addition to ensuring that affected countries had full access to equipment, technology and funding for mine clearance.

73. The United Nations should play a robust role in protecting civilians and investigating violations. The Organization ought to prioritize the protection of civilian populations in imminent danger, separating that process from its deliberations regarding the controversial political dimensions of conflict.

74. **Ms. Millicay** (Argentina) said that a questionnaire or template could facilitate the submission and compilation of valuable information for the report of the Secretary-General. Her delegation encouraged ICRC, in consultation with the Secretariat, to assist Member States in that regard.

75. Implementation of international humanitarian law at the domestic level depended partly on an awareness of the obligations it entailed. In Argentina, international human rights law had been incorporated into the syllabus of several law faculties as a salient aspect of international law. In cooperation with ICRC, training courses on the topic were organized for the armed forces, in particular those participating in United Nations peacekeeping operations. A national commission for the application of humanitarian law had been in place within the Ministry of Defence since 1994. Its purpose was to monitor the implementation of international humanitarian law, raise awareness and train civil servants and the armed forces.

76. The establishment of the International Criminal Court and updating of the Rome Statute represented significant steps towards ensuring accountability. Her country called on all Member States that had not yet done so to ratify the Additional Protocols and accept the competence of the International Humanitarian Fact-Finding Commission, which could act as an impartial mechanism for investigating alleged violations.

77. **Mr. Al-Hammadi** (United Arab Emirates) said that the international community should adopt a clearer and more transparent approach in ensuring the full application of the Geneva Conventions and Additional Protocols. The perpetrators of grave violations should be identified and prosecuted. Such action would reduce acts of revenge and hatred, while strengthening the rule of law, tolerance between peoples and post-conflict reconstruction.

78. His country had ratified the four Geneva Conventions of 1949 and their Additional Protocols. It had reviewed its domestic legislation accordingly, and conducted media campaigns to raise awareness of human rights and responsibilities among citizens and residents alike.

79. His delegation expressed its concern at the grave violations perpetrated by Israel in the occupied Palestinian and Arab territories, including East Jerusalem, the Syrian Golan Heights and the Lebanese territories that remained under its control. Those actions included mass killings; arbitrary imprisonment; an inhuman blockade targeted at civilians; the illegal appropriation of land, property and natural resources; the irresponsible destruction of civilian infrastructure,

including that of the Palestinian Authority; and the illegal construction of the Separation Wall deep inside the Occupied Palestinian Territory. By its actions, Israel had flouted the relevant United Nations resolutions, as well as its obligations under the four Geneva Conventions and their Additional Protocols.

80. His country insisted that the United Nations and, in particular, the five permanent members of the Security Council, must conduct effective investigations and prevent Israel from perpetrating further such violations. There was a need to revitalize the role of the United Nations and regional organizations in monitoring compliance with the four Geneva Conventions and their Additional Protocols.

Agenda item 140: Administration of justice at the United Nations (*continued*) (A/65/86, A/65/303, A/65/304 and A/65/373)

81. **Mr. Sivagurunathan** (Malaysia), Chairperson of the Working Group on the Administration of Justice at the United Nations, reported that at its first meeting, on 4 October 2010, the Committee had decided to establish the Working Group in order to consider the legal aspects of the reports to be submitted under that item. The Working Group would be open to all Member States and to members of specialized agencies or of the International Atomic Energy Agency. The Working Group had had before it the report of the Internal Justice Council containing a code of conduct for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal (A/65/86), the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/65/303), the report of the Internal Justice Council on administration of justice at the United Nations (A/65/304) and the report of the Secretary-General on the administration of justice at the United Nations (A/65/373).

82. The Working Group had held three meetings, on 7, 11 and 14 October 2010. Informal consultations on the outstanding issues, including the code of conduct, had been conducted by Mr. Thomas Fitschen (Austria).

83. The Working Group was of the view that the consideration of the outstanding legal aspects of the reports under that item should be postponed until the following session of the General Assembly.

84. The Working Group recommended that the Chairperson of the Sixth Committee should send the President of the General Assembly a letter, a copy of which had been circulated in the meeting room, drawing his attention to certain specific issues relating to the legal aspects of the reports under that item and requesting that they should be brought to the attention of the Fifth Committee and circulated as a document of the General Assembly.

85. **The Chairperson** said that, if there was no objection, she would take it that the Committee wished her to send the letter to the President of the General Assembly.

86. *It was so decided*.

Introduction of draft decision A/C.6/65/L.2

87. **Mr. Sivagurunathan** (Malaysia), Chairperson of the Working Group, said that by the draft decision, the General Assembly would decide that the consideration of the outstanding legal aspects of the item, including the question of effective remedies for non-staff personnel, as well as the code of conduct for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, should be continued during its sixty-sixth session in the framework of a working group of the Sixth Committee, taking into account the results of the deliberations of the Fifth and Sixth Committees on the item, previous decisions of the Assembly, and any further decisions that the Assembly might take during its sixty-fifth session. The Assembly would also decide to include the item on the provisional agenda of its sixty-sixth session.

The meeting rose at 12.55 p.m.