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Held at Headquarters, New York, on Monday, 10 October 2016, at 10 a.m.

Chair: Mr. Danon. (Israel)
later: Mr. Ahmad (Vice-Chair) (Pakistan)
later: Mr. Turbék (Vice-Chair) (Hungary)

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

Agenda item 79: Diplomatic protection (*continued*)
(A/71/93 and A/71/93/Corr.1)

1. **Mr. Arrocha Olabuenaga** (Mexico) said that efforts should be undertaken to elaborate an international convention on diplomatic protection on the basis of the articles on diplomatic protection adopted by the International Law Commission. The convention should reflect the principle that actions taken to exercise diplomatic protection in a State that had committed an internationally wrongful act did not constitute interference in the internal affairs of that State. That principle derived from the practice of States and, although not codified in the Vienna Convention on Consular Relations, was referred to in the commentaries to the draft articles on diplomatic intercourse and immunities adopted by the Commission at its tenth session, in 1958.

2. Article 7 (Multiple nationality and claim against a State of nationality), which contained the “predominant nationality” principle, was not supported by sufficient State practice and could lead to disputes. Therefore, the new convention should recognize the general principle that a State could not exercise diplomatic protection in respect of a national who was also a national of the State that had committed the internationally wrongful act. In any event, the “predominant nationality” principle should be governed by *lex specialis* in the relations between States that wished to apply it.

3. **Mr. Fintakpa Lamega** (Togo) said that his delegation would welcome the consideration of a potential convention on diplomatic protection, as the subject was of major importance in relations between States. Moreover, such a convention could benefit individuals, including by establishing diplomatic immunity as a universal human right. Togo was one of the few States that had submitted comments on the articles on diplomatic protection in response to the invitation from the General Assembly. The articles largely reflected the current status of international practice and case law and would therefore be a good starting point for the discussions on a possible convention. However, they were vague in certain places and should be thoroughly reviewed to ensure that the final text of the convention was more

comprehensive. Many questions also remained, including with regard to the precise definitions of “diplomatic protection”, “internationally wrongful act” and “predominant nationality”, and what qualified as the exercise of diplomatic protection. Thus, while the articles had contemporary relevance, further work would be required to make them suitable for adoption as a convention.

4. **Mr. Bailen** (Philippines) said that the subject of diplomatic protection was of major importance in relations between States. Unfortunately, that discretionary sovereign prerogative had sometimes been misused as a pretext for intervening by force in other countries’ domestic affairs. Since the use of force was not permissible under the Charter of the United Nations, the proper exercise of diplomatic protection involved consular action, bilateral negotiations, political or economic pressure and other forms of peaceful dispute settlement.

5. Under customary international law, there were two main requirements for the exercise of diplomatic protection: the exhaustion of local remedies, and effective and continuous nationality. The local remedies rule was clearly codified in the articles on diplomatic protection. However, exceptions to that rule, set out in article 15, including exceptions (c) and (d), should, if necessary, be construed *in strictissimi juris*. Concerning the effective and continuous nationality requirement, the injured person or entity should, as a general rule, maintain the nationality of the espousing State from the moment of injury until at least the presentation of the claim. Specific rules were also outlined in Part Two of the articles, including with respect to direct injury to shareholders, stateless persons and refugees, and persons with dual or multiple nationalities. The latter category was particularly important for the Philippines; his delegation would therefore like more information on the practical application of the concepts of “predominant nationality”, contained in article 7, and “direct injury”, contained in article 12..

6. As set out in article 18 (Protection of ships’ crews), the right of the State of nationality of the members of the crew of a ship to exercise diplomatic protection was not affected by the right of the State of nationality of a ship to seek redress on behalf of such crew members. That provision was of particular

importance to his country because of the large number of Philippine seafarers working around the world. While there was no provision in the draft articles regarding the time period for exercising diplomatic protection, it might be useful to consider applying the principles of prescription, estoppel or laches to diplomatic protection, without which both human relations and international relations would always be unstable.

7. The Philippines noted with appreciation the recommendation by the International Law Commission to elaborate a convention on the basis of the articles on diplomatic protection. However, it should also be borne in mind that many of the principles contained in the articles on responsibility of States for internationally wrongful acts were also relevant to diplomatic protection. The proposed convention should therefore also be elaborated on the basis of those articles.

Agenda item 81: Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts ([A/71/183](#) and [A/71/183/Add.1](#))

8. **Mr. Ávila** (Dominican Republic), speaking on behalf of the Community of Latin American and Caribbean States (CELAC), said that greater compliance with international humanitarian law was indispensable for improving the situation of victims of armed conflict. CELAC acknowledged the Member States which had submitted information for the Secretary-General's report ([A/71/183](#) and [A/71/183/Add.1](#)), as well as the activities they had undertaken to strengthen compliance with international humanitarian law. It called on States that had not yet done so to provide the Secretary-General with information on compliance at the domestic level.

9. CELAC also welcomed the efforts of the International Committee of the Red Cross (ICRC) to help a number of States draft legislation on missing persons. States bore the primary responsibility for ensuring the production and proper use of means of identification by armed and security forces, which played an important role in preventing persons from going missing in times of armed conflict.

10. Recent developments posed additional challenges with regard to the protection of civilians, in particular vulnerable groups such as women and children, who

continued to be the main victims of breaches of international humanitarian law. In accordance with common article 1 of the Geneva Conventions, the international community must ensure the application of international humanitarian law in all circumstances. The Committee's work could contribute in that regard.

11. Challenges posed by contemporary armed conflicts were not a question of norms, but of improving implementation of the Geneva Conventions and their Additional Protocols. One key challenge was to ensure that combatants respected those instruments in situations where persons in need must have access to humanitarian assistance. It was therefore essential to comply with the provisions of international humanitarian law that guaranteed such assistance, an obligation which extended to medical facilities and transport, food and other supplies, and humanitarian personnel in general. Furthermore, under Additional Protocol I, armed attacks must be limited strictly to military objectives, and reprisals against civilians were prohibited.

12. States parties to the Geneva Conventions and their Additional Protocols should engage in a dialogue with ICRC to identify the applicability and improve the effectiveness of existing mechanisms and, if necessary, create new ways of ensuring compliance with international humanitarian law. Many States, including several members of CELAC, had established national commissions to advise national authorities on the implementation, dissemination and development of international humanitarian law. Those bodies played an important role in capacity-building for civil servants and members of the armed forces. Member States that had not yet set up such a commission should consider doing so.

13. National commissions should be tasked with the training of public officials whose duties required knowledge of the obligations imposed by international humanitarian law. That entailed introducing international humanitarian law as a subject in the curricula of law schools and in training courses for judges and officials of ministries of defence and foreign affairs. Above all, international humanitarian law must be an integral part of training courses for the armed forces, including military personnel participating in peacekeeping operations.

14. CELAC stressed the importance of the fundamental principles and rules of international humanitarian law applicable to United Nations forces set out in the Secretary-General's bulletin on observance by United Nations forces of international humanitarian law ([ST/SGB/1999/13](#)). The Community acknowledged the role of ICRC and highlighted the numerous initiatives taken by it, in particular those designed to implement resolution 2 of the thirty-first International Conference of the Red Cross and the Red Crescent. It also commended the work carried out by national Red Cross and Red Crescent Societies in collaborating with the authorities of their respective States in the humanitarian field, cooperating with their Governments and assisting in the promotion, dissemination and application of international humanitarian law. It encouraged ICRC to continue its fruitful interaction with Member States.

15. The establishment of the International Criminal Court had been a breakthrough in the promotion of respect for international humanitarian law. The Community called on all States parties to the Rome Statute that had not yet done so to ratify the amendments adopted by the Review Conference held in Kampala, Uganda, in 2010 (the Kampala amendments). The amendments had been ratified by 32 States, meaning that they could come into effect from 2017.

16. The Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels (24 September 2012) had reaffirmed the obligation of all States and all parties to armed conflict to respect and ensure respect for international humanitarian law in all circumstances. In that regard, CELAC welcomed the finding in the 2016 report of the Secretary-General on missing persons ([A/71/299](#)) that the issue of missing persons must also be considered in the context of peacebuilding and transitional justice processes. The Community reiterated its willingness to take the necessary measures to ensure full implementation of international humanitarian law at the national level and in particular to criminalize prohibited conduct. States must have adequate legal tools to punish perpetrators of war crimes.

17. Despite the remarkable development of the normative system of international humanitarian law, it

was regrettable that the situation on the ground regarding the protection of civilians remained critical. The first step towards achieving such protection was through the strengthening of the international humanitarian law regime and ensuring its universal acceptance. CELAC called upon States that had not yet done so to become parties to the Additional Protocols at the earliest possible date.

18. **Mr. Ben Sliman** (Tunisia), speaking on behalf of the Group of Arab States, said it was regrettable that there had been no consensus regarding the qualifications of the Chair of the Committee, especially in the light of the Committee's mandate to consider legal issues and, in particular, to uphold and strengthen international law.

19. The Group of Arab States was concerned at the situation in the occupied State of Palestine, including East Jerusalem. The Israeli occupation force was flagrantly contravening international law and norms by specifically targeting non-combatants. In yet another grave violation of the 1949 Geneva Conventions, settlers were being transferred into the occupied territories, while the local population was being forcibly displaced. Settlement expansions, arbitrary collective detention and extrajudicial killings had all gone unchecked, despite widespread condemnation. Israel, the occupying Power, had been encouraged by such impunity to prolong and entrench the occupation. Its stranglehold on the Gaza Strip, which was entering its tenth year, amounted to an act of collective punishment against the Palestinian people, many of whom were refugees. The economy was being destroyed; humanitarian assistance and basic necessities were being denied entry; and the reconstruction of homes and infrastructure was being hampered. The blockade was both illegal and inhumane, and must be lifted.

20. Verbal condemnation must be converted into effective action that could change the situation on the ground and secure the independence of the State of Palestine and its sovereignty over the territories occupied in 1967. Respect for international law, including international human rights law and international humanitarian law, was the key to achieving a peaceful solution to the Arab-Israeli conflict as a whole. The Group therefore called on the international community to shoulder its legal, moral

and political responsibility by bringing an end to the illegal practices of Israel and to its colonial occupation of the State of Palestine. It also called on the Government of Switzerland, in its capacity as depositary of the Geneva Conventions, to convene another conference of High Contracting Parties to the Fourth Geneva Convention as soon as possible to examine additional measures to ensure full compliance with the Convention and assess implementation of the declaration of 17 December 2014 adopted by the Conference of High Contracting Parties.

21. The Group condemned all of the measures taken by Israel, the occupying Power, to alter the legal, material and demographic situation of the occupied Syrian Golan. In accordance with the relevant resolutions of the United Nations, Israel must withdraw fully from all of the Arab territory occupied on 4 June 1967. The Group commended the International Committee of the Red Cross for its efforts to promote and disseminate international humanitarian law.

22. **Mr. Chaboureaux** (Observer for the European Union), speaking also on behalf of the candidate countries Albania, Montenegro, Serbia and the former Yugoslav Republic of Macedonia; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Georgia, the Republic of Moldova and Ukraine, said that international humanitarian law was still too often disregarded. Upholding it and protecting human dignity in situations of armed conflict remained a major challenge. Enhancing the protection of civilians must be a common goal. Given that the Geneva Conventions enjoyed universal acceptance, and many of the provisions contained in their Additional Protocols were recognized as customary international humanitarian law, certain minimum standards of humanity, including those enshrined in common article 3 of the Geneva Conventions, must be respected in all situations of armed conflict, including by non-State actors.

23. The European Union welcomed the outcome of the thirty-second International Conference of the Red Cross and Red Crescent, including the adoption of four resolutions on international humanitarian law. At the Conference, the European Union, its member States and their national Red Cross societies had made a number of ambitious joint pledges to strengthen compliance with international humanitarian law, in

particular with regard to the protection of persons deprived of their liberty, to promote and disseminate international humanitarian law, and to increase respect for and protection of medical missions in situations of armed conflict and other emergencies.

24. The European Union commended the efforts of ICRC and Switzerland to facilitate a State-driven intergovernmental process with a view to achieving agreement on the features and functions of a forum where States could discuss international humanitarian law and find ways to enhance its implementation. The European Union would continue to be involved in that process. Its Action Plan on Human Rights and Democracy included a number of actions to support compliance with international humanitarian law in preparation for the possible establishment of a compliance mechanism.

25. The European Union continued to implement its 2009 guidelines on the promotion of compliance with international humanitarian law and, convinced of the importance of national implementation and enforcement, was supporting States in their efforts to adopt national legislation pertaining to their international humanitarian law obligations. It was also funding programmes to help States develop effective and accountable security and justice sectors.

26. Accountability was crucial to securing compliance. The climate of impunity must be eliminated, and remedies for victims of violations or abuses must be provided in accordance with international humanitarian law. The responsibility to end impunity by prosecuting alleged perpetrators for the crime of genocide, crimes against humanity and war crimes lay first and foremost with States, which would benefit from improved mutual legal assistance. In that context, the European Union provided political support to the International Criminal Court and aided third States wishing to become parties to or implement the Rome Statute. Every year, it took measures to preserve the integrity and promote the universality of the Statute. It also drew attention to the important role played by international criminal tribunals in upholding international humanitarian law by investigating and prosecuting alleged perpetrators for the crime of genocide, crimes against humanity and war crimes.

27. The European Union had drawn up a working document on advancing the principle of

complementarity, as enshrined in the Rome Statute, which provided operational guidance on how to bridge the gap between national and international justice systems for an effective and efficient interplay between national systems and the International Criminal Court. It welcomed the progress made towards the implementation of international humanitarian law in various States and urged States which had not yet done so to accede to all the Additional Protocols to the Geneva Conventions and to consider accepting the competence of the International Humanitarian Fact-Finding Commission, pursuant to article 90 of Additional Protocol I. It was pleased that 85 States had ratified the Arms Trade Treaty.

28. The European Union continued to support all efforts to ensure compliance with international law by private military and security companies. In that connection, it had endorsed the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict and had participated in the second plenary meeting of the Montreux Document Forum. It was also actively involved in the discussions on the implementation of certification, monitoring and complaints handling by the International Code of Conduct Association. The European Union would also strive to ensure that support provided by it and its member States to military, police and border control forces and other security forces, including in the context of crisis management missions and operations, complied with international humanitarian law and contributed to its promotion, protection and enforcement.

29. The European Union commended ICRC for its many efforts to promote the dissemination of international humanitarian law, and welcomed the national efforts made by many States and their national Red Cross and Red Crescent societies to implement international humanitarian law and encourage broader reflection on challenges in that regard. The European Union would continue to promote an international order based on the rule of law, in which no State and no perpetrator were above the law and no person was outside the protection of the law, in particular in situations of armed conflict.

30. **Mr. Thöresson** (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland,

Norway and Sweden), said that the norms of international humanitarian law were too often disregarded by parties to armed conflicts. The legal framework existed, but lack of respect for the agreed rules and principles remained a challenge that must be addressed. The Nordic countries therefore welcomed the continued leadership of Switzerland and ICRC as facilitators of the State-driven intergovernmental process on strengthening compliance with international humanitarian law.

31. The Nordic countries welcomed the Secretary-General's Agenda for Humanity, in which he called on global leaders to act on five core responsibilities, including upholding the norms that safeguarded humanity. It was vital to improve protection for those working to provide health care to victims of armed conflict. In that regard, the Nordic countries were appalled by the ongoing deliberate attacks on hospitals and welcomed Security Council resolution [2286 \(2016\)](#), in which the Council strongly condemned attacks against medical personnel and facilities. It also noted with appreciation the adoption of resolution 4 of the thirty-second International Conference of the Red Cross and Red Crescent on protecting the delivery of health care.

32. The Nordic countries strongly condemned sexual and gender-based violence in all circumstances and recalled the obligation of States to protect and assist survivors of such violence in armed conflict. A gender-sensitive approach was needed to ensure the equal and non-discriminatory application of humanitarian law and provide effective humanitarian assistance, including safe and accessible health care.

33. It was important to continue to work to prevent impunity for serious violations of international humanitarian law and human rights. Persons suspected of war crimes, genocide or crimes against humanity must be held accountable. Each State had a duty and a responsibility to investigate and prosecute such crimes. It was primarily at the domestic level that solutions to the problem of impunity must be found; the International Criminal Court was a court of last resort. The Nordic countries highlighted the role of ICRC and expressed appreciation for its valuable efforts to protect persons in armed conflicts, to disseminate international humanitarian law and to provide training

on the subject. All States had a duty to respect and ensure respect for international humanitarian law.

34. **Ms. McDougall** (Australia), speaking also on behalf of Canada and New Zealand, said that those delegations were strongly committed to the implementation of, and compliance with, international humanitarian law. The devastating impact of the many current armed conflicts reinforced the centrality of international humanitarian law and underscored the importance of the Additional Protocols to the Geneva Conventions of 1949 to the legal framework protecting civilians and other persons affected by international and non-international armed conflict. Those delegations strongly encouraged States that had not yet become parties to the Additional Protocols to do so as soon as possible.

35. Many of the key provisions of the Additional Protocols including those concerning the respect and protection of medical units, personnel and their transports, and the protection of the civilian population, reflected rules of customary international law. The recent abhorrent attacks on hospitals, civilians and humanitarian convoys and the use of siege warfare were a stark reminder that the international community should do more to ensure compliance with international humanitarian law and minimize unnecessary suffering in armed conflict. As sponsors of Security Council resolution [2286 \(2016\)](#), which condemned attacks on the sick, the wounded, medical personnel and medical facilities and demanded that all parties to armed conflicts comply with their obligations under international humanitarian law, Australia, Canada and New Zealand continued to condemn such attacks and to call for compliance with international humanitarian law. It was also imperative to ensure that those who violated international humanitarian law were held accountable.

36. It was disappointing that, despite broad State support for enhancing international humanitarian law compliance, States at the thirty-second International Conference of the Red Cross and Red Crescent had been unable to reach an agreement on the establishment of a meeting of States to consider the matter. Australia, Canada and New Zealand remained strongly committed to identifying ways to enhance compliance with international humanitarian law and would actively participate in discussions on the

features and functions of a possible future forum of States and the potential of the International Conference and regional international humanitarian law forums.

37. Those delegations would work with other States and ICRC to draw up an outcome document on the subject for consideration at the thirty-third International Conference, which would be held in 2019. They also welcomed resolution 1 of the Conference and strongly supported efforts to develop guidance to help States fulfil their obligations and ensure the humane treatment of detainees, and acknowledged the indispensable role of ICRC in disseminating international humanitarian law.

38. *Mr. Ahmad (Pakistan), Vice-Chair, took the Chair.*

39. **Ms. Diéguez La O** (Cuba) said that civilian populations were increasingly the victims and even the targets of abuse by armed forces in conflicts. The constant imperialist aggressions and interference in the internal affairs of developing countries, the plundering of their wealth, the fomenting of regional conflicts for economic and political gain, the systematic destruction of the infrastructure of those countries and the indiscriminate killing of innocent civilians currently constituted the main violations of international humanitarian law.

40. Cuba reiterated its unwavering commitment to international humanitarian law, and in particular the Geneva Conventions and their Additional Protocols. Nothing justified the violation of international law, and Cuba was opposed to attempts by certain countries to reinterpret those norms in order to avoid their unconditional implementation. The ethical principles underlying the rules of international humanitarian law were the same as those which united the international community in its efforts to achieve lasting world peace and combat international terrorism, transnational crime and other scourges of humanity, which must not be allowed to serve as a pretext for certain States to violate those legal precepts. The need to achieve universal support for the legal framework applicable to armed conflict was more pressing than ever. The United Nations had a responsibility to ensure strict respect for the norms concerning the protection of civilians in armed conflict.

41. Cuba was concerned at the continuing serious violations of international humanitarian law by certain Western countries in the so-called fight against international terrorism and in the context of military interventions in developing countries. The failure to respect the principle of distinction had resulted in the deaths of thousands of civilians, primarily women, children and older persons, and had left many more with permanent injuries. Civilian buildings and essential infrastructure, such as hospitals and schools, had also been attacked indiscriminately and with total impunity. The increasing use of highly sophisticated weapons, in particular unmanned aerial vehicles, was of serious concern in that context.

42. The fact that certain Western countries that portrayed themselves as leaders in the effort to combat international terrorism participated in military interventions in third countries and financed groups and mercenaries involved in national armed conflicts were not parties to Additional Protocol II was evidence of a lack of true commitment and the application of double standards. The noble humanitarian ideal should not be sullied by being used as an excuse to violate the purposes and principles of the Charter of the United Nations and international law, in particular the sovereignty of States, the right of peoples to self-determination, the right to territorial integrity and non-intervention in internal affairs, or as justification to formulate, finance and execute external agendas for regime change in developing countries. Political manipulation and double standards on topics such as the protection of civilians and the responsibility to protect only weakened international humanitarian law. The international community must hold accountable any State that violated that law as well as States that promoted internal conflicts in other sovereign States in order to impose their external agendas.

43. Cuba greatly valued its status as a State party to the Geneva Conventions and their Additional Protocols, and it reaffirmed its position with regard to the defence of international humanitarian law. Cuban legislation had incorporated all necessary guarantees to ensure strict compliance with those norms, in particular those relating to the protection of civilians.

44. Cuba had gathered experience in the dissemination and teaching of international humanitarian law. It had a centre for the study of

international human rights sponsored by ICRC, which had made a major contribution to the dissemination and teaching of international humanitarian law in the Cuban armed forces. Cuba had also helped with the dissemination and teaching of international humanitarian law in other Central American and Caribbean countries. Cuba would continue to work towards a universal implementation of the norms of international humanitarian law and cooperate with ICRC and its various associations on teaching respect for it.

45. **Ms. Carnal** (Switzerland) said that her Government was appalled by the growing number of victims of armed conflict resulting from violations of international humanitarian law, particularly the increasing attacks on infrastructure, medical personnel and the sick and wounded, which seriously hindered the provision of urgent medical assistance to civilians. The systematic nature of those attacks seemed to indicate that they were deliberate, in which case they amounted to war crimes. Switzerland called on all parties to armed conflicts to comply fully with their international humanitarian law obligations, including the obligation to prevent and prosecute violations.

46. Switzerland was also concerned about the impact that counter-terrorism efforts were having on the provision of humanitarian aid to civilians and persons *hors de combat*. Measures taken at the international and national levels must not impede efforts to assist victims of armed conflict. Her delegation also wished to recall that international humanitarian law applied even when parties to an armed conflict were considered to be terrorist groups.

47. As the depositary of the Geneva Conventions and their three Additional Protocols, Switzerland attached great importance to their universal ratification and strongly urged States that had not yet done so to ratify the Additional Protocols as soon as possible. It also encouraged all States parties to Additional Protocol I to recognise the competence of the International Humanitarian Fact-Finding Commission established under article 90 of the Protocol, which could easily be done by depositing a simple declaration with the depositary.

48. Switzerland welcomed the adoption by consensus of a number of important resolutions to improve the implementation of and compliance with international

humanitarian law at the thirty-second International Conference of the Red Cross and Red Crescent. It encouraged all States to take part in an intergovernmental process with the aim of coming to an agreement on the features and functions of a potential forum of States and to finding ways to enhance the implementation of international humanitarian law using the potential of the International Conference and regional forums. Switzerland would continue to play an active role in the process of strengthening the protection afforded by international humanitarian law to persons deprived of their liberty.

49. Lastly, ICRC, supported by Switzerland, would be hosting the fourth Universal Meeting of National Committees for the Implementation of International Humanitarian Law, to be held in Geneva from 30 November to 2 December 2016. That meeting would focus on the implementation of international humanitarian law at the national level and the role of national committees in the dissemination and implementation of international humanitarian law.

50. *Mr. Turbék (Hungary), Vice-Chair, took the Chair.*

51. **Mr. Celarie Landaverde** (El Salvador) said that compliance with the Additional Protocols to the Geneva Conventions and all other norms of international humanitarian law was essential to limiting the grave consequences of war and to ensuring protection and assistance for all those who were not directly engaged, or had ceased to engage, in hostilities.

52. States had obligations under international humanitarian law in peacetime as well as in times of war. El Salvador was accordingly continuing to fulfil its obligations under the peace agreement signed 25 years previously that had put an end to many years of internal armed conflict. Its inter-institutional committee on international humanitarian law served as an advisory body to the Government on the means of implementation and dissemination of international humanitarian law instruments and on the norms of national and international humanitarian law. The committee had undertaken work to mark cultural properties for protection. In accordance with article 83 of Additional Protocol I, it had also provided training on matters related to international humanitarian law

and conducted dissemination campaigns targeted at various sectors of society.

53. A national committee on the implementation of Security Council resolution 1325 (2000) and subsequent resolutions on women, peace and security had been established to propose policies and regulations for the implementation of those resolutions. The committee comprised representatives of 17 governmental, academic and civil society organizations. El Salvador had thus made real progress at the national level and demonstrated its commitment to fulfil its obligations under international humanitarian law.

54. **Mr. Horna** (Peru) said that his country was continuing to develop means of implementing international humanitarian law and the provisions of the relevant treaties to which it was a party, including the Geneva Conventions and their Additional Protocols I and II. It was also working to ratify Additional Protocol III. Peru had continued to incorporate international humanitarian law and international human rights law instruments into its domestic legal framework, including by ratifying the Arms Trade Treaty and issuing a declaration recognizing the competence of the Committee on Enforced Disappearances in accordance with article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance.

55. Peru had taken various measures to implement the Additional Protocols to the Geneva Conventions, including the adoption of a protocol for the care of persons and families rescued from terrorist groups and a national plan to combat gender-based violence, and the establishment of a multisectoral committee to draft an internally displaced persons strategy covering prevention, protection and comprehensive care. It had also adopted a national law on the search for missing persons, paid monetary compensation to victims of violence, adopted a multi-year plan to provide reparation in the form of education, and adopted guidelines on mental health care for persons affected by the violence. Other activities had also been carried out to disseminate international humanitarian law and provide education on the subject, including the distance training course on international humanitarian law ran by the National Commission for the Study and Application of International Humanitarian Law.

56. His Government had made specific voluntary pledges concerning the implementation of the resolutions of the thirty-second International Conference of the Red Cross and the Red Crescent and other provisions of international humanitarian law. It fulfilled its international humanitarian law obligations and worked to ensure that State actors at the national, regional and local levels also complied with them and protected vulnerable populations. It was committed to consolidating the existing international humanitarian law system by working towards its universal acceptance and improving dissemination at the national level.

57. **Mr. Hitti** (Lebanon) said that his country was committed to the implementation of international humanitarian law and had ratified the Geneva Conventions and Additional Protocols I and II. It supported the valuable work of ICRC to promote international humanitarian law. The Lebanese International Humanitarian Law Committee had been established in 2010 to draw up annual action plans on the dissemination of international humanitarian law, coordinate with stakeholders, monitor and document violations, make recommendations and report annually to the Prime Minister. International humanitarian law was a component of the military curriculum, with annual courses organized for officers and conferences and seminars arranged for many military units. The Lebanese Red Cross also played a crucial role in the promotion of international humanitarian law.

58. In 2006, Lebanon had been subjected to aggression from Israel for a period of 33 days. On that occasion, Israel had demonstrated total disregard for international humanitarian law, in particular for the essential principles of distinction, proportionality and precaution. The vast majority of the victims had been civilians, and a significant number had been children. In addition, the country was still suffering from the environmental, economic and health impact of the oil spill caused by the bombardment of the El-Jiyeh electric power plant.

59. The situation was also deteriorating in the occupied State of Palestine, where the occupying Power continued to blatantly violate its obligations under international law, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention),

by endangering the lives and property of Palestinian civilians. After nearly five decades of daily violations of the basic fundamental rights of the Palestinian people, including unlawful killings, arbitrary detention, the confiscation of private property, the demolition of homes and forcible displacement, the international community and all competent organs of the United Nations, in particular the Security Council, must take immediate action to ensure that Israel fully complied with international law.

60. His delegation supported the call for the convening of a conference of the High Contracting Parties to the Fourth Geneva Convention to follow up on the declaration adopted at the Conference of High Contracting Parties held in December 2014.

61. **Ms. Sornarajah** (United Kingdom) said that it was tragic that international humanitarian law, which protected innocent victims from the devastating impact of armed conflict, was increasingly being disregarded by States and non-State actors, with horrific consequences. The United Kingdom called for better implementation of and compliance with the existing legal framework. States and non-State groups alike must be held accountable for any breach of international humanitarian law.

62. Her delegation welcomed the outcome of the thirty-second International Conference of the Red Cross and Red Crescent, including the adoption of resolutions on strengthening compliance with international humanitarian law, the provision of health care, sexual and gender-based violence and the safety and security of humanitarian volunteers. It also welcomed the follow-up to the World Humanitarian Summit.

63. The United Kingdom commended ICRC, the British Red Cross and the wider Red Cross and Red Crescent movement for their courageous provision of crucial assistance to vulnerable persons in extremely dangerous environments. It was a matter of grave concern that the emblems of those organizations, which should afford them protection under international law, were not being honoured and that humanitarian workers and medical personnel had been killed while trying to administer assistance to the wounded and sick.

64. Her Government continued to be at the forefront of international efforts to increase the recognition of serious sexual violence as a major crime under international humanitarian law, and was pleased that the Declaration of Commitment to End Sexual Violence in Conflict, which it had launched in 2014, had already been endorsed by 156 States.

65. Her Government was currently in the process of adopting legislation that would enable it to ratify the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict and accede to its two Protocols. It had also pledged £30 million to a new cultural protection fund to help countries in conflict zones protect and restore their cultural heritage. Those measures underlined the strong commitment of the United Kingdom to protecting cultural heritage for future generations. The Government was also organizing a conference on the review of new weapons, in accordance with article 36 of Protocol I, to enable participants to gain a better understanding of that area of international humanitarian law and share best practices.

66. The United Kingdom reiterated its strong support for the International Criminal Court, the ad hoc international criminal tribunals and other courts established to address serious violations of international humanitarian law. Its support stemmed from its desire to end impunity, ensure accountability, see justice done and prevent further atrocities. Ending impunity was an essential step towards building a safer world for all. The United Kingdom remained fully committed to international humanitarian law and to ensuring it was enforced and that its principles were protected.

67. **Mr. Ayoko** (Nigeria) said that non-compliance with international humanitarian law exacerbated the situation of victims of armed conflicts all over the world, in particular prisoners of war and detainees, refugees and internally displaced persons. Nigeria had always treated all persons detained in the wake of confrontations between its security forces and the Boko Haram terrorists in accordance with both national and international law. Accused persons received a proper court trial and, if acquitted, were released; the Government provided relief materials and humanitarian aid to victims in conflict zones and allowed humanitarian organizations to have access to

them; it also, in collaboration with international partners, organized training to sensitize security forces to the need to abide by the rules of engagement in armed conflicts.

68. Nigeria had been making significant progress in fighting terrorism through international cooperation. However, the many social challenges arising in that connection called for more such cooperation. The war against terrorism could only be won through the determined resolve of all Member States, working together to ensure full compliance with all United Nations Conventions and resolutions against terrorism and the financing of terrorism. There was therefore an urgent need for global synergy to ensure a workable compliance mechanism system for international humanitarian law.

69. **Mr. Medina Mejías** (Bolivarian Republic of Venezuela) said that Venezuela was a party to the principal international instruments relating to international humanitarian law, which it had duly incorporated into its domestic legislation and which included the four Geneva Conventions of 1949 and their two Additional Protocols of 1977, the Optional Protocol to the Convention on the Rights of the Child related to the involvement of children in armed conflict and the Convention on the Protection of Cultural Property in the Event of Armed Conflict. Additional Protocol III of 2005 relating to the adoption of an additional distinctive emblem had also been reflected in a new law regulating the use and protection of the emblem and name of the International Red Cross. His delegation commended the International Red Cross and the Red Crescent Movement for its untiring, objective and responsible action to provide humanitarian protection and assistance to the victims of armed conflict and other situations of violence, while at the same time promoting the observance of international humanitarian law and its incorporation into national legislation.

70. Due priority should continue to be given to making better known the obligations of States parties under the instruments of international humanitarian law and encouraging them to fulfil those obligations. His delegation strongly condemned the increasing attacks against humanitarian personnel and urged Member States to ensure the personal safety of such personnel in accordance with the relevant provisions of

international law and United Nations resolutions. At the same time, humanitarian agencies and their personnel must comply with international humanitarian law and the laws of the countries to which they were assigned, as well as with the governing principles of humanitarian assistance laid down in General Assembly resolution 46/182 and its annexes, and respect the cultural, religious and other values of the populations concerned. Venezuela reaffirmed the immutable value of the humanitarian rules relating to armed conflict and the need to comply with them, pending the earliest possible cessation of such conflicts.

71. In the final declaration of the seventeenth Summit of Heads of State and Government of the Non-Aligned Movement, recently held in Margarita, the Heads of State and Government had highlighted the importance of the Geneva Conventions and their Additional Protocols of 1977 and urged States that had not yet done so to consider ratifying or signing them. They had reiterated their call to the Government of Switzerland, in its capacity as depositary of the Geneva Conventions, to convene a conference of the High Contracting Parties to the Fourth Geneva Convention in order to adopt legal measures to ensure that Israel ceased its large-scale violations and complied with international law, including international humanitarian law, in the Occupied Palestinian Territory.

72. Venezuela condemned all indiscriminate attacks against the civilian population and humanitarian personnel and the bombing of hospitals, health facilities and schools in the Gaza Strip and the Occupied Palestinian Territory, as well as in Iraq, Libya, Yemen, Syria, Afghanistan and other conflict zones, and called on all those concerned to engage in political dialogue for the sake of their populations and the region.

73. **Mr. Didemana** (Togo) said that his Government attached special importance to the implementation of international humanitarian law; it had ratified the three Additional Protocols to the Geneva Conventions and was a party to the Optional Protocol to the Convention on the Rights of the Child related to the involvement of children in armed conflict. The cardinal principles of international humanitarian law, such as the principles of distinction, proportionality and humanity, must be scrupulously respected, in both international and

non-international armed conflict. Moreover, both Additional Protocols of 1997 clearly highlighted the importance of protecting the victims of armed conflict as an essential element in regulating the conduct of hostilities. His delegation urged more Member States to ratify them.

74. Togo was a party to 21 legal instruments relating to international humanitarian law, including the conventions prohibiting the use of chemical weapons and anti-personnel mines and the Arms Trade Treaty. There were, however, some areas that had not yet been satisfactorily addressed by international humanitarian law, in particular the issue of sexual violence in times of conflict. His delegation reiterated its support for the Declaration of Commitment to End Sexual Violence in Conflict.

75. His Government was continuing its untiring efforts to ensure the effective implementation of the Additional Protocols, as well as the entire body of international humanitarian law. As a non-permanent member of the Security Council in 2012-2013, Togo had supported or initiated a number of resolutions, presidential statements and press releases calling for the application of humanitarian law in conflict zones. Moreover, through the adoption of a new Criminal Code in 2015, the rules of international humanitarian law had been incorporated directly into his country's legal system.

76. His country's almost unconditional commitment to international humanitarian law was also reflected in concrete action on the ground. Togo was the sixteenth biggest source of troops for peacekeeping operations, with some 2,000 of its citizens serving in many countries, particularly in Africa. All members of its law enforcement and security forces deployed to peacekeeping missions were first given training by international experts in the rules of international humanitarian law at a special training centre which had been established at a very early stage, in advance of the Secretary-General's call for zero tolerance of criminal conduct in United Nations missions in 2015. His delegation called on all peace-loving countries to take action to that effect and also to eliminate any form of impunity.

77. Despite many lives lost in the service of such missions, Togo remained committed to ensuring the effective observance of international humanitarian law

on the ground, wherever troops and experts of other nationalities were called on to maintain peace and security. At the same time, it remained concerned about the question of the criminal accountability of the United Nations officials and experts in mission, which could have a decisive effect on the protection of victims of armed conflict. Considering that a clear and appropriate legal framework that would indisputably contribute to such protection was still lacking, his delegation called on the international community to work together to ensure the criminal accountability of such personnel, with due regard for international law and the rights of the defence. For the time being, Togo remained attached to the principle of the national jurisdiction of the country of nationality of the accused and had accordingly included in its new Criminal Code provisions authorizing the Togolese courts to exercise jurisdiction over offences committed by Togolese nationals abroad.

78. **Ms. Pierce** (United States of America) said that the United States had long been a strong proponent of the development and implementation of international humanitarian law and continued to ensure that its military operations conducted in connection with armed conflict complied with international humanitarian law, and all other applicable international and domestic law. An interagency review had found her country's military practice to be consistent with the provisions of Additional Protocol II. It was currently seeking Senate advice and consent to ratification of that Protocol. While it continued to have significant concerns about many aspects of Protocol I, relating to the protection of victims of international armed conflicts, it continued, out of a sense of legal obligation, to treat the principles set forth in its article 75 as applicable to anyone it detained in an international armed conflict and expected all other nations to do likewise.

79. Obligations in regard to the protection of civilians were among those with which the United States complied under the law of armed conflict; such protection was indeed basically consistent with the effective, efficient and decisive use of force. Her Government therefore, as a matter of policy, routinely imposed certain heightened policy standards that were more protective of civilians than would otherwise be required under that law. Examples of best practices adopted to enhance the protection of civilians were to

be found in Executive Order 13732 on United States Policy on Pre-and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force, issued in July 2016.

80. Following the thirty-second International Conference of the Red Cross and Red Crescent in December 2015, the United States continued to be strongly in favour of the establishment of a new forum to facilitate substantive, non-politicized discussion between States on international humanitarian law and looked forward to the further development of that initiative. It was essential, however, to ensure that discussions focused on best practices rather than on violations and that States reported on their own practice rather than that of other States. Her delegation was also looking forward to the third plenary meeting, in 2017, of the Montreux Document Forum and strongly supported its ongoing work; the United States would continue to engage with the Forum in support of regular dialogue on outreach for implementation of the Montreux Document.

81. **Mr. Eiermann** (Liechtenstein) said that his delegation was deeply concerned at the ever-growing number of violations of international humanitarian law committed by States and armed groups in various parts of the world, most recently in Yemen, with massive loss of life. The international community should not need to speak about attacks against aid convoys, medical facilities or schools but should be engaged in a serious effort to advance compliance initiatives to address consistently and systematically any such violations. The Geneva Conventions had been universally ratified, but that was not yet true of the Additional Protocols; his delegation called on all States to ratify or accede to them, if they had not yet done so. However, ratification carried an obligation for States to hold to account anyone committing a serious violation of international humanitarian law. Where they were unable to do so, they should seek assistance from other States and the United Nations and make use of such institutions as the International Criminal Court. Where they were unwilling to do so, the international community should step in and demand accountability. States that had referred cases to the International Criminal Court in order to address the impunity gap for war crimes were to be commended; they clearly showed that ratification of the Rome Statute did not

cause them to be targeted by the Court but allowed them, rather, to seek its help.

82. It was not enough for the Security Council to hold debates on the protection of civilians; it should regularly call on all parties to armed conflict to respect and ensure respect for international humanitarian law. It should be committed to holding accountable perpetrators of flagrant violations of humanitarian rules and principles. Its members should themselves be committed to respecting international humanitarian law and to investigating reported violations by their armed forces independently and thoroughly. Governments, for their part, must scrupulously abide by the fundamental principles of distinction, proportionality and precaution, particularly in the case of the use of explosive weapons in densely populated areas; in such cases, the last two principles seemed hardly compatible with the rules of international humanitarian law regulating the conduct of hostilities. States should therefore refrain from using such weaponry in such areas. Liechtenstein was open to the possible development of new standards regarding that issue.

83. His delegation welcomed the efforts of the International Committee of the Red Cross to promote and strengthen humanitarian law, and to protect and assist victims of armed conflict or violence, but regretted that the States parties to the Geneva Conventions had not replicated those efforts. It was disappointed in particular that States had not been able to agree on a voluntary compliance mechanism at the thirty-second International Conference of the Red Cross and Red Crescent and hoped that future debates would be more fruitful. It also hoped that the 684 individual and joint commitments made by 110 stakeholders at the World Humanitarian Summit would translate into action in the weeks to come.

84. **Mr. Mousani** (Islamic Republic of Iran) said that international humanitarian law provided a comprehensive body of rules for the protection of victims based on the cardinal principle of distinction between combatants and non-combatants and between civilian and military objectives. However, 60 years after the adoption of the Geneva Conventions, implementation remained a challenge that required the attention of the international community.

85. As a country upon which an eight-year war had been imposed that had involved numerous violations of

international humanitarian law, including the use of weapons of mass destruction against both combatants and civilians, the Islamic Republic of Iran fully recognized the essential role of all the related legal instruments, in particular the four Geneva Conventions, in minimizing the negative effects of armed conflict. It had accordingly sought constantly to disseminate and promote knowledge of the related norms, including among the armed forces, in particular through awareness-raising exercises and courses in international humanitarian law. The establishment in 1999 of the Iranian Humanitarian Law Committee within the Iranian Red Crescent Society had been a turning point in that regard. In 2006, it had organized an important conference on Islam and international humanitarian law which had identified synergies between contemporary international humanitarian law and the rich Islamic humanitarian heritage. A significant outcome of that conference had been the establishment in the holy city of Qom of a centre for the comparative study of Islam and international humanitarian law which would be holding in December 2016 a second international conference in cooperation with the International Committee of the Red Cross and a number of Iranian university institutions. It would focus on common humanitarian values in world religions and the role of religion in humanitarianism.

86. After signing the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2010, his Government had submitted to Parliament a bill for its ratification. At the regional level, the Iranian Red Crescent Society had also been actively engaged with the International Red Cross and Red Crescent Movement in improving humanitarian responses for the people of Iraq, further to the note on mutual understanding that the Iraqi Red Crescent Society had signed with the International Committee of the Red Cross in Tehran in 2015.

87. The Islamic Republic of Iran had participated actively in the thirty-second International Conference of the Red Cross and Red Crescent in December 2015 at which the Iranian delegation had stressed the importance of intergovernmental measures to promote international humanitarian law. Any mechanism should be consensus-based and should be implemented through legally binding instruments. In his region, serious violations of international humanitarian law

continued to occur, particularly in the Occupied Palestinian Territory, causing much suffering to the civilian population, as had been recognized again and again by the Security Council. In Yemen, over the previous 18 months, one Member State's violation of the Geneva Conventions, particularly its disregard for the principles of distinction, proportionality and precaution, had resulted in war crimes that had taken the lives of hundreds of children and seriously affected millions of civilians, while the international community had remained inactive. His delegation hoped that the international community would take steps to strengthen the implementation of international humanitarian law and, in particular, to hold accountable both the perpetrators of those attacks and those supporting them.

88. **Mr. Remaoun** (Algeria) said that his country was a party to all major instruments of international humanitarian law, including the Geneva Conventions, which it had been applying even before its independence. It had also ratified Additional Protocols I and II to those Conventions and recognized the competence of the International Humanitarian Fact-Finding Commission ipso facto and without special agreement. International humanitarian law was widely disseminated and promoted among civil society and the local population as well as among the armed forces and was a basic component of military and academic curricula.

89. The devastating war conducted two years earlier by Israel, the occupying Power, in the Gaza Strip under blockade constituted a serious violation of international humanitarian law. In order to protect the Palestinians and prevent repeated breaches of the Geneva Conventions and their Additional Protocols, his delegation supported the request of the State of Palestine to convene a conference of the High Contracting Parties to the Fourth Geneva Convention on measures to enforce that Convention in the Occupied Palestinian Territory, including East Jerusalem. It was regrettable that, because of the opposition of a small number of States parties, such a conference had not yet been convened, despite the existence of a cross-regional critical mass of support for it. Consensus did not mean unanimity: his delegation hoped that Switzerland, as depositary of the Geneva Conventions, would take that into account in its future consultations on the question.

90. His delegation welcomed the accession of the Polisario Front to the Geneva Conventions and Additional Protocol I, whose article 96, paragraph 3, allowed the authority representing a people engaged in a conflict around the principle of self-determination to undertake to apply the Conventions and Additional Protocol I by means of a declaration to the depositary. The Polisario Front had made such a declaration on 21 June 2015, on behalf of the people of Western Sahara. His delegation deplored the omission of that information in the section of the Secretary-General's report (A/71/183) entitled "Information received from the International Committee of the Red Cross".

91. **Mr. Heumann** (Israel) said that, notwithstanding its concerns about certain key provisions of the Additional Protocols, his country considered that the promotion of compliance with the laws of armed conflict was of the highest importance. With violent extremism on the rise, the challenges of armed conflict, including asymmetric warfare, were becoming more urgent. Non-State adversaries did not consider themselves bound by those laws, which they systematically abused, taking advantage of States' adherence thereto. Those laws should therefore be interpreted in such a way as to meet those emerging challenges.

92. Time and time again terrorists embedded themselves and their weapons among their own civilian populations. The unlawful and repugnant practice of exploiting innocent people as human shields extended further to such sites as hospitals, schools and places of worship and, in the context of armed conflict with terrorist groups like Hamas and Hizbullah, had been part of his country's reality for decades. The resulting need to maintain a sharp distinction between civilians and combatants vindicated the reservations of numerous countries, including Israel, as to the blurring of that distinction in Additional Protocol I, notably in articles 1 (4) and 44 (3). The essential legal framework for regulating the conduct of hostilities offered by the laws of armed conflict must also take into account the realities of asymmetric warfare.

93. His country complied with those laws, as reflected in all aspects of its military operations, which were thoroughly reviewed and improved in the light of legal advice from independent advisers. Its forces were trained to uphold procedures that ensured that the

delicate balance between combating terrorism and protecting civilians was maintained to the greatest possible extent. The Israeli Supreme Court had issued rulings in response to hundreds of petitions on the related issues and had even in some cases halted military operations.

94. His delegation acknowledged the important contribution of the International Committee of the Red Cross and its humanitarian work on the ground throughout the world. Israel welcomed the International Committee's efforts to update its interpretations of the Geneva Conventions and their Additional Protocols, but was concerned about the recently published commentary to the First Geneva Convention, in respect of both the process of formulating the commentary and the substantive positions set out therein, which did not always accurately reflect the state of the law. Given the prominent role of States in creating, interpreting and applying the law, it was important to consult with them and to receive their input as the work continued.

95. Lastly, the countries that were attacking Israel were the ones that truly violated the Geneva Conventions. Indeed, a United Nations official had issued a statement deploring the zero accountability of those responsible for the recent bombing attacks in Yemen. Many speakers remained obsessed with Israel in an attempt to divert attention from the real atrocities being committed throughout the Middle East; their countries were far from being beacons of human rights and were indeed responsible for some of the worst violations. The speakers were careful not to mention Hamas or Hizbullah, the Saudi bombardments or the atrocities in Syria. Israeli citizens faced a daily security challenge; their Government would continue to do its utmost to protect them: such was its duty, its responsibility and its right.

96. **Mr. Momen** (Bangladesh) said that, as a party to the four Geneva Conventions and the two Additional Protocols of 1977, his country remained concerned about the current reports of violations of international humanitarian law by both State and non-State actors in different conflict situations, including in the Occupied Palestinian Territory, the Syrian Arab Republic and elsewhere. Perpetrators must be held accountable and Member States must make joint efforts to put into effect the mechanisms and procedures already built

into the existing international humanitarian law regime in order to further promote compliance by the various actors.

97. His delegation urged States parties to the Geneva Conventions to add their voices to the demands for unqualified compliance with international humanitarian law in the Occupied Palestinian Territory and again called on the Government of Switzerland, as depositary, to convene a conference of the High Contracting Parties to the Fourth Geneva Convention to adopt legal measures to that end in the event of continued hostilities. More generally, Bangladesh urged all parties to ongoing conflicts to remain mindful of the need to protect health-care and education facilities and other civilian infrastructure critical for delivering humanitarian assistance to the affected people, including women, children and the elderly.

98. Respect for international humanitarian law and human rights law was crucial for sustaining peace, including for achieving lasting solutions to ongoing armed conflicts in the Middle East and elsewhere. His delegation joined the call to prevent sexual violence during such conflicts and to ensure that it was not used as a tactic of war. Bangladesh recognized the potential contribution of the Arms Trade Treaty, in particular, to preventing violations of international humanitarian law and was actively considering acceding to that instrument.

99. His country had recently established a national committee on international humanitarian law, with the active support of ICRC, which was currently exploring the possibility of developing comprehensive legislation for the implementation of the Geneva Conventions and their Additional Protocols and considering suitable ways of incorporating international humanitarian law into national education curricula in order to ensure their further dissemination among people at large. In the same spirit, work was continuing to translate those instruments into the vernacular language of his country. Bangladesh had some experience in instituting national judicial processes in accordance with relevant international standards and stood ready to contribute its perspective to the continuing debate and initiatives of the United Nations and other international actors in that area.

100. **Ms. Song** Miyoung (Republic of Korea) said that her Government was strongly committed to

international humanitarian law and welcomed the resolutions adopted at the thirty-second International Conference of the Red Cross and Red Crescent. It intended to play a constructive role in improving compliance with international humanitarian law and would maintain efforts to prevent conflict and protect victims in emergency situations.

101. The States parties to the Geneva Conventions must uphold their commitments under international humanitarian law, in particular by ensuring that it was respected by parties to armed conflicts, that violations were investigated and that perpetrators were held accountable; they should develop concrete mechanisms to improve compliance. That being said, every effort should be made to prevent humanitarian suffering in the first place. States should make more concerted and more collective political efforts to prevent, contain, limit and settle conflicts and thus ease the plight of innocent civilians, including women and children. The Korean Government, for its part, would continue to support the regional and international efforts of ICRC to address the challenges to international humanitarian law.

102. **Ms. Mansour** (Observer for the State of Palestine) said that current conflicts around the world, particularly in the Middle East, were taking the heaviest toll on civilians and had led to the largest movement of refugees since the Second World War, with grave humanitarian, social, economic, psychological and security consequences for all involved and repercussions for both countries of origin and receiving countries, as well as for the international community as a whole. The Palestinian people, including the 5.5 million refugees, knew only too well the suffering caused by conflict; they had endured the illegal occupation by Israel for nearly half a century.

103. The persistence of their suffering was due to the failure to achieve a just solution to the conflict, despite countless United Nations resolutions, but also to the international community's failure to uphold international humanitarian law in the face of grave breaches and to ensure the protection of civilians pending the achievement of such a solution. The tragedy of civilians in conflict situations persisted because of non-compliance with international humanitarian law and the non-accountability of the perpetrators of violations, including Israel, the

occupying Power, which continued to harm the Palestinian people with absolute impunity. The State of Palestine was committed to ensuring respect for and adherence to international humanitarian law, considering that the Geneva Conventions and their Additional Protocols provided the necessary framework for parties in armed conflict, including in situations of foreign occupation. The international community should make greater efforts to ensure better compliance with the law, in particular by military personnel.

104. Her delegation had repeatedly appealed for protection for the Palestinian people from oppression by Israel in the form of the killing and injuring of civilians in military raids, airstrikes and bombardments and terror attacks across the Occupied Palestinian Territory, including East Jerusalem, detention, imprisonment, abuse and torture, forced displacement and transfer, and illegal blockade and other measures of collective punishment, as documented by numerous United Nations reports. Palestinian civilians, including children, had for decades continued to be deprived of such protection.

105. The international community, particularly the States parties to the Geneva Conventions, had clear responsibilities to spare civilians the atrocities of war and protect their lives. The State of Palestine, a State party to those Conventions and their Additional Protocols, was requesting the Government of Switzerland, as depositary, to convene a meeting of the High Contracting Parties to consider further measures to enforce the Conventions in the Occupied Palestinian Territory, including East Jerusalem, including measures to protect the Palestinian people against the grave breaches of the Conventions being committed by Israel, and to assess the implementation of the declaration adopted by the Conference of the High Contracting Parties to the Fourth Geneva Convention of 17 December 1948. The State of Palestine also reiterated its call to the international community to consider providing the Palestinian people with protection in occupied Palestine, including East Jerusalem, until the end of occupation and the independence of the State of Palestine. Humanitarian organizations and civil society had an essential role to play in that regard, in providing a protective civilian presence.

106. **Mr. Žilinskas** (Observer for the International Humanitarian Fact-Finding Commission) said that the International Humanitarian Fact-Finding Commission, established under article 90 of Additional Protocol I, was a tool whereby States and the international community could ensure that international humanitarian law was applied in all types of armed conflict. It was a specialized institution composed of 15 members elected by States that had recognized its competence. Members did not represent their States, however, and served in their personal capacity; they came from all over the world and from a wide variety of professional backgrounds. The Commission's procedure was designed to facilitate cooperation with the parties to a conflict, who could appoint ad hoc members; it was a confidential procedure and the report on its findings was submitted to the parties with recommendations and could not be published unless they so requested. If the Commission was unable to secure sufficient evidence for factual and impartial findings, it was required to state the reasons for that inability.

107. Although the Commission had offered its good offices in a number of situations and had carried out delicate negotiations, it lacked the specific mandate required from the parties to the conflict in order to operate effectively, notwithstanding the necessary technical agreements it had concluded with Swiss Humanitarian Aid. In that regard, he recalled that in its resolution [55/148](#) of 2001, the General Assembly had called on States parties to Protocol I to make the declaration of acceptance of the competence of the Commission under article 90. Since then, 18 further States had made such a declaration, bringing the total number of such States to 76, but more States were needed in order to guarantee equitable geographic representation and ensure a critical mass of members on the Commission.

108. He hoped that the General Assembly would once again call upon States to make use of the services of the Commission in appropriate cases and thus help restore respect for international humanitarian law and mitigate the suffering of people in conflict situations, and that the Security Council would continue with its expressed intention to consider making use of the Commission.

109. The Commission drew attention to the possibility that it could offer its expertise and experience, including through the ad hoc use of individual commissioners, to complement the work of fact-finding missions established by human rights bodies and other United Nations organs that were mandated to investigate facts or events where parties to a conflict could not agree.

110. As the only international mechanism of the kind envisaged by the General Assembly in its declaration of 19 September 2012 on the rule of law at the national and international levels ([A/67/L.1](#)), the Commission would welcome comments from all those concerned on why they had not yet made use of its services, apparently preferring instead to appoint ad hoc bodies. The Commission would be ready to join with the Secretariat and other competent bodies in developing a questionnaire to be submitted to States, aimed in particular at finding more effective ways of promoting its work.

111. The Commission was exactly the kind of institution referred to by Doctors without Borders, in its recent statement before the Security Council, when it had called for a dedicated mechanism for independent, prompt and effective investigations into attacks on civilians and medical care, and it had the advantage of already existing on a permanent basis. The Commission's involvement in such investigations would be a practical contribution to efforts to ensure respect for international humanitarian law; it could also be of help in responding to the related call of Doctors without Borders for the Secretary-General to appoint a special representative to document and report attacks on medical facilities.

The meeting rose at 1.05 p.m.