United Nations A/C.6/75/SR.6

General Assembly
Seventy-fifth session

Official Records

Distr.: General
14 January 2021

Original: English

Sixth Committee

Summary record of the 6th meeting
Held at Headquarters, New York, on Thursday, 15 October 2020, at 3 p.m.

Chair: Mr. Bhandari (Vice-Chair) . . . . . (Nepal)

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20-13699 (E)

In the absence of Mr. Skoknic Tapia (Chile), Mr. Bhandari (Nepal), Vice-Chair, took the Chair.

The meeting was called to order at 3.05 p.m.

Agenda item 81: Crimes against humanity (*continued*)

1. **Ms. Weiss Ma'udi** (Israel) said that there was a need for specific and articulated safeguards on mechanisms for the enforcement of or adherence to the draft articles on prevention and punishment of crimes against humanity, contained in chapter IV of the report of the International Law Commission on the work of its seventy-first session (A/74/10). Her delegation continued to be concerned that enforcement and jurisdiction mechanisms under the draft articles could be abused by States and other actors to advance their political goals or to gain publicity, rather than be used in the appropriate circumstances as a genuine legal tool to protect the rights of victims and to put an end to impunity for serious international crimes. The draft articles should also accurately reflect well-established principles of international law. Several of the draft articles did not reflect customary international law. Examples included draft article 6, paragraph 5, which dealt with the issue of immunity of foreign State officials, and draft article 6, paragraph 8, which dealt with measures to establish criminal, civil or administrative liability of legal persons. Israel valued the attention given in the commentary to crimes against humanity committed by non-State actors, given the increased involvement of non-State actors in the commission of such crimes.

2. As for the Commission's decision to recommend the elaboration of a convention on the basis of the draft articles, her delegation believed that, prior to any agreement on the desired forum for the negotiation and elaboration of any such convention, further deliberation was required on several critical and outstanding issues raised by many States, including Israel. Accordingly, it seemed inadvisable to regard the current draft articles automatically as a zero draft for any future process. At the same time, it seemed appropriate that States be given adequate time to review and consolidate their positions and effectively address all outstanding issues in a process informed by the Commission's work on the topic. Her delegation thus reiterated its proposal to establish a forum in the framework of the Committee, where States would attempt to clarify the outstanding issues and resolve their differences with a view to the potential elaboration of a convention.

3. **Ms. Ozgul Bilman** (Turkey) said that crimes of the most serious nature, such as genocide, crimes against humanity, war crimes, terrorism and torture, posed an existential threat to human dignity and the core principles of the United Nations. Preventing such crimes and fighting impunity was an essential common goal of the international community, which should be addressed in an inclusive manner. Her delegation believed that thorough consideration by States of each other's views concerning various aspects of the matter was an important first step in the overall examination of the Commission's recommendation. That was why it had supported the Commission's proposal to request States to submit their views in writing and had suggested that States be invited to consider the Commission's recommendation in the light of the draft articles and the comments of Member States. Future consideration of the matter and of the Commission's recommendation should be based on a comprehensive understanding of States' views and the status of other initiatives aimed at reaching similar goals.

4. **Mr. Geng** Shuang (China) said that, before a convention on the basis of the draft articles on prevention and punishment of crimes against humanity could be elaborated, a definition of the concept of crimes against humanity was needed. No broad consensus yet existed on that point within the international community. The draft articles reproduced the definition of crimes against humanity set out in article 7 of the Rome Statute of the International Criminal Court almost word-for-word, although the Statute had not been universally ratified, and the article did not represent a common position of all parties. Indeed, negotiations on a comprehensive convention on international terrorism had been at an impasse for many years because of a lack of consensus on the definition of terrorism.

5. Such a convention should also be based on State practice, but many States believed that some key draft articles did not represent universal State practice and had been derived either from provisions found in other international conventions or had been based on the practice of international criminal justice bodies, which lacked universality. The elaboration of a convention on crimes against humanity would also not succeed unless the process could be undertaken in an environment of unity and cooperation. In recent years, such crimes had often been politicized, however. Attempts by any country to use the issue to advance its own interests and engage in political manipulation would breed resentment and discontent among all parties, undermining international cooperation.

6. It was therefore premature to elaborate a convention on crimes against humanity in the current context. All parties should continue to take stock of and

analyse relevant State practice and engage in a comprehensive exchange of views in order to consolidate political will and gradually build consensus on the matter.

7. **Ms. Ruhama** (Malaysia) said that her country had long held the position that genocide, war crimes, crimes against humanity and crimes of aggression were the most serious crimes of concern to the international community. Along with investigation and prosecution, international cooperation among States was crucial for ensuring that the perpetrators of such crimes were brought to justice. In Malaysia, the perpetrators of crimes against humanity could be prosecuted under the Penal Code. International cooperation in that area was governed by the Mutual Assistance in Criminal Matters Act of 2002 and the Extradition Act of 1992.

8. Malaysia remained flexible and supportive of the continued elaboration and discussion of the draft articles on prevention and punishment of crimes against humanity, whether by the General Assembly or by an international conference of plenipotentiaries. It hoped that any further work on the draft articles would be such that they complemented, rather than overlapped with, existing regimes.

9. **Mr. Ly** (Senegal) said that his delegation unreservedly supported the idea of discussing the establishment of an effective international legal framework for the prevention and punishment of crimes against humanity. The draft articles would serve as a credible and appropriate foundation for a future convention on the topic. It was also vital to strengthen the capacity of States to investigate, prosecute and combat mass atrocities. To that end, his Government supported the initiative of the group of countries advocating the adoption of a multilateral treaty on mutual legal assistance and extradition to assist in the prosecution of the most serious international crimes. His delegation urged all delegations to engage in an inclusive, open and transparent debate to clear any major obstacles preventing the elaboration of a convention based on the draft articles as soon as possible.

10. **Mr. Taufan** (Indonesia), referring to the draft articles on prevention and punishment of crimes against humanity, said that, with regard to draft article 6, concerning criminalization under national law, and draft article 7, concerning the establishment of national jurisdiction, the national law on the human rights court of Indonesia gave that body jurisdiction over cases involving crimes against humanity, including such crimes committed by Indonesians living abroad. Crimes against humanity were defined in the law as any actions perpetrated as part of a broad or systematic direct attack on civilians and included 11 acts comparable to the ones listed in the definition contained in the draft articles. The law also described the national judicial procedure for handling gross violations of human rights, including crimes against humanity, which encompassed arrest, detention, investigation, prosecution and court hearings. The law also contained provisions on the protection of witnesses and victims of crimes against humanity, as well as compensation, restitution and rehabilitation.

11. With regard to draft article 13, concerning extradition, and draft article 14, concerning mutual legal assistance, Indonesia also had the necessary legal framework in place to allow for cooperation with other States to deny safe haven and impunity through mutual legal assistance in criminal matters and extradition. Ending impunity and denying safe haven to individuals who committed crimes against humanity was a collective responsibility. As there were still divergences of position concerning the scope and application of such crimes, States should continue to engage in consultations in the Committee, in order to deepen their understanding and move towards a consensus on a global convention on crimes against humanity.

12. **Mr. Hitti** (Lebanon) said that the draft articles on prevention and punishment of crimes against humanity was an important step in the development of international law, particularly international criminal law, international humanitarian law and international human rights law. The General Assembly needed to take ownership of the draft articles and move the discussion forward. A convention on crimes against humanity would close a normative gap in international law and strengthen national mechanisms. Lebanon therefore supported the elaboration of a convention based on the draft articles, preferably by a conference of plenipotentiaries. Recognizing that some draft articles could be improved and that some legitimate concerns had not been addressed, Lebanon supported a results-oriented process with substantive discussion and negotiations that progressed in a sound and stepwise manner, preferably with a defined timetable, with the ultimate outcome being a universally accepted convention.

13. **Ms. Ponce** (Philippines) said that the prohibition of crimes against humanity was a peremptory norm of international law. In recognition of the duty of every State to exercise its criminal jurisdiction over such crimes, the Philippines had passed the Act on Crimes against International Humanitarian Law, Genocide and Other Crimes Against Humanity in 2009 to criminalize crimes against humanity at the national level.

14. The question of concluding a convention based on the draft articles on prevention and punishment of crimes against humanity was a conceptual leap that required further examination by Member States at the national level and by the Committee. Although some delegations were in a rush to begin negotiations on a convention, the Committee clearly needed to continue its discussion of the substantive aspects of the draft articles in view of the increased encroachment on the exercise of State sovereignty, the overbroad assertions of jurisdiction by national and international courts, the politicization of human rights, the decreasing legitimacy of the Rome Statute of the International Criminal Court – on which many of the draft articles were based – and the existence of multiple parallel initiatives, including the proposed convention on mutual legal assistance.

15. Although the International Law Commission was to be lauded for its efforts to promote, encourage and advance the rule of law through the progressive development of international law and its codification, the Committee was the primary forum for the consideration of legal questions in the General Assembly and must not be rushed into handing over that mandate to a diplomatic conference or a negotiating forum over which no consensus had thus far been reached.

16. **Mr. Nasimfar** (Islamic Republic of Iran) said that it was premature to call a diplomatic conference to adopt the proposed draft articles on prevention and punishment of crimes against humanity. In view of the divergence in the comments and observations of Member States, more time was needed to allow Governments to comment on the draft articles and engage in inclusive, intergovernmental negotiations, which could be conducted under the auspices of the Committee.

17. With regard to the draft articles themselves, his delegation continued to hold the view that the obligation of States to prevent crimes against humanity, as currently drafted, was too broad and could result in legal ambiguity. The obligation should be articulated in detail, rather than be determined by the subsequent practice of the parties to a convention. Furthermore, according to the draft articles, States were under an obligation to cooperate, as appropriate, with "other organizations", which, as stated in the commentary, included non-governmental organizations. However, neither the legal basis for such an obligation, if any, nor the practice of States in that respect had been addressed in the commentary. In his delegation's view, it was inappropriate to impose such an obligation on States.

18. His delegation was concerned about the possible implications of draft article 2, paragraph 3, which provided that the draft article was without prejudice to any broader definition of crimes against humanity provided for in any international instrument, in customary international law or in national law. It was doubtful to what extent that provision would serve the purpose of harmonization of national laws. Rather, it might lead to further fragmentation of the concept of crimes against humanity. Therefore, the draft articles should be without prejudice only to any broader definition of crimes against humanity provided for in treaties or contractual law developed in the future.

19. Draft article 5, paragraph 2, put forward a non-legal criterion for determining the grounds for refusing to extradite a criminal to a requesting State, which could be abused for political reasons. As currently formulated, the draft article could lead to impunity or the arbitrary administration of justice. Draft article 14, paragraph 9, created an obligation for States to enter into agreements or arrangements with international mechanisms established by the United Nations or by other international organizations that had a mandate to collect evidence with regards to crimes against humanity. Linking the future convention to mechanisms that might be established through a politicized decision of the United Nations or of other international organizations would further politicize the process and was not necessary.

20. The draft articles should remain open for further consideration by the Committee, which should focus on the legal issues, avoid politicization and selectivity, and create a framework that genuinely addressed crimes against humanity, wherever they might be perpetrated, in full conformity with the principles and objectives of the Charter of the United Nations.

21. **Ms. Margaryan** (Armenia) said that the draft articles on prevention and punishment of crimes against humanity reflected the *jus cogens* character of the prohibition of crimes against humanity and a degree of consensus within the international community on the shared objective of combating impunity for perpetrators and delivering justice to victims. It was important to build on that consensus, in order to develop the capacity of the international community to protect people, no matter where they were, from crimes against humanity.

22. The very term "crimes against humanity" had been used for the first time to label a category of international crimes in the joint declaration issued by the Allied Powers in May 1915 to condemn the mass killing of Armenians in the Ottoman Empire. Indeed, in its report issued in 1948 (E/CN.4/W.20), the United Nations War Crimes Commission had invoked the massacres of the Armenian population in Turkey as "crimes against humanity". It had also indicated that the joint

declaration had “dealt precisely with one of the types of acts, which the modern term ‘crimes against humanity is intended to cover, namely, inhumane acts committed by a Government against its own subjects”.

23. The international community had failed to prevent the Armenian genocide largely due to the lack of preventive mechanisms and the crisis of international order at the time. One hundred years later, the ability of the international community to properly identify and react to crimes against humanity was still considerably limited. Crimes against humanity were often preceded by a history of violations of fundamental human rights. In societies where identity-based hatred and intolerance were cultivated at the highest political level, a combination of challenges, such as the coronavirus disease (COVID-19) pandemic, could put certain elements of society at particular risk of atrocity crimes, war crimes and crimes against humanity, including the crime of genocide.

24. The large-scale military offensive launched by Azerbaijan over the previous three weeks amid an unprecedented global pandemic, with the support and encouragement of Turkey, was a case in point. The lives of thousands of civilians and the ancient Armenian heritage of Nagorno-Karabakh were under imminent existential threat from indiscriminate attacks involving the use of heavy artillery, drones and prohibited weapons, in flagrant violation of international law, including international humanitarian law. The attacks had been carried out with the direct involvement of thousands of foreign terrorist fighters and mercenaries recruited and transferred to the conflict zone by Turkey. Azerbaijan, together with Turkey, bore direct responsibility for the unprovoked, disproportionate violence and for the demonstrated intention to inflict immense suffering on the civilian population. Armenia condemned such actions in the strongest terms and viewed them as an affront to the values, ideals and principles of the United Nations, including the collective commitment to prevent and punish crimes that deeply shocked the conscience of humanity.

25. **Mr. Cuellar Torres** (Colombia) said that, although crimes against humanity per se were not criminalized under the Criminal Code of Colombia, the country’s high courts, in particular the Supreme Court of Justice, had categorized as crimes against humanity certain crimes identified in the draft articles on prevention and punishment of crimes against humanity, in accordance with international custom. Such categorization made any statute of limitations automatically inapplicable to crimes such as homicide, rape and enforced disappearance, and ensured that an order from a superior could not be invoked as a ground for exclusion.

26. His delegation recognized that the inclusion of crimes against humanity as a type of crime under the country’s law would facilitate the work of prosecutors and judges by legally determining the crimes and conditions that fell in that category, thereby resulting in greater legal certainty. His delegation would suggest adding the financing of a crime against humanity to the acts listed in draft article 6 of the draft articles on prevention and punishment of crimes against humanity, in order to reflect the role that financing played in enabling atrocities, whether it was provided by natural or legal persons or by criminal organizations.

27. With regard to draft article 5 (Non-refoulement), it should be stated that even if a State decided not to extradite, it still assumed the obligation to prosecute the offender, in keeping with the principle of *aut dedere aut judicare*. It should also be indicated in the draft article that if the individual was a refugee, he or she was under an obligation to prove that status. Lastly, the participation of victims in the criminal process was crucial for ensuring the protection of their rights. A definition of “victim” should be included in draft article 12 to help States to identify the victims of crimes against humanity in a consistent manner.

28. **Mr. Abdelhamid** (Observer for the State of Palestine) said that international law should help to dissuade perpetrators from committing crimes, to provide justice to victims and to hold perpetrators accountable. Unfortunately, international law was not evolving continuously, in response to the suffering of those who did not enjoy its protection, but rather by leaps, often after horrors had taken place. The greatest such leap in international law had occurred after the Second World War and it had then taken more than 50 years to build the first international criminal court with a universal calling – a calling that had not yet been truly fulfilled.

29. Rather than wait for the next leap to address the crimes against humanity that were being perpetrated around the world, the international community should take the opportunity to transform the draft articles on prevention and punishment of crimes against humanity into a legally binding instrument of universal character. The prohibition against crimes against humanity constituted a peremptory norm of international law. Consolidating the definition of those crimes and the relevant obligations of all States would strengthen and complement the existing legal framework and would advance the fight against impunity for crimes of concern to the international community as a whole, which was at the core of the Committee’s work and purpose.

Statements made in exercise of the right of reply

30. **Mr.** Nyan Lin **Aung** (Myanmar), responding to the comments made by the representative of Bangladesh in an earlier meeting, said that his delegation categorically rejected the use of the term "crimes against humanity" in reference to the situation in Myanmar. Such terminology should not be used lightly without proper and valid legal determination. The statement of the representative of Bangladesh was irresponsible and amounted to blatant interference in the domestic legal system of Myanmar.

31. The humanitarian crisis in Rakhine State was the result of coordinated armed attacks on Myanmar security forces by the Arakan Rohingya Salvation Army, a terrorist group, in October 2016 and August 2017. The group had also committed well-documented atrocities against its own people and ethnic minorities, including hundreds of innocent Hindus.

32. His Government shared the concerns of the international community over allegations of human rights violations in Rakhine State. The military had completed two court-martials and a third was under way following allegations contained in the report of the country's independent commission of enquiry. The domestic legal process should be allowed to take its course without outside interference. His delegation called on Bangladesh to stop demonizing Myanmar if it wanted a peaceful and lasting solution to the issue of Rakhine State.

33. **Ms. Monica** (Bangladesh) said that, on the night of 24 to 25 August 2017, the security forces of Myanmar had launched an attack on the entire Rohingya population across northern Rakhine State, referring to it as a clearance operation, resulting in the forced displacement of 750,000 civilians from Myanmar to Bangladesh. The international community had witnessed with horror the undeniable exodus of traumatized, tortured and injured Rohingya, the majority of them children, many of whom had been orphaned and scarred for life. The exodus had been the result of a campaign of terror during which the Army had killed civilians, including young children, used sexual violence as a weapon of war, detained and tortured Rohingya men and boys, starved the Rohingya communities by burning their markets, blocking their access to farmland, burning hundreds of their villages and laying landmines to prevent the return of displaced Rohingya. It was undeniable that those acts constituted crimes against humanity.

34. The International Criminal Court had opened an investigation into the role of the leadership of Myanmar in the deportation of the Rohingya, which also constituted a crime against humanity. The International Court of Justice, for its part, had issued an order on 23 January 2020 instructing the authorities in Myanmar to take measures to protect the Rohingya against genocide. In multiple reports, the Human Rights Council and its mandated entities had categorically warned the international community about the possibility that crimes against humanity had been committed against the Rohingya and other minorities. Such reports of atrocities had been corroborated repeatedly.

35. Under the bilateral arrangement for the return of the Rohingya to their homeland, Bangladesh had facilitated their repatriation on two occasions, but the Rohingya had not volunteered to return, citing fear of persecution. Myanmar had thus failed to create the conditions for the return of the Rohingya. The Rohingya remaining in Rakhine State continued to face the risk of genocide. It was also undeniable that they had been stripped of their citizenship in 1982, leading to their continued persecution and disenfranchisement.

36. At present, many Rohingya did not know what happened to their houses, farmlands, shops and properties. Credible international media sources had reported that many Rohingya villages no longer existed. Nearly 150,000 internally displaced Rohingya were living in prison-like camps and had not been allowed by the authorities to see what had happened to their villages. Myanmar should assure the international community, and the Committee in particular, that the Rohingya would be able to return to their villages and continue to live there without fear of further persecution.

37. With regard to the recent killing of two boys who had been allegedly used as human shields by Myanmar security forces in northern Rakhine State, it could not be denied that a regular pattern of such behaviour constituted a crime against humanity.

38. **Mr. Musayev** (Azerbaijan) said that the delegation of Armenia had sought to disrupt the work of the Committee in an effort to advance a destructive political agenda. Starting on 27 September 2020, the Armed Forces of Armenia had subjected the Armed Forces of Azerbaijan to intensive fire along the entire front line and the adjacent populated areas using large-calibre weapons, artillery and mortars. As of that day, as a result of direct and indiscriminate attacks on cities, towns and villages in Azerbaijan, 47 civilians, including children, women and elderly persons, had been killed, 222 civilians had been wounded, 1,592 private homes and 79 apartment buildings and 290 other civilian structures, including schools, had been either destroyed or damaged. In the latest deadly attack, the Armed Forces of Armenia had fired rockets on a funeral ceremony in the Tartar district of Azerbaijan. The

disproportionate harm to civilians and civilian infrastructure amounted to war crimes under international humanitarian law, for which Armenia bore liability and for which the perpetrators had also incurred individual criminal responsibility.

39. The apparent disregard on the part of Armenia for universal rules of civilized behaviour recalled the forcible deportation of 250,000 Azeris from their homes in Armenia at the end of the 1980s, which had been accompanied by killings, enforced disappearances, the destruction of property and pillaging. The full-scale war unleashed by Armenia against Azerbaijan at the end of 1991 had claimed the lives of tens of thousands of people and caused considerable destruction of civilian infrastructure, property and livelihoods. More than 1 million Azeris had been forced to leave their homes in the occupied territories of Azerbaijan. In addition, 3,890 citizens of Azerbaijan had been reported missing as a result of the conflict, including 719 civilians.

40. Azerbaijan strongly condemned the barbaric methods of warfare employed by Armenia and called on the United Nations and its Member States to take action to ensure justice and accountability.

41. **Ms. Ozgul Bilman** (Turkey) said that her delegation rejected all the allegations made by the representative of Armenia. Genocide was a strictly defined crime under international law, with very specific conditions of proof. It had been legally established for the first time in the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, according to which the authoritative determination of genocide could only be made by a competent court after proper investigation and adjudication. No such judgment existed in respect of the events of 1915, which predated the Convention by decades. Recent judgments, including one handed down by the European Court of Human Rights, had clearly pointed to the historic and non-justiciable nature of the events concerned and had confirmed that the events had indeed been the subject of a legitimate debate protected under the right to freedom of expression. The absurd and unsubstantiated allegations Armenia had levelled against Turkey were especially ironic in the light of that country's glorification of the perpetrators of the brutal terrorist attacks committed against Turkish citizens and diplomats in the 1970s and 1980s and the continued incitement of hostilities and violations of international law by Armenia in territories it had been occupying for more than one quarter of a century.

42. Despite the agreed humanitarian ceasefire, the Armed Forces of Armenia had continued to attack the civilian population and civilian targets along the line of contact as well as major cities in Azerbaijan located away from the combat zone. Together with Azerbaijan, Turkey unequivocally rejected the baseless allegations against it and fighters from third countries of involvement in the conflict, which were designed to portray Armenia as the victim, even as it continued its illegal occupation and engaged in indiscriminate attacks. Use by Armenia of foreign terrorist fighters and mercenaries from a number of countries and support from terrorist groups, including the Kurdistan Workers' Party (PKK), was well documented.

43. Armenia was under the obligation to uphold without delay Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 883 (1993), which called for the immediate, complete and unconditional withdrawal of the occupying forces from Nagorno-Karabakh.

44. In view of an earlier attempt by the Armenian delegation to highjack another meeting of the Committee, her delegation would not take part in that delegation's further efforts to disrupt the work of the Committee.

45. **Ms. Margaryan** (Armenia) said that the delegations of Azerbaijan and Turkey had denied the fact of Armenian genocide in the same way as they were denying the fact of deployment and transportation by Turkey of foreign terrorist fighters to the conflict zone.

46. Since 27 September 2020, the Armed Forces of Azerbaijan, with direct military support from Turkey, had been targeting the civilian population and civilian infrastructure in Nagorno-Karabakh, seeking to cause a humanitarian crisis there. The international community had condemned the violence, calling for the immediate cession of hostilities and resumption of negotiations in good faith and without preconditions. However, even after the Ministers for Foreign Affairs of Armenia, Azerbaijan and the Russian Federation had agreed to declare the cessation of hostilities for humanitarian purposes, Azerbaijan, with open instigation by Turkey, had continued its attacks on cities in Nagorno-Karabakh and on settlements in the border territories of Armenia. The Armed Forces of Azerbaijan had also deliberately attacked and caused extensive damage to the iconic Holy Saviour Cathedral in Shushi.

47. Armenia strongly condemned the ongoing barbaric acts and violations of the humanitarian ceasefire by Azerbaijan and the continued attempts by Turkey to bring violence and instability to the entire region and to act on its expansionist ambitions by supporting Azerbaijan, supplying it with foreign terrorist fighters and preventing the delivery of humanitarian assistance from the United States of America to Armenia through Turkish airspace. Such hostile actions by Turkey were a

clear manifestation of genocidal intent and were consistent with that country's long-standing policy of extermination of the Armenian people. Although it had been denied, the request by Turkey that the European Court of Human Rights to amend or lift the interim measures instituted to ensure that all States involved in the Nagorno-Karabakh conflict avoided putting civilians at risk and respected their obligations to uphold human rights had reaffirmed that country's direct involvement in the conflict. Turkey could not be part of any solution to the Nagorno-Karabakh conflict, having already made itself part of the problem.

48. **Mr.** Nyan Lin **Aung** (Myanmar) said that his Government rejected all the allegations made by Bangladesh. Myanmar had never shied away from addressing human rights violations within its borders, in accordance with the law of the land. In spreading misinformation, Bangladesh was not contributing to creating an environment conducive to recovery in Rakhine State.

49. **Mr. Musayev** (Azerbaijan) said that the Armed Forces of Armenia had continued to deliberately attack civilians and civilian infrastructure in Azerbaijan, despite the agreed humanitarian ceasefire, including attacks on the Agman and Tartar districts of Azerbaijan. Azerbaijan was exercising its right to self-defence in undertaking the necessary counteroffensive measures in full compliance with international humanitarian law. The Armed Forces of Azerbaijan did not target civilian objects unless they were being used for military purpose.

50. The international lawyer Malcolm Shaw, in his report on war crimes in the occupied territories of Azerbaijan, had concluded that Armenia bore responsibility for engaging in a variety of acts that could be classified as both war crimes and crimes against humanity, and that the intent of some of the conduct had been to destroy ethnic Azeris, which might constitute the crime of genocide. Mr. Alain Pellet, another distinguished jurist, had stated that Azeris in Nagorno-Karabakh and the surrounding district had been the victims of ethnic cleansing, in violation of peremptory norms.

51. The cessation of hostilities and the achievement of peace, security and stability demanded, first and foremost, the immediate, complete and unconditional withdrawal of the Armed Forces of Armenia from all occupied territories of Azerbaijan, the restoration of the territorial integrity of Azerbaijan within its internationally recognized borders, and the return of internally displaced persons to their homes and property.

Agenda item 152: Administration of justice at the United Nations (A/75/154, A/75/160, A/75/162 and A/75/162/Add.1)

52. **The Chair**, recalling that, at its 2nd meeting, the General Assembly had referred the current agenda item to both the Fifth and Sixth Committees, said that, in paragraphs 35 and 36 of its resolution 74/258, the Assembly had invited the Sixth Committee to consider the legal aspects of the report to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibility for administrative and budgetary matters.

53. **Mr. Molefe** (South Africa), speaking on behalf of the Group of African States, said that an independent, impartial, transparent and professionalized internal justice system of the United Nations would ensure a more effective management of administrative disputes involving the Organization's personnel. The Group welcomed the decrease in the number of applications received by the United Nations Dispute Tribunal as an indication of improvements in the workplace and also evidence of the crucial role management evaluation played in the internal justice system. In view of the unprecedented cash-flow situation affecting the Organization, managers should accord work-related disputes their fullest attention and resolve such disputes in a fair and cost-effective manner.

54. It was a matter of concern that field personnel had reported the highest number of cases as a result of the hardship and stress associated with their contractual status. It was also notable that self-representing applicants accounted for 45 per cent of all cases. Such applicants should be provided with all the information necessary to enable them to file a case successfully, benefit from timely case management and have confidence in a fair outcome. The Group welcomed the Secretary-General's efforts to strengthen the work of the Office of Staff Legal Assistance and supported increasing the availability of legal assistance to staff in the field, in line with recommendation 13 contained in the report of the Internal Justice Council (A/75/154). The Group also welcomed the measures adopted to speed up the handling of cases and supported the continued use of half-time judges.

55. The Group endorsed the Organization's efforts to improve its internal justice system and provide staff members – its most important asset – the justice they deserved. The Group therefore supported the Secretary-General's views on the recommendations of the Internal Justice Council set out in his report on the administration of justice at the United Nations (A/75/162).

56. **Ms. Popan** (Observer for the European Union), speaking also on behalf of the candidate countries Albania, Montenegro, North Macedonia and Serbia; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Georgia, the Republic of Moldova and Ukraine, said that the efficient administration of justice was key to rendering justice and delivering on the principle of the rule of law within the United Nations system. The European Union commended the Organization's efforts to improve the effectiveness of its system of administration of justice and, in particular, the initiatives to improve the system's coherence and transparency.

57. Despite the welcome reduction in the backlog of cases on the docket of the Dispute Tribunal, more needed to be done to keep pending cases from accumulating. In order to ensure the right to a fair trial, judicial proceedings could not take an unreasonably long time and their length had to be balanced against the general principle of the proper administration of justice. The implementation of the recommendations of the Internal Justice Council would improve the accountability, transparency and operational efficiency of the internal justice system. In particular, the European Union supported the recommended key performance indicator of seven judgments per judge per month for Dispute Tribunal judges, which would accelerate the treatment of cases, and the recommended development of rules of evidence for the Dispute Tribunal, which would improve transparency.

58. With regard to the Secretary-General's initiatives to improve the prevention and resolution of disputes involving non-staff personnel, the European Union noted with concern that the majority of non-staff cases, amounting to 62 per cent, were from field operations. All categories of staff needed to have access to justice and to effective remedies. The pilot project to offer access to informal dispute resolution services to non-staff personnel should therefore be extended and the root causes of such disputes should be examined. The European Union recommended that in his next report the Secretary-General include proposals on reviewing formal dispute resolution policies and an assessment of the pilot project.

59. **Mr. Mead** (Canada), speaking also on behalf of Australia and New Zealand, said that an effective, fair, transparent and impartial internal justice system at the United Nations was essential for enabling the Organization's staff members to do their best work, attracting and retaining the best and most qualified professionals from around the world, and ensuring that the Organization upheld its own ideals and values. Both the Member States and the Organization had a role to play in the development of such a system.

60. In their reports, the Secretary-General, the Office of the United Nations Ombudsman and Mediation Services, and the Internal Justice Council had raised recurring issues relating to the performance of both the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, transparency, protection against retaliation, and the high rate of self-representation that were a cause for concern. Positive developments included the publication of the Digest of Case Law of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal for the period 2009–2019 and outreach by the Office of Administration of Justice to raise awareness among staff members of the internal justice system. Such efforts helped to promote transparency and access to justice. Australia, Canada and New Zealand noted with appreciation the efforts being made to reduce the backlog of old cases and welcomed the recommendations of the Internal Justice Council promoting greater efficiency and transparency within the Tribunals.

61. Many staff members had reported being afraid of speaking out because of the risk of retaliation. The recommendations of the Internal Justice Council to protect parties and witnesses would help to ensure that all parties in internal justice processes were protected against retaliation, which was crucial for a strong internal justice system. Racist, sexist and other discriminatory attitudes and behaviours caused harm to individuals and to the Organization. Australia, Canada and New Zealand were pleased that the Office of the United Nations Ombudsman and Mediation Services recognized the need for honest conversations on those subjects and that it was taking seriously the important issues of mental health and the personal needs of non-staff personnel, particularly during the pandemic. They welcomed the Office's work to promote a harmonious working environment, including through its civility campaign. Such efforts led to better morale and productivity among staff members and prevented some workplace conflicts.

62. **Mr. Simcock** (United States of America) said that the Dispute and the Appeals Tribunals were to be commended on their efforts to continue their work, including through the use of virtual hearings, and to implement reforms despite the difficult working conditions created by the COVID-19 pandemic. His delegation hoped that that spirit of creative adaptation would translate into further efficiencies in the future. Although both Tribunals had reduced the backlog of cases on their dockets, which was critical to delivering justice and maintaining the credibility of the internal

justice system, the Dispute Tribunal in particular needed to focus on surmounting that lingering challenge.

63. The Office of the United Nations Ombudsman and Mediation Services, the Management Evaluation Unit and the Office of Staff Legal Assistance had continued their efforts, despite budget constraints and the pandemic, to resolve matters before they reached the litigation stage, which was crucial for maintaining the efficiency and the effectiveness of the entire system. The positive reception of the recently published Digest of Case Law of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal for the period 2009–2019 had revealed a desire for greater transparency and understanding of the Tribunals' judicial activities among staff, staff representatives and the General Assembly. To that end, a publicly available database of judicial directives should be established, as well as a docket providing the status of all cases before the Tribunals. Transparency would be increased even further if the procedures that were observed in practice were clearly described in the published rules of procedure of the Tribunals. His delegation welcomed recent efforts to raise awareness within the United Nations system of the Tribunals and the availability of other dispute resolution procedures, and hoped that more would be done in that regard.

64. **Mr. Rittener** (Switzerland) said that his Government attached great importance to the fundamental principle of fair, transparent, effective and non-discriminatory access to justice and welcomed the Secretary-General's efforts to strengthen the effectiveness of the internal justice system of the United Nations, in particular activities, such as the civility initiative, aimed at promoting informal conflict resolution and dispute prevention. The essential purpose of the internal justice system of the United Nations was to ensure that staff members had access to justice. His Government shared the concerns raised by the Internal Justice Council in its report (A/75/154) regarding fear among staff members of potential retaliation if they were called as witnesses or filed a case with the Tribunals. His delegation fully supported the Council's three recommendations aimed at clarifying and strengthening the mechanism for protecting both staff and non-staff personnel against retaliation.

65. The Secretary-General had described a troubling disparity of treatment between staff and non-staff personnel in his report (A/75/162). It was important for both categories of staff to be treated fairly and to ensure that all individuals who were in an employment or other contractual relationship with the United Nations could seek legal redress. Switzerland supported the Secretary-General's proposal that the mandate of the Office of the United Nations Ombudsman and Mediation Services be broadened to also serve non-staff personnel, provided that sufficient resources were available to ensure that the Office could deliver high-quality service and offer access to informal dispute resolution services to non-staff personnel as a permanent option. Even so, to ensure a fair and effective internal justice system for all categories of staff, it was important for non-staff personnel to also have access to effective remedies, including a judicial mechanism for resolving workplace disputes.

66. The Secretary-General was to be commended for his ongoing efforts to improve the position of non-staff personnel. An independent, transparent, professionalized, adequately resourced and decentralized administration of justice system would lend greater credibility to the Organization's global commitment to the right of equal access to justice for all. In his next report, the Secretary-General should include detailed information about the five initiatives aimed at improving the prevention and resolution of disputes involving non-staff personnel referred to in his current report (A/75/162), continue the discussion on ways to provide non-staff personnel with access to fair and effective judicial mechanisms for resolving work-related disputes, and include updates on progress made to protect staff against retaliation. Matters relating to the administration of justice should remain on the Committee's agenda.

67. **Mr. Ashley** (Jamaica) said that his Government welcomed the continued professionalization, enhanced transparency and efficiency of the system of administration of justice at the United Nations and the measures being taken to strengthen that system at the managerial and operation levels. Fidelity to well-established principles of law, such as the separation of powers and judicial independence, was critical to the system's success, as was commitment to the highest standards of accountability. It was also important for the system to operate in a manner consistent with the rule of law and the principle of due process, in order to ensure respect for the rights and obligations of staff members and accountability on the part of staff members and managers.

68. The effective and efficient processing and administration of disputes, making use of both formal and informal mechanisms, was central to the Organization's ability to fulfil its core mandates. In that connection, his delegation commended the Dispute Tribunal for disposing of 36 per cent more cases and also issuing more judgments in 2019 as compared with 2018. The Management Evaluation Unit had continued to play a crucial role by resolving issues brought by staff members, thus greatly reducing the number of

management evaluation requests that proceeded to the Tribunal. The Organization's staff should also be recognized for the professionalism and dedication with which they had continued to operate the system of administration of justice despite the numerous challenges associated with the COVID-19 pandemic.

69. Jamaica commended the Dispute Tribunal for starting to amend its rules of procedure in response to the request of the General Assembly as set out in paragraph 27 of its resolution 74/258, and looked forward to the completion of that process. Jamaica also supported the request contained in that resolution that the Secretary-General provide an overview of and recommendations on the conditions of service and appointment requirements of the members of the Internal Justice Council, believing that it would add another layer of transparency to the process of nominating candidates for judicial appointments.

70. **Mr. Proskuryakov** (Russian Federation) said that his Government attached great importance to strengthening the Organization's legal framework. One of the main achievements in that regard had been the establishment of an effective dispute resolution mechanism that balanced the interests of the Organization with those of its staff members. Regular reviews would help to identify other necessary improvements to the Organization's system of administration of justice. In particular, the selection of judges should be improved so as to ensure broad representation of different geographical regions and legal systems within their ranks.

71. His delegation welcomed the progress made by the Dispute and the Appeals Tribunals in carrying out their tasks and stressed the critical importance of continuing to reduce the case backlog. The Management Evaluation Unit played an important role in that regard by helping to resolve some disputes at an early stage and thus avoid costly legal proceedings. Non-judicial approaches, such as mediation, should also be used to settle disputes insofar as possible. His delegation welcomed the measures taken by the Office of the United Nations Ombudsman and Mediation Services to that end.

72. With regard to the request contained in the Secretary-General's report that the General Assembly approve amendments to the statute of the Appeals Tribunal and to the rules of procedure of both Tribunals, his delegation was of the view that, in view of the pandemic and the Committee's busy schedule, a technical update to the letter addressed to the Chair of the Fifth Committee was the most suitable approach. The matter could be taken up at the next session of the General Assembly without causing harm to the Organization's system of administration of justice.

73. **Mr. Arrocha Olabuenaga** (Mexico) said that his Government was committed to protecting the rights of workers, as evidenced by the large number of international labour conventions to which it was party. Mexico therefore continued to support measures that increased the efficiency and efficacy of internal justice mechanisms for the benefit of United Nations personnel and fully complied with the principles of independence, decentralization and due process, among others.

74. The publication of the Digest of Case Law of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal for the period 2009–2019 had contributed to making the Organization's system of administration of justice more transparent and would be a valuable resource for self-represented applicants and appellants. His delegation welcomed the acceptance of the jurisdiction of both Tribunals by the International Fund for Agricultural Development and the World Meteorological Organization and called on other United Nations bodies and specialized agencies to also give their personnel access to justice for the resolution of workplace disputes.

75. There were also opportunities for improvement. As had been reported by the Internal Justice Council, a high percentage of cases were pending assignment as at 1 July 2020. The Tribunals should adopt measures to ensure greater operational efficiency and improve their accountability mechanisms. As for non-staff personnel, Mexico was monitoring the progress being made with regard to the five initiatives put forward by the Secretary-General in his previous report on the administration of justice at the United Nations (A/74/172), and looked forward in particular to the findings of the study on the use of non-staff personnel within the Secretariat currently being conducted by the Department of Operational Support, in order to identify dispute resolution and prevention mechanisms that could be made available to that category of staff.

76. The fact that female staff members were more likely to use the services of the Office of the United Nations Ombudsman and Mediation Services, as indicated in the report on the activities of the Office (A/75/60) was a matter of concern, as was the increasing pattern of upward harassment of female leaders. Mexico urged the Office to continue to raise awareness of gender-based violence and workplace harassment among staff members.

77. In view of the shift to working from home, among other changes to workplace dynamics precipitated by the COVID-19 pandemic, the administration of justice

at the United Nations should not be limited to dispute resolution mechanisms. It was important to also prioritize a holistic approach that addressed mental health and stress factors so as to avoid an increase in workplace disputes and ensure that personnel had access to justice.

78. **Mr. Geng** Shuang (China) said that there was a real-world imperative to ensuring that a commitment to the rule of law principle and due process underpinned and guided dispute resolution and case processing at all times in both the informal and the formal dispute resolution systems of the United Nations. The Organization's staff members had no recourse to national courts in respect of their workplace disputes, leaving them with no alternative to the internal justice system of the United Nations when seeking to safeguard their legitimate rights and interests.

79. The Office of the United Nations Ombudsman and Mediation Services was to be commended on its efforts to strengthen the informal approach to dispute resolution, such as the pilot project to offer access to informal dispute resolution services to non-staff personnel, as such measures reduced litigation and improved the work environment. The Office was encouraged to continue to explore flexible and pragmatic ways of making the process of dispute resolution more efficient.

80. In view of the important challenge presented by the persistent backlog of old cases and the sheer volume of new cases before the Dispute Tribunal, China supported measures that would help judges to deliver quality judgments in a timely manner and improve the efficiency of the administration of justice. Providing greater respect and protection for the rights and interests of the staff of the United Nations would keep disputes from arising or escalating and would also reduce the caseload.

81. China was convinced that, with all parties working in concert, the operation and performance of the internal justice system of the United Nations could be improved, which would ensure effective protection for the legitimate rights and interests of the Organization's staff members, promote the development of the rule of law at the United Nations and safeguard the interests of the United Nations as a whole.

82. **Ms. Egmond** (Netherlands), recalling that 2019 had marked the tenth anniversary of the internal justice system of the United Nations, said that the a number of achievements worth celebrating with regard to the administration of justice at the United Nations had been highlighted in all the reports submitted to the Committee under the current agenda item (A/75/154, A/75/160, A/75/162 and A/75/162/Add.1). Although the Dispute Tribunal still had a significant backlog of cases, the increase in judgments delivered by the Tribunal in 2019 was a welcome development. Her delegation thanked the President of the Tribunal, Judge Bravo, for her work and for the speed with which she had implemented the case disposal plan in 2019, and expressed confidence that the Tribunal would continue to professionalize and improve its operations.

83. The Office of the United Nations Ombudsman and Mediation Services provided a safe, accessible and cost-effective way for all staff members to discuss any kind of workplace-related concerns. Her delegation appreciated in particular the work of the regional ombudsman offices and their visits to field duty stations. It also supported initiatives aimed at improving the prevention and resolution of disputes involving non-staff personnel and specifically the continuation of the pilot project to offer them access to informal dispute resolution services. It was clear from the report on the activities of the Office of the United Nations Ombudsman and Mediation Services that the issues raised by non-staff personnel were essentially the same as those put forward by staff members. It was therefore important for both staff and non-staff personnel to have access to a strong, efficient and well-functioning internal justice system.

Agenda item 90: Strengthening and promoting the international treaty framework (A/75/136)

84. **Mr. Milano** (Italy), speaking also on behalf of Argentina, Austria, Brazil and Singapore, said that the current item had been added to the agenda of the General Assembly in 2018 in order to conduct a long-overdue review of the regulations to give effect to Article 102 of the Charter of the United Nations; encourage States Members to exchange views on their treaty-making practice; identify trends and best practices in the registration, publication of treaties and deposit of treaty instruments; and enhance the important role of the Treaty Section of the Office of Legal Affairs in providing support to Member States in that area.

85. In its resolution 73/210, the General Assembly had brought the regulations in tune with reality by explicitly recognizing the role of depositaries other than the United Nations in treaty registration, codifying the procedural requirements of the Treaty Section for treaty registration and allowing for treaties to be submitted for registration in electronic format. The latter amendment in particular had proved essential during the COVID-19 pandemic, when in-person meetings and access to physical resources had been limited.

86. Discussions of other important elements of the regulations, such as the backlog in the publication of the United Nations *Treaty Series*, remained open and had not translated into revisions of the regulations. Argentina, Austria, Brazil, Italy and Singapore hoped that progress could be made during the current session in the areas in which further reform was possible, as identified in the Secretary-General's report (A/75/136). They encouraged delegations to use the agenda item as a forum to discuss other issues related to international treaties and treaty law.

87. **Ms. Laukkanen** (Finland), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that well-functioning and easily accessible registration and publication of treaties was an important element of the rules-based international order. The review of the regulations giving effect to Article 102 of the Charter had been an important step in that regard. As a significant number of treaties in force remained unregistered with the Secretariat, the Nordic countries appreciated ongoing efforts to improve the electronic treaty database. They welcomed in particular the amendment that had adapted the regulations to developments in registration practice and information technology. Such changes clarified and simplified the procedural requirements for registration and facilitated the use of electronic resources in the process.

88. Member States still held diverging views on the responsibility for translating treaties into one of the official languages of the Organization and the requirement that all published treaties be translated into English and French. According to current practice, Member States were encouraged to provide the Secretariat with a courtesy translation into English or French, or both, as set out in the relevant General Assembly resolutions and the *Treaty Handbook*, but the obligation to translate still lay with the Secretariat. Under a proposed amendment to article 5 (3) of the regulations, if a treaty or agreement was concluded in languages other than one of the official languages of the Organization, Member States would be required to provide a translation into one of the official languages of the Organization.

89. Multilingualism was a core value of the Organization that contributed to the achievement of its the goals. Therefore, although the requirement to translate imposed a heavy burden on the Secretariat, the Nordic countries were of the opinion that the current practice was important for the transparency of international law and accessibility of treaties. They further considered that the call for Member States to provide courtesy translations into English or French of treaties submitted for registration could be included in the regulations.

90. **Ms. González** (Argentina) said that the Treaty Section of the Office of Legal Affairs had provided valuable support to the Committee in identifying possible options for reviewing the regulations so as to enable the Organization to carry out its work more efficiently. In his report (A/75/136), the Secretary-General made reference to the contributions from Member States as to possible areas of reform. Argentina was one of the Governments that had submitted comments for the report. It had expressed the view that it was necessary to find an urgent solution to the delays and high costs involved in the registration and publication of treaties, as mandated by Article 102 of the Charter, owing to the need for treaties to be translated into English and French by the Secretariat. The starting point to that end should be an analysis of whether that requirement met the current needs of Member States and justified the resources devoted to it.

91. Such an analysis should take into account the largest possible number of language groups represented by Member States. Since it was not possible for such an analysis to include all languages used by Member States, a solution should be considered in relation to the official languages of the Organization. The registration and publication of treaties in any of the six official languages, with the translation of treaties from non-official languages into any of those official languages, would represent a step towards achieving linguistic equity and promoting multilingualism, while saving resources for the United Nations and for Member States.

92. The addition of the current agenda item had been a historic step towards bolstering the Organization's treaty registration and publication capacity and increasing participation in, and the transparency of, the international treaty framework. Her delegation hoped that the Committee's discussions under the item would result in specific actions that would further strengthen and promote the international treaty framework and help to modernize the Organization.

93. **Mr. Khng** (Singapore) said that a comprehensive and well-considered international treaty framework played a critical role in supporting an effective rules-based multilateral system. A rules-based system was essential for the survival and success of small States such as Singapore and for the creation of a more peaceful and stable global environment that benefited all States. Treaties were an indispensable tool in international relations, and their effective operation and

implementation were vital to upholding the rule of law at the international level.

94. The current agenda item also provided the General Assembly with an opportunity to consider the regulations to give effect to Article 102 of the Charter of the United Nations and to update them as necessary to ensure that they remained useful and relevant to Member States. To that end, a number of updates had been made to the regulations at the seventy-third session that were expected to result in savings of time and resources. His delegation looked forward to hearing States' views on the proposed development of an online registration tool to facilitate the submission of treaties for registration and on efforts to further develop, enhance and modernize the United Nations electronic treaty database. It also looked forward to hearing their views on the possibility of broadening the limited publication policy and modernizing the format of publication of the *Treaty Series* to alleviate the backlog in its publication.

95. **Ms. Şiman** (Republic of Moldova) said that treaty registration played an important role in the dissemination of international law and the development of treaty-making practices. Therefore, her delegation welcomed the amendments made in 2018 to article 5 of the regulations to give effect to Article 102 of the Charter and noted the increase in the number of electronic submissions of treaties for registration. The proposed online registration tool would further simplify the registration and publication of international treaties and thus help to address the geographical imbalance in treaty registration. In view of the current era of globalization and digitization, her delegation supported modernizing the format of the *Treaty Series* by adapting it to a digital format of publication, which would benefit States, practitioners and academia and support the exchange of best practices in treaty law.

96. Article 12 of the regulations rightfully established the need for treaties not concluded in French or English to be followed by translations into those two languages, to ensure that United Nations organs and the International Court of Justice in particular could access those agreements. In order to increase the number of treaties submitted for registration, States were invited to submit courtesy translations of treaties into English and French but were not under an obligation to do so. According to established practice, the Secretariat provided the translations when none were provided by States, thus contributing to the dissemination of international law. Any further amendment to article 5 of the regulations should clearly reaffirm that practice.

97. Her delegation supported expanding the debate under the current agenda item to include discussions of States' treaty practice regarding reservations, declarations, withdrawals and the obsolescence of treaties. Doing so would be helpful to States that were building up their treaty-making practice.

98. With regard to the role of depositaries other than the United Nations, Article 102 of the Charter stated that every international agreement entered into by any State Member of the United Nations must be registered with the Secretariat. Pursuant to article 77 of the 1969 Vienna Convention on the Law of Treaties, the functions of depositaries included registering the treaty with the United Nations, unless otherwise provided in the treaty or agreed by the contracting States. Therefore, when a depositary other than the United Nations was designated in a treaty, and if no other party to the treaty undertook to register it with the Secretariat, it needed to be made clear that the depositary was expected – rather than merely encouraged – to register the treaty with the Secretariat. Bearing in mind that under Article 102, paragraph 2, of the Charter, a treaty that was not registered could not be invoked before any organ of the United Nations, a State could not rely on the depositary to register the treaty unless doing so was mandatory, except where otherwise provided for in the treaty or agreed by the parties. It would be helpful to know in how many cases the depositary designated in the treaty or in any other manner had been the one to register the treaty and in how many cases another State party to the treaty had undertaken that function.

99. **Mr. Simcock** (United States of America) said that the Secretariat was to be commended on its efforts to ensure that the treaty registration and publication programme of the United Nations was transparent and accessible. The expanded use of electronic means for treaty registration and publication had great potential to advance those objectives. His delegation welcomed the proposed development of an online registration tool for treaties, further enhancement of the electronic treaty database and the adaptation of the *Treaty Series* to a new digital format of publication. It continued to believe that the practical value of publishing treaty texts in the *Treaty Series* would be significantly undermined if the Secretariat no longer provided their translation into English and French. It also shared the view that it would be inappropriate for the treaty regulations to purport to determine or modify the responsibilities of depositaries other than the United Nations.

100. In the light of the substantial revisions made to the regulations to give effect to Article 102 of the Charter in 2018, and in the interests of stability and predictability of the registration and publication regime, the

Committee should refrain from revising the regulations as a routine matter at each session. It should therefore conclude its current consideration of such proposals during the current session.

101. **Ms. Flores Soto** (El Salvador) said that the discussion of matters relating to treaty registration and publication and ways to modernize the dissemination of information about registered treaties under the current agenda item contributed to the strengthening of the rule of law. The Treaty Section was to be commended for speeding up the publication of treaty compilations and for providing access to all its publications on the United Nations Treaty Collection website. More could be done, however, with regard to streamlining treaty registration and publication and reducing costs, in particular those relating to the translation into English and French of instruments submitted for registration that were not in those languages.

102. It should be recalled that the General Assembly, in its resolution 71/328, had recognized that multilingualism, as a core value of the Organization, contributed to the achievements of the goals of the United Nations. It was therefore necessary to consider translating treaties submitted for registration into any of the six official languages of the United Nations, which would not only promote multilingualism but also cut costs and speed up the treaty registration and publication process. In view of the ongoing COVID-19 pandemic, such a change was all the more pressing in the case of unilateral notifications made by States in accordance with article 4, paragraph 3, of the International Covenant on Civil and Political Rights, as the registration and publication of those important instruments could be delayed by the requirement that they be translated into French and English.

103. **Mr. Rittener** (Switzerland) said that his Government welcomed the amendments to the regulations to give effect to Article 102 of the Charter, in particular the explicit recognition of the role of depositaries in registering multilateral treaties and the possibility of submitting certified copes of treaties for registration solely in electronic form.

104. Since joining the United Nations, Switzerland had endeavoured to register all the international agreements to which it was a party with the Secretariat. The registration of many such treaties continued to be on hold, however, simply because they made reference to other treaties concluded by Switzerland before its accession to the United Nations and which could not be registered previously by either Switzerland or another party. An accurate and comprehensive treaty registration procedure was needed, to enable new Member States, and also States that had not yet done so, to start registering existing treaties. As one of the goals of the amendments to the regulations had been to simplify treaty registration, Switzerland believed that the regulations should also be amended to incorporate a new provision that expressly provided for the registration of treaties that referred to older treaties that had not yet been registered. Such an amendment was the only way to enable a number of States to apply Article 102 of the Charter effectively moving forward, without having to make the inordinate effort of registering hundreds or thousands of older treaties at the same time.

The meeting rose at 5.50 p.m.