



# Security Council

Seventy-seventh year

**9052**<sup>nd</sup> meeting

Thursday, 2 June 2022, 10 a.m.

New York

*Provisional*

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<i>President:</i>	Mr. Rama/Mr. Hoxha. . . . .	(Albania)
<i>Members:</i>	Brazil. . . . .	Mr. Costa Filho
	China. . . . .	Mr. Dai Bing
	France. . . . .	Mr. De Rivière
	Gabon. . . . .	Mrs. Ngyema Ndong
	Ghana. . . . .	Mr. Agyeman
	India. . . . .	Mr. Singh
	Ireland. . . . .	Mr. Gallagher
	Kenya. . . . .	Mr. Kimani
	Mexico. . . . .	Mr. De la Fuente Ramírez
	Norway. . . . .	Ms. Juul
	Russian Federation. . . . .	Mr. Nebenzia
	United Arab Emirates. . . . .	Mrs. Nusseibeh
	United Kingdom of Great Britain and Northern Ireland . .	Mr. Kariuki
	United States of America. . . . .	Ms. Zeya

## Agenda

### Maintenance of international peace and security

Strengthening accountability and justice for serious violations of international law

Letter dated 24 May 2022 from the Permanent Representative of Albania to the United Nations addressed to the Secretary-General (S/2022/418/Rev.1)

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

### **Expression of thanks to the outgoing President**

**The President:** I should like to take this opportunity to pay tribute, on behalf of the Security Council, to Her Excellency Mrs. Linda Thomas-Greenfield, Permanent Representative of the United States, for her service as President of the Council for the month of May. I am sure I speak for all the members of the Council in expressing deep appreciation to Ambassador Thomas-Greenfield and her team for the great diplomatic skill with which they conducted the Council's business last month.

### **Adoption of the agenda**

*The agenda was adopted.*

### **Maintenance of international peace and security**

#### **Strengthening accountability and justice for serious violations of international law**

#### **Letter dated 24 May 2022 from the Permanent Representative of Albania to the United Nations addressed to the Secretary-General (S/2022/418/Rev.1)**

**The President:** I wish to warmly welcome the distinguished Ministers and other representatives present in the Security Council Chamber. Their presence today underscores the importance of the subject matter under discussion.

In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representatives of Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bulgaria, Canada, Chile, Colombia, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Estonia, Georgia, Germany, Guatemala, the Islamic Republic of Iran, Italy, Japan, Jordan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, the Marshall Islands, Morocco, Myanmar, the Netherlands, North Macedonia, Pakistan, the Philippines, Poland, the Republic of Korea, Romania, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Switzerland, Türkiye, Ukraine and the Bolivarian Republic of Venezuela to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Joan Donoghue, President of the International Court of

Justice; Ms. Michelle Bachelet, United Nations High Commissioner for Human Rights; and Mr. Dapo Akande, Professor of Public International Law, University of Oxford.

In accordance with rule 39 of the Council's provisional rules of procedure, I also invite His Excellency Mr. Silvio Gonzato, Chargé d'affaires ad interim of the Delegation of the European Union to the United Nations, to participate in this meeting.

I propose that the Council invite the Permanent Observer of the Observer State of Palestine to the United Nations to participate in the meeting, in accordance with the provisional rules of procedure and the previous practice in this regard.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to document S/2022/418/Rev.1, which contains the text of a letter dated 24 May 2022 from the Permanent Representative of Albania to the United Nations addressed to the Secretary-General, transmitting a concept note on the item under consideration.

I now give the floor to Judge Donoghue.

**Judge Donoghue:** I am grateful to His Excellency Ambassador Ferit Hoxha for inviting me to participate in this signature event, which I am pleased to join via video-teleconference from the seat of the International Court of Justice in The Hague, the Netherlands. I welcome this opportunity to share with the Security Council and the broader United Nations membership some reflections on the ways in which the Court can contribute to the pursuit of accountability for atrocities that violate international law.

Before I do so, allow me to say a few words about Judge Antônio Augusto Cançado Trindade, who passed away in Brasília only a few days ago. Judge Cançado Trindade joined the International Court of Justice in 2009, having already served as a Judge and President of the Inter-American Court of Human Rights, as Legal Adviser to the Ministry of External Relations of Brazil and as a professor at several universities across four continents. Much more can and will be said about the contributions made by Judge Cançado Trindade to public international law, but I wanted to take this opportunity to pay tribute briefly to a colleague and friend, who will be sorely missed by the members of the Court and international lawyers around the world.

I shall now turn to the remainder of my brief remarks. Over its 76-year-long history, the Court has decided a number of cases that involve injuries to persons and property in the context of armed conflict and widespread human rights abuses. Applicants instituting those proceedings frequently invoke a desire for accountability as one of their key motivations for bringing a case before the Court. While there are within the United Nations system a number of mechanisms for strengthening the accountability of States, the International Court of Justice plays a special role. Its proceedings are public and are held on the basis of established procedures. Its judgments and orders on the indication of provisional measures are legally binding on the parties to a case.

The limited time available does not allow me to describe in detail the many contributions made by the International Court of Justice that promote the accountability of States. I shall simply recall that the Court has had opportunities to pronounce on important aspects of the legal framework of accountability, including the relationship between international human rights law and international humanitarian law in times of armed conflict, the customary nature of certain conventional obligations and the principles of reparation for mass violations that occurred in the context of armed conflict. The Court has also had occasion to decide on the responsibility of particular States for violations of those fundamental provisions of international law and on the consequent reparations.

Before addressing the merits of any contentious case brought before it, however, the Court must satisfy itself that it has the jurisdiction to do so. In some cases, the Court has broad scope to consider the litigants' claims and any counterclaims — for example, when both parties have recognized the Court's jurisdiction as compulsory, pursuant to Article 36, paragraph 2 of its Statute. That was the case in *Concerning armed activities on the territory of the Democratic Republic of the Congo (Democratic Republic of the Congo v. Uganda)*, during which the Court was able to consider a wide range of violations of international law that were alleged to have occurred in the context of hostilities involving the two States.

In other cases, however, applicants have invoked as the basis for the Court's jurisdiction the compromissory clause of a particular convention, such as the Convention on the Prevention and Punishment of the Crime of Genocide, or the International Convention on

the Elimination of All Forms of Racial Discrimination. In such cases, the jurisdiction of the International Court of Justice is limited by the scope of the particular convention concerned. The Court may therefore not be in a position to address the full range of the allegedly unlawful conduct that occurred as part of the relevant incidents.

The Court took note of that limitation in two cases arising out of conflicts in the former Yugoslavia, in which its jurisdiction was predicated only on the Genocide Convention, stating that,

“[The Court] has no power to rule on alleged breaches of other obligations under international law, not amounting to genocide, particularly those protecting human rights in armed conflict. That is so even if the alleged breaches are of obligations under peremptory norms, or of obligations which protect essential humanitarian values, and which may be owed *erga omnes*.”

Accountability for atrocities is no doubt enhanced when the governing law is clear and agreed among States and where a mechanism is in place to ensure that inter-State disputes can be adjudicated, in parallel with proceedings in which individuals are held to account. Those were among the concerns that motivated the elaboration by the International Law Commission of draft articles on the prevention and punishment of crimes against humanity, which are currently under consideration by the General Assembly. I note in particular that the draft articles provide a basis for inter-State disputes to be adjudicated by the International Court of Justice or in arbitration, thereby promoting the goal of State accountability in relation to crimes against humanity.

Today, when armed conflicts and mass atrocities continue to drive human suffering in various parts of the world, I take this opportunity to remind Member States that the Court can promote accountability only to the extent that Member States accord it the jurisdiction to do so. The adoption of a convention on crimes against humanity would be one way to promote accountability for violations of some of the most fundamental obligations found in international law. The Court stands ready to decide any disputes over which it would have jurisdiction on the basis of such a convention.

**The President:** I thank Judge Donoghue for her briefing.

I now give the floor to Ms. Bachelet.

**Ms. Bachelet:** I would like to thank the delegation of Albania for organizing today's important open debate on accountability and justice.

Impunity fuels and intensifies many of the crises currently on the Security Council's agenda. That emboldens perpetrators, silences victims and undermines the prospects for peace, human rights and development. Our collective experience has shown that justice and accountability are fundamental to the pursuit of peace and security.

I am therefore encouraged by the international community's growing resolve to fight impunity, through the United Nations system and beyond, including through a renewed focus on both State and individual responsibility for serious violations of international law. In that context, I am privileged to sit on this panel with the President of the International Court of Justice, an institution central to the common objective of upholding the rule of law at the international level.

United Nations intergovernmental organs have taken significant steps to advance accountability, often with a specific focus on fostering individual criminal responsibility for international crimes. The Council's creation of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant (ISIL) to enhance criminal accountability for the crimes of Da'esh/ISIL was accompanied by the establishment by the General Assembly and the Human Rights Council of independent investigative mechanisms to do the same for Syria and Myanmar. Through further action by the Human Rights Council, there are currently no fewer than 12 active specific human rights mechanisms addressing various forms of accountability.

Today I would like to highlight three ways in which my Office contributes to efforts to strengthen accountability and justice for serious violations of international law. First, the Human Rights Council has stepped up its response to serious human rights violations that may also amount to international crimes. That includes creating mechanisms with mandates to establish the facts and circumstances of violations; collect, consolidate, preserve and analyse information and evidence; identify those responsible; and make recommendations towards establishing future accountability.

My Office is continually strengthening its support for such mandates, which we see as key contributors to justice and the rule of law, including by accelerating and streamlining the operationalization of mandates. The work of those mechanisms has been used by international courts addressing both State and individual criminal responsibility, as well as by national prosecutors and judges pursuing international crimes, including under the principles of universal and extraterritorial jurisdiction.

The conviction in Germany of Syrian Colonel Anwar Raslan for overseeing torture at a Syrian detention centre nearly a decade ago adds to the growing number of jurisdictions working with diverse partners, including vital society actors, towards delivering accountability for international crimes.

My Office is committed to providing the support necessary for each mandate entrusted to it in order to operate in line with the highest standards of human rights fact-finding, including through the use of modern methodological and investigative techniques. Efforts have focused on the gathering and preservation of information with a view to increasing the likelihood that it can be used in diverse legal proceedings; strengthening the chain of custody; explaining and procuring the full and informed consent of victims, witnesses and other information providers in accountability contexts; and ensuring the effective preservation of, and access to, digital materials.

Secondly, together with the Executive Office of the Secretary-General and the wider United Nations system, my Office is working to enhance the Organization's support for national transitional justice mechanisms, including truth commissions and reparations programmes. An important element emerging from such work is the need to tailor transitional justice initiatives to adequately address, and comprehensively respond to, the underlying patterns and root causes of violations.

Our work indicates that, for justice responses to be truly effective, they must be people-centred and gender-sensitive, and seek, respect and acknowledge the views of victims. That means, in particular, both promoting the meaningful involvement of victims and marginalized communities and emphasizing their access to remedies and reparations, including rehabilitation, with a particular focus on mental health and psychosocial support. It also means supporting

national stakeholders, including civil society actors, to identify innovative, pragmatic and context-specific justice solutions to achieve tangible differences in people's lives.

Thirdly, my Office has been strengthening the focus on gender sensitivity in all phases of justice and accountability processes. In particular, we have developed specific guidance on integrating gender sensitivity into investigations and the analysis of the root causes of violence and abuse, as well as on the pursuit of gender-sensitive reparations, including specifically for victims of sexual and gender-based violence. In that regard, it is vital to meaningfully involve women and girls, along with other victims and beneficiaries, in justice and accountability efforts, as leaders and agents of change.

One of the aims of today's open debate is to work towards establishing a global strategy for enhancing the role of the international community in holding States and others accountable for serious violations of international law. To that end, allow me to put forward some views from my own perspective.

First, enhancing the normative and institutional framework will further strengthen the legal basis for accountability and justice efforts upon which national and international accountability actors can build their proceedings. In my view, the adoption of a convention on the prevention and punishment of crimes against humanity would fill a significant gap in the current international framework and facilitate international cooperation in the area. The relevant treaties that provide a jurisdictional basis for accountability, including the Rome Statute of the International Criminal Court, deserve universal adherence and should be ratified by all States, and I equally encourage all States to accept the compulsory jurisdiction of the International Court of Justice in the common interests of the entire international community. Crucially, investigative and accountability mechanisms mandated by the United Nations intergovernmental organs must receive adequate and sustainable funding and the necessary technical capacity to discharge their mandates effectively.

Secondly, it is essential that efforts promoting independent and impartial investigations, justice and accountability have the Council's support. In that regard, I encourage further reflection on how the Security Council, drawing on the full breadth of its mandate and

legal power, can systematically and consistently support appropriate justice and accountability measures. In its own process, the Council could also consider regularly inviting briefings by investigative and accountability mechanisms, as well as relevant civil-society actors in the field.

Lastly, placing victims at the centre of accountability strategies will contribute to the sustainability of accountability and justice efforts. That is not only the right thing to do in acknowledgement of the victims in whose names these processes were created, it also helps identify and address the conditions that led to serious violations in the first place. Most importantly, that means providing a space for the full participation of victims and affected communities in all their diversity to ensure that their voices are heard, including, whenever possible, in the Council itself.

**The President:** I thank Ms. Bachelet for her briefing.

I now give the floor to Mr. Akande.

**Mr. Akande:** My congratulations go to you, Sir, and the Albanian delegation on assuming the presidency of the Security Council.

I would like to begin by noting that the international community has made important strides over the past few decades in putting the issue of accountability and justice for serious violations of international law on the agenda. A month from now, the world will celebrate the twentieth anniversary of the entry into force of the Statute of the International Criminal Court (ICC), the first permanent tribunal established to prosecute and punish international crimes. However, it would also be fair to note that the commitment to holding individuals to account for international crimes has wavered in recent years, while the need for justice that can satisfy the demands of the victims of grave atrocities has not diminished. The reality that impunity increases the risk of cycles of violence and suffering remains as true today as it ever was.

In order to strengthen accountability and bring about justice for international crimes, we need to see progress made on two levels. First, it will be important to develop some of the rules that underpin the prevention, investigation and punishment of such crimes, and secondly, we need a commitment to ensuring that the institutions that implement those rules are able to do their work and can function better than they do now.



Let me start with the progress that can be made in strengthening the norms on which accountability is based. It is clear that international law prohibits genocide, war crimes, crimes against humanity and the crime of aggression. Those prohibitions are recognized by all States and clearly form a part of customary international law. There are also established treaty regimes that deal with some of those crimes. However, although crimes against humanity are clearly prohibited under customary international law, there is at present no corresponding treaty that establishes obligations of prevention and punishment with regard to that category of international crime. The International Law Commission has developed a draft convention on the issue that would express the obligation of States not to commit crimes against humanity and create a framework in which States can cooperate to punish and suppress those crimes. States should begin negotiations with regard to the adoption of such a treaty, which would ensure that the framework for punishing crimes against humanity is put on a similar level to those relating to genocide and war crimes.

Most of the attention with respect to accountability for international crimes has focused on the three crimes that I have just mentioned — genocide, war crimes and crimes against humanity. But that is incomplete, because there is a fourth international crime, the crime of aggression, which often goes unaddressed, sadly. The Nuremberg Tribunal stated that

“[t]o initiate a war of aggression is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole”.

Five years ago, the parties to the Statute of the International Criminal Court activated the amendments to the Statute that define the crime of aggression and confer jurisdiction on the ICC with respect to that crime. In order to improve the normative framework with regard to accountability for all international crimes, States should consider ratifying the amendments on the crime of aggression so as to allow the Court to be able to exercise jurisdiction over that supreme international crime.

I now want to turn to some improvements that could be made with respect to the institutional mechanisms for delivering accountability for international crimes. In my view, it is important to recognize that for

accountability to happen, it will require efforts at multiple levels in almost all cases. Some crimes will be prosecuted by international tribunals such as the ICC. However, the ICC can prosecute only a limited number of cases. Typically, accountability will also be needed in the domestic courts of the State where the crimes have occurred and perhaps also in foreign domestic courts exercising universal jurisdiction. In that regard, it should be recalled that the Geneva Conventions not only provide for the right of States to exercise universal jurisdiction over grave breaches of those Conventions but in fact impose an obligation to do so. The ongoing situation in Ukraine shows how efforts concerning accountability will often necessarily be multifaceted. That is not a flaw in the system but an essential feature.

Let me now turn to the particular measures that the Council could take to strengthen accountability. The Council has a special role to play, given its primary responsibility for maintaining international peace and security. The Statute of the ICC provides an obvious vehicle by which the Council can bring about the investigation of international crimes through referrals of situations to the Court. The Council has done that with respect to Darfur and Libya, and should take similar steps where international crimes have been committed and the ICC does not otherwise have jurisdiction. However, referrals of situations of atrocity to the ICC are not sufficient to discharge the Council's responsibility, because the ICC is dependent on States' cooperation in fulfilling its mandate.

The Council can promote cooperation by States with the International Criminal Court in various ways. If the Council refers situations to the ICC, there are ways in which it can enhance the referrals' effectiveness, for example by imposing obligations of cooperation on all States; not barring United Nations funding for investigations and prosecutions arising from ICC referrals; and not limiting the persons whom the ICC may prosecute as a result of the Council's referrals. There are also a number of measures that the Council could take to either promote States' cooperation with the ICC or address cases of non-cooperation when investigations and prosecutions are under way. For example, the Council could establish a process to consider whether to impose targeted sanctions on individuals wanted by the ICC. United Nations peacekeeping missions operating in States that are also ICC situations could, and perhaps should, be given an explicit mandate to cooperate with the Court.

Finally, even where situations have not been referred to the ICC, steps can be taken to improve the prospects for accountability by ensuring that credible investigations of international crimes are conducted in a way that provides future opportunities for prosecution at either the international or the domestic level. The Council has established the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant, and similar investigative mechanisms have been established by other United Nations bodies with respect to Syria and Myanmar.

The Human Rights Council regularly establishes various commissions of inquiry and fact-finding missions with a mandate to investigate international crimes. However, with a view to improving the fulfilment of the accountability mandates of these investigations, proposals have recently been made for the creation of a United Nations investigative support mechanism that could provide a coordinating role with respect to the various mandates that have an investigative function or that could itself be triggered by a competent United Nations body to carry out investigations.

**The President:** I shall now make a statement in my capacity as Prime Minister of Albania.

Let me start by thanking Ambassador Linda Thomas-Greenfield of the United States of America and her team for the excellent way in which they conducted the work of the Security Council during the month of May. I would also like to thank Judge Joan Donoghue, the President of the International Court of Justice, Ms. Michelle Bachelet, the High Commissioner for Human Rights, and Professor Dapo Akande for the important information they have provided.

Differences of opinion, disagreements and divisions are not unusual in the Council or among the wider United Nations membership. They are a part of life, including international life. However, they become magnified if we focus only on the here and now, on everyday politics and concerns about short-term goals and narrow interests. But fundamental values still exist beneath such arguments, and they are what brings the international community together. They represent the moral structure that makes the international community a community, where the whole is always greater than the sum of its parts. Such values and norms are enshrined in what we commonly call international law. They reveal their true meaning and their real power

in times of difficulty, crisis, conflict and war. And as we know, they have not come easily. Tens of billions of people had to die before we could discover and accept basic principles of international law. States have created a vast body of law to regulate their behaviour and have voluntarily committed to abide by it. Millions more have been sacrificed so that we could accept our collective responsibility to abide by the rules and hold ourselves to account when we are unable or unwilling to respect them. Yet our basic values, enshrined in a growing body of international law, international humanitarian law, international human rights law and international criminal law, continue to be systematically and grossly violated.

All serious violations of international law must be treated with the same level of fairness and determination, because they are part of the same problem. As expressed in the wise words of Martin Luther King, Jr., injustice anywhere is a threat to justice everywhere. And as we reiterate that it is important to uphold our shared values and norms, we are all aware that both are under enormous stress. We know that when we fail to stand up firmly and assume our collective responsibility, when we fail to uphold the right to truth, to justice and to effective remedy and reparation, our institutions grow weaker and public trust fades away. We are then left with frustration and impatience about our lack of progress and inability to deliver, while the perpetrators loom large.

War crimes, crimes against humanity and other gross violations of human rights undermine the fabric of entire societies. We have seen how they destabilize States and jeopardize whole regions, threatening international peace and security. The case of the 11-year-old conflict in Syria is a tragic example. In failing to hold the Syrian regime accountable for its crimes against its own people, we may have encouraged atrocities elsewhere. But failure to address all violations everywhere should not be a reason to act nowhere. That brings me to the tragic and ongoing Russian aggression against Ukraine. That reprehensible act has violated everything the Council stands for — the values, the norms, the law and the respect we owe one another as responsible members of the same community of nations. An unprovoked, unjustified and totally illegal war has caused undue pain to the entire Ukrainian nation. It has challenged European security, shaken the global economy and is causing undue pain to millions of people worldwide by exacerbating food insecurity.

Horrible crimes are being committed and uncovered every day. That calls for accountability. Crimes should not and must not remain unpunished. Albania will continue to be at the forefront of efforts to deliver justice and deter further and future crimes.

*(spoke in French)*

We have to show, not just in words but through our actions, that “more than ever” actually means “never again”. We owe it to the millions of victims of genocide in Srebrenica, Rwanda and Darfur. We owe it to all who have endured atrocities, massacres and crimes against humanity. We owe it to the countless silent faces who are usually the invisible victims of unforgivable sexual crimes, such as the 20,000 women brutally raped during the ethnic cleansing in Kosovo of 1998 and 1999. We owe it to the millions of children whose lives have been broken and who have been deprived of their futures by armed strongmen. That is why it is crucial that we firmly and continually resist every attempt to deny or downplay these odious crimes. The glorification of criminals and the denial of genocide are direct calls to violence and must be condemned without hesitation.

*(spoke in English)*

We must do more to strengthen what we have achieved and build new tools to address new challenges. We owe it to our children, to the children of the world. Accountability breeds responsibility. Responsibility leads to action. Action reinforces justice. Justice contributes to peace. Without strong and effective accountability, our shared norms and values will wither away. We must not let violations become the norm. Perpetrators should have no place in our world but only in their own, behind bars, just as happened with Slobodan Milošević, Charles Taylor and their like — those who put themselves not merely above the law but outside the most basic laws of humanity. We must make impunity history. Justice, that indispensable companion of truth, must prevail in the name of our shared humanity.

I now resume my functions as President of the Council.

I give the floor to His Excellency Mr. Rajkumar Ranjan Singh, Minister of State for External Affairs of India.

**Mr. Singh (India):** Let me begin by congratulating Albania on its historic, first-ever presidency of the Security Council. I would also like to take this

opportunity to convey my Prime Minister’s best wishes and greetings to you, Mr. President, in your role as Prime Minister of Albania. It is a singular privilege to represent Mr. Modi at this high-level debate on such an important topic. I would like to thank Judge Joan E. Donoghue, President of the International Court of Justice, and Ms. Michelle Bachelet, United Nations High Commissioner for Human Rights, for their briefings, and Professor Dapo Akande of Oxford University for his insights into the issue.

As the world’s largest democracy and a founding member of the United Nations, India has consistently demonstrated its commitment to upholding the purposes and principles of the Charter of the United Nations as set out in its Articles 1 and 2. India follows the path of dharma, or righteous conduct, whose tenets are based on the principles of humanity and humanitarian norms. We firmly believe that the rule of law is an essential precondition for sustainable peace and development in any society. Indeed, justice and the rule of law are preconditions for the maintenance of peace and security at the international level as well. The objective of international law is to uphold the age-old universal value of humanity. Any serious violations of international law are therefore contrary to the spirit and aims of the United Nations, whose Member States have the responsibility and obligation to ensure justice and accountability for the gravest violations of human rights, as well as mass atrocities, in line with their national legislation.

Given its primary responsibility for the maintenance of international peace and security, the Council has acted a number of times in the past to address serious violations of international law. Alleged violations of the Genocide Convention have also been referred to the International Court of Justice. Those instances offer several key lessons that are pertinent to today’s debate. In that context, let me offer the following observations.

First, the tools for addressing serious violations of international law should be used judiciously and without any selectivity, in line with the principles of the Charter. The international community should aim to provide support to Member States’ efforts to ensure justice for victims through an accountability process that is based on nationally accepted norms and jurisprudence and that should also promote national reconciliation and an inclusive future. The International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone



contributed to combating impunity while working in complementarity with national justice systems, and India provided financial assistance to their work.

Secondly, the referrals made since 2005 of situations to the International Criminal Court (ICC), and especially the haste with which they have been made, have been the subject of criticism. The ICC's acquittals in recent years have also cast a shadow on its credibility. Such developments appear to substantiate the view that when cases are referred to the ICC primarily for political reasons, the mechanism of the Court may not be able to serve the greater purpose of justice. Moreover, a number of countries in Africa and Asia, including India, are not parties to the Rome Statute. The independence of judicial bodies is a *sine qua non* for the impartial dispensation of justice, and under no circumstances should the discretion of a judicial body be subordinate to any political organ. The Rome Statute violates that cardinal principle because of the authority it gives the Council under its article 16 to defer ICC investigations and prosecutions.

Thirdly, terrorism is the greatest threat facing humankind today. It exacerbates social tensions, pushing societies towards instability and violence. We are indeed seeing a sad state of affairs with regard to accountability, given the fact that State sponsors of terrorism have been allowed to go scot-free. Any discussion of accountability would therefore be incomplete without taking into account the carnage wrought by terrorist forces, particularly those backed by State actors in the pursuit of political objectives. Having suffered for decades from the scourge of cross-border terrorism in which thousands of innocent civilians have lost their lives, India has always been at the forefront of global counter-terrorism efforts. The international community should stand firm in its opposition to terrorism in all its forms and manifestations and reject any attempt to provide any justification for terrorist acts. India recently provided financial assistance for the work of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant.

Fourthly, decades of practice have shown that the responsibility to protect cannot be invoked to address all violations of human rights and humanitarian law, but must rather be confined to four major crimes — genocide, war crimes, ethnic cleansing and crimes against humanity. Furthermore, practice has also shown that the default response of the international

community should not be coercive measures imposed based on Chapter VII of the Charter. Nor should it be seen as a pretext for humanitarian intervention.

Fifthly, the issue of accountability should not be discussed in isolation or viewed from a narrow perspective that considers only States that are alleged to have committed criminal acts when in fact foreign forces are actively involved in those acts, including when they have physical control and a physical presence. Those factors must be factored in when we discuss issues of accountability. We must also refrain from imposing universal jurisdiction on acts of atrocities alleged to have been committed on the territory of a sovereign State.

Sixthly, as the principal judicial organ of the United Nations, the International Court of Justice has the role of settling, in accordance with international law, legal disputes submitted to it by States and issuing advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies. The Court plays a crucial role in the interpretation and clarification of the rules and principles of international law, as well as in the progressive development and codification of international law. India has always been supportive of the International Court of Justice.

Lastly, it goes without saying that an atmosphere of inclusivity and transparency almost always helps in strengthening accountability and achieving justice for serious violations. Strengthening the fabric of democracy is akin to strengthening guarantees against serious violations of international law.

In conclusion, accountability for serious violations of international law is a noble objective that should be pursued with due respect for the sovereign equality of States. The international community should always encourage the States concerned to have in place an inclusive and transparent process for establishing accountability for serious violations of international law committed in its jurisdiction. The pursuit of accountability and justice cannot be tied to political expediency. In order to succeed, the process should be nationally owned and inclusive, with the active participation of women. It should enable justice, promote reconciliation and aim at achieving peace in the long term.

**The President:** I now give the floor to His Excellency Mr. Paul Gallagher, Attorney General of Ireland.

**Mr. Gallagher** (Ireland): I would like to thank you, Mr. President, Prime Minister Rama, and to congratulate you on Albania's assumption of the presidency of the Council and for organizing this open debate. I also want to thank our excellent briefers for their presentations this morning.

I want to begin by offering my deepest condolences to the family and colleagues of Judge Cançado Trindade, of the International Court of Justice, on his passing. His contributions in the field of international law will always be remembered.

When Ireland's term on the Security Council began last year, we outlined three priority issues that we wanted to promote. One of them was accountability, and in particular the question of how to ensure more effective accountability. By accountability, we mean not just the criminal accountability of individuals for the commission of atrocity crimes, but also the political and legal accountability of States for their behaviour, especially in breaches of their international obligations. The criminal accountability of individuals is particularly important. When the perpetrators of atrocities go unpunished, they are emboldened, and cycles of violence are perpetuated. Indeed, in recent years we have seen that failure to ensure criminal accountability leads to a sense of impunity, and the resulting accountability gap for atrocity crimes has undoubtedly exacerbated the ongoing conflicts in Yemen, Syria and Myanmar. I therefore welcome the fact that in the past three months we have seen the operationalization of mechanisms to ensure criminal accountability at the domestic, regional and international levels in support of the calls for justice in Ukraine.

Ireland was one of 41 States that quickly referred the situation in Ukraine to the International Criminal Court (ICC). National prosecution services were mobilized across Europe, and the International Criminal Court has deployed a team of 42 investigators, forensic experts and support personnel to Ukraine to investigate crimes and support the relevant Ukrainian authorities. We are also encouraged by the Human Rights Council's establishment of the Independent International Commission of Inquiry on Ukraine. Those initiatives demonstrate significant, and welcome, coordination between the relevant authorities. We encourage the continuation of this comprehensive approach to the pursuit of accountability. If we are to achieve justice for victims and survivors, it is essential that we ensure that this momentum is maintained and

that the investigations ultimately result in fair and impartial criminal prosecutions where there is evidence to support them.

But we must not shy away from assessing the gaps that those actions reveal, including the Security Council's lack of action. In the past, we have seen what the Council can achieve in the realm of accountability through its referral of the situations in Darfur and Libya to the ICC. That action by the Council has now led to the opening of the first prosecution at the ICC arising from the investigation of the situation in Darfur, against former Janjaweed commander Ali Muhammad Ali Abd-Al-Rahman, for war crimes and crimes against humanity.

We must also consider how the Council can ensure stronger implementation of its own resolutions. For example, in the case of resolution 2417 (2018), we already have the tools to ensure accountability for violations of international humanitarian law and the use of starvation as a weapon of war. We just need the collective political will to use them. But too often the Council has refused to act, almost always because of the exercise of a veto by one of its permanent members. That is why the Council must be held to account. The use of the veto to prevent the Council from acting to deal with atrocity crimes cannot be justified. Ireland was part of the core group supporting the General Assembly's recent successful adoption of a veto initiative (resolution 76/262). It means that any permanent member of the Security Council using the veto will have to account for that use to all members of the United Nations in the General Assembly. We look forward to the Assembly's first debate under that resolution next week.

We must also look for other means of strengthening accountability. That is why Ireland stands firmly in support of the International Criminal Court in seeking to ensure that those responsible for the most serious crimes of international concern cannot act with impunity. It is why we continue to promote universal adherence to the Rome Statute. Later this month, Ireland will host an Arrria Formula meeting to mark the twentieth anniversary of the entry into force of the Rome Statute, and to reflect on the relationship between the ICC and the Security Council. It is why we advocate for formulating a convention on crimes against humanity and believe in the need to strengthen international cooperation on the most serious crimes, including through the mutual legal assistance treaty currently being negotiated.

Ireland shares President Donoghue's view that the International Court of Justice is central to the maintenance and strengthening of an international order based on the rule of law. Our own Constitution affirms Ireland's adherence to the principle of the pacific settlement of international disputes by international arbitration or judicial determination, and we therefore firmly believe in the value of the Court's role in helping to prevent conflict between States. We therefore urge all members of the United Nations, and especially Council members, to accept the Court's compulsory jurisdiction, and we call on the Council to strengthen its cooperation with the Court.

The various accountability mechanisms I have mentioned this morning all play an important role in supporting respect for international law. Without effective accountability, some will believe that there are no consequences for violations of international law. That threatens to undermine respect for international law. I am sure that no member of the Council wishes for us to reach that point, and so we can all agree that effective accountability provides an essential foundation for a rules-based international order that guarantees the rights of both individuals and States.

**The President:** I now give the floor to Her Excellency Ms. Uzra Zeya, Under Secretary of State for Civilian Security, Democracy and Human Rights of the United States of America.

**Ms. Zeya** (United States of America): I want to thank you, Prime Minister Rama, for giving me the floor today. I would also like to welcome Albania on the start of its Security Council presidency, and thank you, Sir, more broadly, for the leadership role that Albania has played in the pursuit of accountability. Let me also join others today in extending our appreciation to President Donoghue, High Commissioner Bachelet and Professor Akande for their briefings. I would also like to express on behalf of the United States my deepest condolences on the passing of Judge Antônio Augusto Cançado Trindade, who ably served on the International Court of Justice since 2009. He will be dearly missed.

The United States will continue to be a strong supporter of meaningful accountability and justice for the victims of atrocities through appropriate mechanisms. Justice, accountability and the rule of law are values we share, and we continue to believe that they are best advanced together. Genocide, war crimes, crimes against humanity, conflict-related sexual

violence and other gross violations of human rights law and serious violations of international humanitarian law undermine societies, destabilize nations and entire regions and threaten international peace and security. For the victims of genocide, crimes against humanity and war crimes, urgency is an essential element in seeking justice. By holding perpetrators to account for their crimes, a measure of justice is provided to the victims and the loved ones they left behind. Holding perpetrators to account can also deter further atrocities.

Unfortunately, we cannot have a discussion on accountability without acknowledging that nearly a hundred have days have now passed since Russia's unprovoked attack on Ukraine. In that time, we have witnessed Russian forces bombing maternity hospitals, train stations, apartment buildings and homes, and civilians have been killed even while bicycling down streets. We have received credible reports of Russian forces torturing and committing execution-style killings of people with their hands bound behind their backs. We have received reports of women and girls being raped, some publicly, and children taken away to Russia and put up for adoption. And we know that Russian forces continue to deny safe passage to civilians fleeing violence and to humanitarian organizations trying to reach those in need. Russia also continues to flagrantly disregard the International Court of Justice's order of 16 March, which requires Russia to immediately suspend its military operations in Ukraine. That type of unprovoked assault on sovereignty and the international rules-based order is exactly what the Security Council was created to prevent. Those who perpetrated those crimes must be held to account. Our message to Russia's military and political leadership is that the world is watching them, and they will be held accountable.

The United States is working with our allies to support a broad range of international investigations into atrocities in Ukraine. The European Democratic Resilience Initiative, which President Biden announced in March, will provide up to \$320 million in new funding to support societal resilience and defend human rights in Ukraine, with a particular focus on accountability for war crimes and other atrocities committed by Russia's forces in Ukraine. As part of that initiative, we have created a new Conflict Observatory programme to provide a platform to document, verify and disseminate open-source evidence of Russia's human rights abuses and war crimes. That information will be collected and

preserved consistent with international legal standards for use in ongoing and future accountability efforts, including potential civil and criminal legal processes. The evidence database will be available to others engaged in documentation efforts, as well as to domestic and international justice mechanisms, for their use in making data-based decisions and determinations in pursuit of justice and accountability.

In addition, on 25 May, the United States, in partnership with the United Kingdom and the European Union, announced the Atrocity Crimes Advisory Group for Ukraine to ensure the efficient coordination of support for accountability efforts in the country. That is a demonstration of international support and solidarity during this crucial moment in Ukraine's history. As Secretary of State Blinken said, the initiative will directly support efforts of the Office of the Prosecutor-General of Ukraine to document, preserve and analyse evidence of war crimes and other atrocities committed by members of Russia's forces in Ukraine, with a view towards criminal prosecutions.

We are also supporting a broad range of international investigations into atrocities in Ukraine. Such investigations include those conducted by the International Criminal Court, the United Nations and the Organization for Security and Cooperation in Europe. That includes supporting the establishment of the Human Rights Council's commission of inquiry, and we look forward to hearing more from High Commissioner Bachelet about its work.

We know too that while the war in Ukraine rages, other atrocities have been and still are being perpetrated around the world, including in Syria, the People's Republic of China, Burma, Ethiopia and Afghanistan. We must not lose sight of them or their victims and survivors. The United States is supporting investigative mechanisms such as the Independent Investigative Mechanism for Myanmar, to which we have provided a new \$1 million donation. We have also provided support to the Sri Lanka accountability project. In addition to our support for many of the International Criminal Court's open investigations, we are funding capacity-building for the hybrid Special Criminal Court in the Central African Republic. We are also looking for ways to support cases being brought to domestic courts around the world, such as the groundbreaking prosecution of Anwar Raslan in Germany, which resulted in his conviction of crimes against humanity.

Finally, we recognize the contributions of the International Court of Justice to the realization of the purposes and principles of the United Nations. Given the breadth of work we face, we look forward to today's discussion to explore ways to develop and strengthen accountability mechanisms at the State, regional and international levels. We must also bring necessary focus to victims and survivors. Establishing the truth about international crimes is essential to restoring their rights and dignity and ensuring the same for their relatives, as well as obtaining remedies for the harm victims and survivors have suffered. Effective accountability measures for those who are ordering and committing atrocities will make clear that those who engage in brutality will not enjoy impunity. Together with our allies and partners, we are united in our resolve to bring perpetrators to justice.

**The President:** I now give the floor to Her Excellency Mrs. Lana Nusseibeh, Permanent Representative of the United Arab Emirates to the United Nations and Assistant Minister for Foreign Affairs and International Cooperation for Political Affairs of the United Arab Emirates.

**Mrs. Nusseibeh** (United Arab Emirates): I would like to add my voice to those who have congratulated Ambassador Linda Thomas-Greenfield and the delegation of the United States for their very successful presidency of the Security Council in May. We offer our full support to Albania for its presidency this month and welcome your presence, Prime Minister Rama, and your country's choice of this important topic for your first signature debate.

I join others in thanking the Judge Joan Donoghue, President of the International Court of Justice, for her detailed briefing and for the critical work of the primary judicial organ of the United Nations. I also thank the High Commissioner for Human Rights, Ms. Michelle Bachelet, for her remarks. Her briefing today reminds us all of the importance of her mandate and the work that she and her Office undertake within the United Nations system to promote and protect human rights. I would also like to thank Professor Dapo Akande for his expert briefing, which provided much food for thought.

This year alone, we have met in this Chamber countless times to hear accounts of horrific crimes from conflicts from across all regions. And although those most affected by such crimes may differ in their geography and circumstances, they are nevertheless



united in their call for justice — a concept that is rooted in all cultures and traditions. Indeed, the very first line of the Universal Declaration of Human Rights recognizes that justice, together with freedom and peace, are the universal ideals that we seek to achieve through recognition of the equality, inherent dignity and inalienable rights of all persons. We therefore commend Albania for its initiative to focus our attention today on a matter that not only lies at the heart of the Security Council's mandate but is also an inherent feature of the human condition: the desire — the need — for justice and accountability so that rights are vindicated, and wrongs prevented and punished. That is a sensibility so innate to the human experience that children understand it and can convey it almost before they can talk.

We know the harm caused by serious crimes is profound and enduring. In addition to the unbearable pain and trauma that victims and survivors suffer, these crimes tear apart the social fabric and destroy the trust that should exist between communities, between citizens and their Governments, and between States. The widespread and systematic commission of serious crimes also undermines trust in the frameworks and institutions established to maintain peace and security and to protect those rights.

There is no viable alternative to the Westphalian nation-State system in which we all coexist, but at the same time, sovereign State systems do not shield countries from international law or from responsibility. Rather, they strengthen international law for the benefit of States, their people and the international community. When applied fairly, international law articulates State sovereignty; it does not undermine it. It is when it is misapplied or politicized that double standards emerge.

Accountability cannot be looked at solely as an international mechanism at the expense of a domestic answer. International and domestic rule of law are the right and left hands of justice. The key to achieving an effective global culture of accountability is a balancing act that upholds universal standards while serving to strengthen State cohesion and its capacity to wield justice.

We all subscribe to the idea that international norm-setting is beneficial and that there is value in reaching a shared understanding of rules and best practices. It is something that we do every day in this building. We debate an issue, each with our own perspectives, cultural contexts and interests, and we reach an outcome

that we can all subscribe to that moves us forward together. At the same time, we uphold these norms and rules most successfully and efficiently through our national State systems, applying these agreements in these international bodies in our national contexts. The United Arab Emirates believes that the development of international law is therefore an essential part of our collective evolution as an international system. Much of the focus today will rightly argue for the evolution of our institutions and mechanisms, to which we fully subscribe. But we would like to make the following observations on how we can strengthen accountability for international crimes, highlighting three practical considerations and using powerful local examples and contexts.

First and foremost, because deepening trust in national systems through capacity-building is a more sustainable and longer-term strategy to upholding international law, that should be reflected in how we fund and allocate resources to our respective national institutions. The last 30 years have provided useful examples of effective domestic justice mechanisms that are often best placed to navigate cultural issues and practical challenges in these environments. These go from the Truth and Reconciliation Commission in South Africa to, most recently, Colombia's Truth Commission and the Special Jurisdiction for Peace. Those real-life examples demonstrate that national ownership of accountability efforts allows States the opportunity to re-establish the confidence of citizens in their public institutions and reckon with their societies' collective trauma. Before thinking of imposing outside initiatives, let us build on the endogenous solutions developed by local communities.

Similarly, there is much to be learned from the Security Council's approach in establishing the mandate of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant (UNITAD), in close partnership with the Iraqi Government, to collect, preserve and store evidence in Iraq of atrocities committed by Da'esh. UNITAD offers a model of how the Security Council can work in partnership with impacted States to strengthen domestic laws and national prosecutions of international crimes. Crucially, that includes building capacity in relation to sexual and gender-based crimes that requires particular capabilities. The United Arab Emirates is proud to have financially contributed to the investigative efforts



of UNITAD's Sexual and Gender-Based Crimes and Crimes against Children Unit. In this very Chamber, Ms. Nadia Murad has told us countless times and compelled us to fight injustice, protect victims and hold perpetrators accountable for their crimes. Today I think we are making that fact a reality.

Secondly, the Security Council should leverage the full toolkit at its disposal to maximize its impact. For example, over centuries, sexual violence has been used, and continues to be used, as a tactic of war, terror and repression. Today, however, the Security Council has a broad range of mechanisms that can be deployed to address this crime. Yet the use of sanctions by the Council to address sexual violence remains inconsistent and insufficient. Several sanctions regimes still do not include sexual violence as a specific and stand-alone criterion for designation. Individuals listed for such crimes are too few. What a powerful message it would send to potential offenders if the Security Council were to step up and employ to their full extent the tools it already has at its disposal to advance accountability for sexual violence. This could include listing individuals who order, perpetrate or incite sexual violence. The stigmatization impact of sanctions for sexual violence would not only be a step forward in accountability but would serve as a powerful deterrent. Inaction is not an option when the actions we can take are so clearly in front of us.

Thirdly, trust in the information we rely on in seeking accountability has been eroded in our digital age where misinformation and disinformation are so prevalent. Our response to allegations of crimes cannot ignore that reality. At the same time, the rapid development of new technologies has proven invaluable in investigative and accountability processes. The deployment of cutting-edge technology can indeed facilitate the collection, analysis and security of evidence. We need to also bear in mind the challenges of using only a digital approach. We welcome UNITAD's innovative practices and its development of a digital data factory based on artificial intelligence and machine learning to process and enhance evidence collection. Those advances have also empowered citizens to document crimes through means that are increasingly admissible in courts. That is all to the good.

An excessive reliance on technology, however, could weaken a victim-centred approach to justice. The United Arab Emirates has previously spoken about the digital divide in this Chamber with over a

third of the world's population having never used the Internet. There is a risk of creating a two-tier system of accountability that privileges victims in areas with access to Internet and technology while marginalizing others. We would therefore welcome further discussion on how we can maximize the use of technology while mitigating its potential effects and ensuring that such a two-tier system of access does not emerge.

I would like to conclude where we began. The concepts of accountability, justice and fairness are universal and should unite the international community — not divide us. While the achievement of a perfectly just society may be unattainable, our search for accountability should be within reach. Today we have shared practical examples that get us closer to that objective, and we will continue to support efforts to strengthen accountability and justice for these most serious violations of international law.

**Mr. Kimani** (Kenya): I thank you, Mr. President, for giving me the floor. I also thank you for gracing us with your presence at this open debate of the Security Council. I congratulate Albania on its historic assumption of the presidency of the Council this month. Kenya also thanks the delegation of the United States for its responsible and professional leadership of the Council in May. I thank Judge Joan Donoghue, President of the International Court of Justice, Ms. Michelle Bachelet, United Nations High Commissioner for Human Rights, and Professor Dapo Akande for sharing their insights.

The sad reality of the world today is most acutely expressed by the words of Thucydides:

“The strong do what they can, and the weak suffer what they must.”

He wrote that sentence some 2,450 years ago, describing a situation where the leaders of Melos were faced with the choice of whether to submit to Athens, which was in a rivalry with the powerful Spartans. The Melians complained that their choice was between war or slavery. And the Athenian diplomats did not mince their words, saying,

“[W]e shall not trouble you with specious pretences [...] to make a long speech that would not be believed”.

The sentiment and reality expressed in those words are still with us today. Rarely does a day pass in the life of a diplomat to the United Nations when he or she does

not hear calls for accountability for serious violations of international law, especially when it comes to threats to peace and security.

Nevertheless, the powerful continue to use armed force, threats and the manipulation of our multilateral system to dominate and attack others. Our hope is that the difference between us and the poor Melians is the Charter of the United Nations. In the Preamble to the Charter, accountability takes the pride of place alongside our determination to save ourselves from war and affirm the equal rights of every individual and every nation. Those are noble aspirations, but they are much easier to proclaim than to practice. We must wake up to the credibility gap between our aspirations and the current state of the multilateral system.

Our aspirations for accountability can be realized only by a global system that is as good for the weaker Melians as it is for the stronger Athenians. Otherwise, that system will be little more than a specious pretence. If the Council is to anchor a system that advances accountability and is not dominated by the interests of the powerful, the following changes are required.

First, the world will never believe that the multilateral system offers real hope for accountability if there is no reform of the Security Council. At a minimum, in the immediate future, the system of penholding must evolve beyond the bygone contours of colonial empire. The veto must also be wielded by those who are closer to the Melians than to the Athenians. Those invoking the veto would also do well to respect General Assembly resolution 76/262, popularly known as the veto initiative, to explain that their action is justified and is not opposed to our common peace. That is a degree of accountability. In addition, we must respond to the fact that the Security Council spends most of its time dealing with conflicts in Africa, with Africans holding neither vetoes nor pens; as long as that is the case, there will be severe limits to accountability in the United Nations.

Secondly, the broad system of international accountability will be regarded by the world's citizens as legitimate only if it holds the powerful to account. Instead, we have witnessed its use by the powerful to advance their interests rather than to advance the cause of justice. International judicial mechanisms must be impartial and not tipped against those in relatively weak States or regions. We are all witness to the

disproportionate focus on Africa, while the strong do what they can.

Finally, accountability and justice should go hand in hand with dialogue and reconciliation. There is a powerful link between war and national accountability, and as we have heard this morning, the systems of national accountability are ultimately the ones on which we depend to grant accountability and justice to the people of the world.

War is often pursued with impunity by one or more of its protagonists. The more protracted it is, the more it erodes domestic and international mechanisms of justice and accountability. Waging war accrues power to the few; democracy and checks on untrammelled power erode rapidly. Freedom wilts even in nations that are victorious at war. War economies take root, often characterized by criminality, to the detriment of law and order. The military-industrial complex that United States President Dwight Eisenhower warned us about grows in power and promotes even more war, with even greater destructive effects on accountability.

For the foregoing reasons, we believe that protecting and expanding accountability in Member States and in the multilateral system requires us to redouble our efforts to prevent and resolve conflict. Otherwise, even domestic systems of accountability will eventually suffer and die. Making peace, dialogue and diplomacy — those are the shields for accountability at the national level. In that regard, the Council's respect for and use of Chapter VIII of the Charter, particularly in Africa in the context of its relationship with the African Union and subregional organizations, will do the most to advance conflict prevention and resolution. Successfully resolving conflicts in that way offers citizens hope that the peace that ensues will deliver to them the stability that is needed for reconciliation, accountability and justice.

**Mr. Costa Filho (Brazil):** First, let me join others in thanking Ambassador Linda Thomas-Greenfield for the competent and professional way she and her team led the Security Council in May. Brazil would like to thank you, Mr. President, and the Albanian presidency of the Security Council, for organizing this important open debate. We would also like to thank the President of the International Court of Justice, Judge Joan Donoghue; the United Nations High Commissioner for Human Rights, Ms. Bachelet; and Professor Dapo Akande, for their insightful participation in today's meeting.

I would also like to thank Judge Donoghue, Mr. Gallagher and Ms. Zeya for their tributes to the memory of Judge Antônio Augusto Cançado Trindade. Their words were particularly moving for me, as Judge Cançado Trindade was my teacher of public international law at the Brazilian Diplomatic Academy; and because he was legal counsel at the Foreign Ministry when I was there taking my first steps in this career, and because his son, Vinicius, is a valued and trusted member of my team here at the Brazil Mission to the United Nations in New York.

There is no peace without justice and no justice without the rule of law. For law to prevail, effective mechanisms of accountability must be in place, including at local, national and international levels. History has shown that climates of impunity and lawlessness are breeding grounds for genocide, crimes against humanity, war crimes and other gross violations of international human rights and international humanitarian law.

The path to greater accountability runs through the intersection between the national and international levels. At the international level, a number of institutions, such as the International Criminal Court, the International Court of Justice, and United Nations bodies like the Office of the High Commissioner for Human Rights, can, within the limits of their mandates, either complement the role of State institutions or take action when the international community needs to address matters that go beyond national borders.

After lessons painfully learned, the international community developed a legal system to hold individuals accountable for such crimes. Its cornerstone is the Rome Statute regime, whose complementarity allows the International Criminal Court (ICC) to provide justice in a non-selective manner within its jurisdiction, when States are unwilling or unable to act through their judiciaries. We therefore reiterate our call to all States to recognize the universality of the Rome Statute and fully cooperate with the ICC, especially among the permanent members of the Security Council.

It is always worth recalling the leading role Article 24 of the United Nations Charter bestowed on the Security Council in the maintenance of international peace and security. There can be no peace and security where perpetrators of serious violations of international law feel free to continue carrying out atrocities.

The International Court of Justice also plays a vital role by providing Member States with legal and preventive means to resolve their differences. Furthermore, the Office of the United Nations High Commissioner for Human Rights has been making an essential contribution to international peace, including by calling on States to prevent and punish human rights violations and bring justice and reparation to victims, their families and relatives. Despite the importance of international bodies, however, the world cannot rely solely on them to counter crimes and other acts against international human rights law and international humanitarian law.

Our collective humanitarian effort to assist those in acute need continues to face old and new challenges, while old and new crises bring us to an unprecedented situation on the humanitarian front. More than 100 million people have been forced to abandon their homes, and more than 303 million people are in need of humanitarian assistance — a 10 per cent rise compared to December 2021. States still bear the primary responsibility for providing justice and protecting people from the effects of armed conflict. In these tasks, besides prosecuting those responsible for violations and paying attention to the victims' needs, they must address the root causes of violence and devote sustained efforts to the prevention of conflict. To that end, they must engage with civil society. That is necessary not only to build trust, but also to make governmental action more effective, especially when it comes to vulnerable groups.

States must also abide by the several instruments the international community enshrined in law to cope with hostilities when they regrettably break out. As the Secretary-General concluded in his May report on the protection of civilians in armed conflicts (S/2022/381), compliance with international human rights law and international humanitarian law significantly contribute to the prevention and alleviation of human suffering. The choices we make nationally and as States Member of the United Nations, particularly when we have a seat on the Security Council, are decisive in the search for more accountability in the international sphere.

Humanitarian solutions should be able to create the conditions for increased dialogue on practical measures to minimize human suffering in the field. We are convinced there must be no politicization of humanitarian messages nor the selective application of international humanitarian law. Ensuring adequate

support for coordinated efforts that help alleviate the suffering of millions of civilians worldwide remains an essential dimension of the struggle to bring about lasting peaceful solutions to contemporary conflicts.

**Mr. De la Fuente Ramírez** (Mexico) (*spoke in Spanish*): Mr. President, allow me to congratulate you for having convened this open debate on strengthening accountability and justice for serious violations of international law, as Albania assumes the presidency of the Security Council this month. I welcome the high-level officials that are joining us today, and I thank the President of the International Court of Justice, Judge Joan Donoghue, the High Commissioner for Human Rights, Ms. Michelle Bachelet, and Professor Akande for their briefings. My country laments the passing of Judge Cançado Trindade and offers its sympathies to his family.

Over the years, the members of the United Nations have built an institutional and legal scaffolding around the purpose contained in Article 1, paragraph 1 of the Charter of the United Nations, which speaks to the aspiration of building a just and prosperous global community. However, this collection of standards is constantly put to the test. Unfortunately, there are many serious, and very frequent, violations of international law. We certainly have many tools to confront these challenges, but we must, without a doubt, also strengthen national, regional and international accountability mechanisms. With a view to advancing our common goal of strengthening an international order based in the rule of law, I wish to submit for the Council's consideration several proposals as follows.

First, it is essential that all elements of the United Nations, in particular the Security Council, act in accordance with international law. That means that all decisions of the Security Council must be based in international law. The legitimacy of the Council depends on it.

Secondly, interpretations of the fundamental norms of international law that are not supported by the jurisprudence of the International Court of Justice should be avoided. Such interpretations endanger the integrity of the Charter. Such is the case of the abusive invocations of Article 51 to justify the use of force. The misuse and abuse of the right to legitimate defence only causes violence to escalate. My country has repeatedly objected to such interpretations in both the Security

Council and in the General Assembly, and we will continue to do so.

Thirdly, the International Court of Justice must be strengthened, as it is the main judicial organ of the Organization and a guarantor of accountability in cases of international responsibility of States. That can be achieved by submitting to the Court those disputes that fall within its jurisdiction. However, it is imperative that more States Members of the United Nations accept the compulsory jurisdiction of the Court, without conditions. Mexico has already joined the Declaration on the Promotion of the Jurisdiction of the International Court of Justice launched by Romania in November of last year, and we invite the other States to consider it.

Fourthly, the Secretary-General must continue to be a key actor in the search for dialogue and the mediation of situations of tension. It would be useful, as an additional tool, for the General Assembly to grant the Secretary-General permanent authorization to request advisory opinions from the International Court of Justice. That suggestion was already made by former Secretary-General Boutros Boutros-Ghali

Fifthly, the universalization of the Rome Statute of the International Criminal Court is imperative for establishing individual accountability for international crimes. The Council should also be more proactive in exercising its power to refer situations to the Court that are worthy of its consideration as a way to strengthen collaboration between the two bodies.

Sixthly, Mexico will support the General Assembly's efforts this year to launch a process towards the negotiation and adoption of a convention on the prevention and punishment of crimes against humanity, based on the articles adopted by the International Law Commission (ILC). This Commission has played a key role in the codification and progressive development of the international normative framework. We must therefore maintain its validity and relevance. The adoption of such a convention would without a doubt fill a legal vacuum that has existed since 1945.

Seventhly, the Council should fulfil its important responsibility to maintain international peace and security. However, the power of veto of its five permanent members is an obstacle to achieving that objective. That is why we, together with France, will continue to promote our joint initiative for the permanent members to commit themselves, on a voluntary basis, to refraining from the use of veto in situations of mass



atrocities. A total of 105 States have already signed on to that initiative, which is all the more relevant owing to the current global context.

We once again invite those who have not yet done so to lift their voices and join the initiative, which operates under the single premise that the commission of atrocities will never be admissible or justifiable, regardless of who the perpetrators or the victims are or the motivation behind such acts. It is up to us to determine the effectiveness of the international system in delivering accountability and justice, and we must ensure that international law is respected and that violations do not go unpunished. In other words, it is our responsibility to realize the project for peace we began 76 years ago and have since worked towards every day.

**Mr. Agyeman** (Ghana): Mr. President, let me begin by congratulating you and your delegation on Albania's assumption of the presidency of the Security Council for the month of June. I wish you, Sir, the best of success and assure you of Ghana's cooperation during the month. I also acknowledge all the high-level officials who have joined us in the Council this morning and believe that their presence has made today's open debate richer in terms of helping to deepen a shared commitment for strengthening accountability and justice for the cause of international peace and security. We are also grateful to the briefers for their enriching contributions to our discussions.

I further take this opportunity to commend Ambassador Linda Thomas-Greenfield and the delegation of the United States for their sterling leadership of the Council over the past month. I also join other delegations in paying tribute to Judge Antônio Augusto Cançado Trindade, who passed away on 29 May. We commiserate with his family, the international courts and the Government and the people of Brazil.

For nearly three decades, the Council's progressive focus on the question of accountability and justice for serious violations of human rights and international crimes has resulted in an increased recognition of that subject's importance in international peace and security. However, that focus has often produced uneven results. It has sometimes been challenging to translate the Council's decisions into practice, and its approach to dealing with questions of accountability and justice has in some instances appeared to be selective.

Yet, the Council has also, in the past, acted in a unified and clear-sighted manner, even in the absence of the referral mechanism of article 13 (b) of the Rome Statute, for example, when it set up the ad hoc international criminal tribunals for Rwanda and for the former Yugoslavia, and when it helped to establish the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia. What those bold acts of the Council show is that when geopolitical interests are subordinated and our common humanity is freed to rise to the fore, we can, in the face of despicable acts underlying egregious violations, take the action needed to prevent impunity, render justice to victims and prevent such egregious violations from recurring.

We therefore believe that the Council can do better to support accountability and justice by making its actions blind to the actors involved in serious violations and ensuring that those actions are impervious to the geopolitical interests of key Member States. Whether serious violations occur in Mali, Syria, Iraq, Afghanistan or Ukraine, the response should be the same. Where States are either unwilling or unable to ensure justice for systematic and widespread violations of human rights, genocide, war crimes or crimes against humanity, impunity must not be allowed to prevail. That must also apply to the act of aggression. The complex and delicate approach often required for resolving present-day conflict situations should not trample upon the rights of individuals and their need for justice. At the very least, measures to ensure transitional justice should be taken.

Indeed, protecting the rights of individuals and recognizing their critical role in ensuring the effective functioning of States and the stability of nations lies at the heart of the rules-based international order that has been built over the past seven decades. Therefore, those who exercise the sovereign authority of the State should not use Government instruments against the very individuals they have a universal responsibility to safeguard. Accordingly, ensuring accountability is fundamental and now needed more than ever to prevent a further weakening of the rules-based order. It is necessary to uphold the rule of law at the international level and restore confidence in the credibility of international law and its accompanying international adjudicative bodies, such as the International Court of Justice, the International Criminal Court, the International Tribunal for the Law of the Sea, and the investigative mechanisms of the Human Rights Council.



Importantly, it is our duty to secure justice for the victims whose lives and livelihoods have been adversely affected by such violations. We are convinced that accountability and justice for all people are achievable. We believe that the fight against impunity is a mission to be pursued by the international community as a whole. We must together guard against impunity becoming ingrained into the fabric of our international system and recommit to ensuring that perpetrators of international criminal offences and atrocities do not go unpunished. In acknowledging the primary responsibility of States to ensure accountability, we reiterate that such a responsibility extends to preventive and resilience mechanisms against atrocities. We therefore urge for relevant support for enhancing national capacities to prosecute serious violations of international law.

As a State party to the Rome Statute, Ghana reaffirms its commitment to its tenets and to the important work of the International Criminal Court, as an integral part of the international architecture for upholding international law and ensuring accountability. Concerted and enhanced coordination efforts, including the engagement of the media, civil society organizations and international partners, are necessary to provide the requisite political support and resources for effective accountability.

Accountability is also concerned with establishing the truth. In that regard, all allegations of atrocities must be subjected to independent, thorough and impartial investigations by relevant authorities to establish the facts as a basis for prosecution. We further emphasize the importance of the timely collection and preservation of evidence, as well as the identification and protection of key witnesses.

It is an established fact that women and girls suffer disproportionately from situations arising from the violations of international law, including conflict-related sexual violence. We believe that gender mainstreaming and the integration of gender-responsive policies into existing and emerging accountability mechanisms at national and international levels will increase the measure of success for the prosecution of such offences, particularly those committed against women and girls. We also encourage the grass-roots engagement of women leaders as key focal points for the collection of evidence and the provision of psychosocial support to victims throughout the prosecution processes.

In conclusion, we call on Member States to unite against impunity and stand committed to supporting all efforts aimed at advancing accountability and justice in the international system and the strengthening of both norms and institutions. Our collective commitment in that regard is fundamental to preserving and upholding the principles of the Charter of the United Nations and our shared values for peace and security.

**Mr. De Rivière (France)** (*spoke in French*): I thank the President of the International Court of Justice, the United Nations High Commissioner for Human Rights and Professor Dapo Akande for their briefings.

I take this opportunity to reiterate France's support for the remarkable work and action of the International Court of Justice and the Office of the United Nations High Commissioner for Human Rights.

In too many countries, serious violations of human rights and international humanitarian law are committed, some of which may constitute war crimes or crimes against humanity. Their perpetrators must be held accountable. France's commitment to the fight against impunity is unwavering. That commitment is a priority anchored in its international action, including in the Security Council.

We are certain that the world will never have peace without justice. That is why France has created a national counter-terrorism prosecutor's office to prosecute war crimes, crimes against humanity, genocide, torture and forced disappearances. For those same reasons, France has actively participated in the creation of such international tribunals and mechanisms dedicated to the fight against impunity as the International Criminal Tribunals for the former Yugoslavia and for Rwanda and the International Residual Mechanism for Criminal Tribunals.

Based on that firm conviction, France provides steadfast support to the International Criminal Court, the only permanent international criminal court with a universal vocation, whose action is essential in the fight against impunity. That support has been demonstrated once again in the framework of the investigation on the situation in Ukraine, which was opened on 2 March. We fully respect the Court's independence.

In addition to supporting the International Criminal Court, France is fully mobilized to provide specific support for the efforts made by the Ukrainian authorities in the framework of the investigations they

have launched. A technical team responsible for helping the Ukrainian authorities identify and collect evidence was deployed by France on Ukrainian territory on 11 April. That team is also helping the investigations of the Office of the Prosecutor of the International Criminal Court.

With regard to the war being waged by Russia in Ukraine, the important order issued on 16 March by the International Court of Justice could not be clearer. It demands that Russia suspend the military operations that began on 24 February, and Russia is legally bound to comply. France is firmly committed to working with Ukraine and with international and regional courts and mechanisms to ensure that violations of international law and possible war crimes and crimes against humanity do not go unpunished.

France also fully supports the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant, which is charged with holding Da'esh accountable for its crimes in Iraq, and assists the United Nations mechanisms charged with collecting and preserving the evidence of crimes committed in Syria, including the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011. We launched and presided over the International Partnership against Impunity for the Use of Chemical Weapons, which today comprises 40 States and the European Union.

International criminal justice and the fight against impunity are neither a fantasy nor an illusion. They function and achieve results: how can we not commend the efficiency and speed of Senegalese justice and the Extraordinary African Chambers in the trial of Hissène Habré or the progress made by courts and tribunals for Cambodia, Sierra Leone, Rwanda and the former Yugoslavia, to name just a few examples?

Yet many challenges remain. We will continue to fight against impunity, especially for those who commit sexual violence, use hunger as a weapon of war or target journalists. Two days ago, French journalist Frédéric Leclerc-Imhoff was killed while covering an evacuation operation near Severodonetsk. His death is deeply shocking, and France demands that a transparent investigation be conducted as soon as possible to shed light on the circumstances surrounding his death.

Council members may rest assured that France will relentlessly pursue its fight against impunity and in favour of the full respect of international law. The defence of the Charter of the United Nations and our values demands that we do so. We owe it to the victims and their families. In that spirit, France, together with Mexico, will continue to promote the initiative on the suspension of the use of the veto in cases of mass atrocities.

**Ms. Juul** (Norway): I congratulate you, Mr. President, on assuming the presidency of the Security Council for the month of June and for organizing this very important meeting. We offer our condolences on the passing of Judge Cançado Trindade.

Norway also joins others in thanking today's briefers for clearly underlining the need for accountability for serious international crimes, including those related to Ukraine.

We understand accountability to include both State responsibility under international law and individual criminal responsibility. The more political type of accountability, as it is exercised at the United Nations, is also important. In essence, we are talking about ensuring much-needed reactions to those who disregard international law, including international humanitarian law, international human rights law and international criminal law.

Together, as an international community, we have put in place significant international mechanisms and initiatives to ensure accountability. We look to the International Court of Justice to adjudicate cases between States and to the International Criminal Court (ICC) to prosecute individuals, as well as to the Human Rights Council to deploy fact-finding and special procedure mechanisms.

Let me underline the important role of the International Court of Justice in the peaceful resolution of disputes. We are appalled by the blatant examples of the disregard of the Court's rulings. We in the Security Council have a special responsibility to do what we can to ensure that parties faithfully abide by binding decisions rendered by the Court.

Norway sees the ICC as a beacon of international criminal law — stepping in if national accountability mechanisms are not able to. Yet the authority of the Security Council to refer cases to the ICC is underutilized. We must be better at following up the

cases that we refer. We call on all to facilitate access, support investigators and hand over wanted individuals to the Court.

Norway joined 40 other nations in a referral of the current situation in Ukraine to the Court. We are pleased that the ICC is investigating possible war crimes and crimes against humanity.

Successful accountability measures include representatives from all facets of society. We must insist on women's full, equal and meaningful participation, not merely as an end in itself, but as a prerequisite for peace and stability. Civil society and the media also play an ever more crucial role in collecting and sharing evidence and spreading the message that perpetrators will be held to account.

Above all, accountability is vital to ensuring justice for the victims and to deterring and preventing future violations. We must also be alert to the needs of victims and survivors, in all their diversity. Those committing atrocities, such as we have seen in the Democratic Republic of the Congo, the Central African Republic, Myanmar, Syria, Ukraine and elsewhere, must face justice.

Let me be clear: international law is not optional, and violations will not go unchallenged. A culture of impunity increases the risk of conflict recurring. Accountability, justice and the protection of civilians are crucial to long-term international peace and security. The Security Council and its individual members must play their role.

**Mr. Kariuki** (United Kingdom): Let me pay tribute to Albania for choosing this important subject, Mr. President, for the first day of your historic first Security Council presidency. We are also grateful to Judge Donoghue, High Commissioner Bachelet and Professor Akande for their important briefings. On behalf of the United Kingdom, I would also like to extend our condolences to the people of Brazil on the passing of Judge Trindade, whose life was dedicated to the topic of today's debate.

Today those violating international law clearly do not fear accountability or justice. That needs to change because the way in which we approach accountability reflects the state of our world. After the Second World War, we understood that and established the International Court of Justice. If we want a multilateralism that works, we need rules that are respected.

Russia's unprovoked and unjustified aggression against Ukraine is a flagrant violation of the most fundamental rules of international law and, as the Secretary-General said, an attack on the Charter of the United Nations. Russia and all those that violate international law must be held accountable. I would therefore like to stress two points around how we can address that.

First is the importance of using the full breadth of forums and instruments available to us. While the Security Council has been blocked from taking action in relation to Ukraine, that has not prevented the international system from taking steps to pursue justice. As we heard today, and as we heard in the Arria Formula meeting convened by Albania and France in April, the International Court of Justice, the Human Rights Council, the Organization for Security and Cooperation in Europe, the Council of Europe and the European Court of Human Rights are all engaged according to their mandates.

The United Kingdom played a leading role in convening a record number of States in the referral of the situation to the International Criminal Court. The breadth of the response is striking and, like the huge majority votes in the General Assembly, demonstrates that the world will not let such violations go unanswered.

Moreover, while Russia has shown contempt for the International Court of Justice and international law by doing nothing to comply with the Court's legally binding order, many other States comply with their international obligations. That is a source of hope.

Secondly is the importance of evidence collection that meets the appropriate standard. Once we have the evidence, prosecutions are ready to strike at the right time. For example, the evidence collected and preserved by the International, Impartial and Independent Mechanism and the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant is helping to bring some of those responsible for the most heinous crimes in Syria and Iraq to justice. In Ukraine, we have seen a massive effort to ensure that the evidence is available for future cases.

Of course, to collect evidence on the ground, it is necessary to have access. In that context, it is a matter of deep regret that the Chinese authorities did not provide the full, unfettered access to Xinjiang for

High Commissioner Bachelet that we and international partners have long called for.

Today's debate has demonstrated that there are diverse ways of pursuing those who commit serious violations of international law. Perpetrators cannot rest on their ability to block progress in the Security Council or elsewhere. Accountability and justice will find a way. That is the principle on which the multilateral system rests, and we must all step up to defend it.

**Mr. Nebenzia** (Russian Federation) (*spoke in Russian*): We welcome Judge Joan Donoghue, President of the International Court of Justice, Ms. Michelle Bachelet, United Nations High Commissioner for Human Rights, and Professor Dapo Akande to this open debate.

Let me take this opportunity to thank the delegation of the United States for its professional and impartial presidency of the Security Council in the month of May. We count on the delegation of Albania to be guided by the same professional approach in fulfilling its duties of President of the Council.

For several months now, we have been witnessing Western States demonstrate an excessive degree of hypocrisy in their statements. Against the backdrop of Russia's special military operation, they chose to recall that there was such a thing as international law.

When NATO was attacking Yugoslavia, Iraq, Afghanistan, Libya and Syria, international law was perceived only as an annoying impediment. In vain attempts to justify its aggression against sovereign States, the collective West had to come up with exotic concepts, such as a humanitarian intervention, the war on terror or preventive strikes. Of course, none of those had anything to do with international law. That is why the military adventures of the United States and their NATO allies were nothing but aggressive, unprovoked wars of choice. NATO countries systematically and cynically ignored international law, including the Charter of the United Nations. At the highest political level, the United States claimed to be exceptional, meaning that it was above international law. Thereafter, with manic tenacity, the collective West started to promote the idea of replacing traditional international law with some rules-based order. That new set of norms meant that a small group of States made their own rules and claimed that they were universal.

That is the logic that we see behind the current activity that Western States started around international criminal justice bodies, saying that they want to punish our country.

Please note that when there is the risk that NATO soldiers may be prosecuted for war crimes and crimes against humanity, we see a completely different kind of activity. Western States do their best to protect their troops. They employ both financial and administrative leverage against international criminal justice mechanisms and direct threats. Quite indicatively in that respect, the United States imposed individual sanctions against the former Prosecutor of the International Criminal Court (ICC). As is well known, the new Prosecutor deprioritized ICC cases regarding the crimes of British and American military in Iraq and Afghanistan. In other words, the investigations into those cases stopped. It turns out that when it comes to the responsibility of military personnel from Western countries, there is no longer any need to combat impunity.

In an attempt to justify themselves, Western countries usually claim that their legal systems are perfectly capable of holding the perpetrators to account, saying that they do not need the ICC to do that. Somehow, we do not know of any convictions of United States, British and other military personnel for war crimes in Iraq, Afghanistan and Syria.

Incidentally, we would never have found out about most of those crimes or the horrific torture in Guantánamo Bay and the Central Intelligence Agency's secret prisons in Europe had it not been for the sensational material published by Julian Assange. But what did the countries that are now so eloquently advocating for the fight against impunity do once that information became available to the general public? Did they rush to investigate and bring the perpetrators — their own citizens — to justice? No. The only one who was hunted and attacked was Assange himself.

The United Kingdom is about to hand over this brave journalist to the United States, where the plan is to try him on charges of espionage. The United States state-run police system leaves no doubt that he will spend the rest of his life behind bars, if he lives long enough to see a trial at all.

That is all there is to know about the collective West's approach to fighting impunity when it comes to themselves. What, then, is the take-away regarding the



atrocities committed by NATO troops? The scenario is always the same — civilians have died by their hands, but there is no one to be punished for that even in disciplinary terms, let alone criminal ones.

We took note of the vague excuses given on 17 May by the Pentagon representative, John Kirby. He called the American air strike that killed many civilians near the Syrian town of Baghouz a tragic mistake. At the same time, he made it clear that no one in the United States military has been or will be held accountable. That is not the first such case in Syria, and it may not be the last. After all, the United States, together with its colleagues in the so-called strictly defensive alliance that is NATO, continues the illegal occupation of part of the territory of that sovereign country following military aggression against it.

Another example of the hypocrisy of the West and the self-proclaimed champions of international criminal justice comes in the form of news from the Netherlands. It was recently announced that the Netherlands was to send an entire team of investigators and forensic experts to Ukraine to work in the interests of the Office of the Prosecutor of the International Criminal Court (ICC).

Almost at the same time, we were informed about the suspension by national law enforcement officers of an investigation of an attack by Dutch soldiers on residential buildings in the Afghan village of Uruzgan in 2007, where there were no military targets. Again, it is the same scenario, in which civilians are killed but the perpetrators of war crimes are non-existent.

Why do the countries of the West even need the ICC? After all, their national courts seem to be doing an excellent job of running out and sweeping under the rug the cases against their troops and imitating the fight against impunity. The West needs the ICC as a purely political instrument, and no one hides that fact. Hence the campaign to allocate unprecedented financial, human and organizational resources to the Office of the Prosecutor by the same countries that not long ago had been doing everything they could to protect their own soldiers from it.

The concept of double standards does not begin to cover that — it is simply bare-faced cynicism. Justice has become a farce whereby the culprit is appointed in advance and the West-funded Court hands down the sentences the West has paid for.

Neither the ICC nor the West care about the many crimes committed by the Kyiv regime, which came to power in a bloody coup d'état in 2014. The case of unidentified snipers who methodically shot both Maidan protesters and law enforcement agents has been consigned to oblivion. We have seen similar scenarios in the context of many other colour revolutions.

It is unlikely that our colleagues will recall today the civilians of Donbas killed by the Ukrainian military during eight years of shelling and bombing, which continue today. No one demands that Kyiv be held accountable for the nationalists burning people alive in the House of Trade Unions in Odesa.

It has reached the point that the criminals from the Azov Battalion, promoting a misanthropic and hateful Nazi ideology, are praised by the collective West as heroes, not only for Ukraine but also for themselves. The swastikas and other Nazi paraphernalia that can be seen not only on their uniforms but on their bodies do not faze the self-proclaimed champions of democratic values, who continue to repeat the mantra that there is no Nazism in Ukraine, and it is simply Russian propaganda.

A number of Council members today raised the issue of the order on provisional measures of 16 March issued by the International Court of Justice with respect to Ukraine's claim in reference to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. The statements delivered by the American and British delegations are the latest example of the policy of double standards. We clearly remember how the United States, after losing the case brought to the International Court of Justice by Nicaragua, not only flatly refused to comply with the Court's final decision — I stress that it was a final decision, rather than an order on provisional measures — but also twice vetoed the corresponding Security Council draft resolution.

The United Kingdom also revealed its attitude towards the International Court of Justice — not in its words but in its actions — when it refused to complete the decolonization process to finally return the Chagos Archipelago to Mauritius. In its advisory opinion of 25 February 2019, the Court stated unequivocally that the United Kingdom had an obligation to bring to an end its administration of the Chagos Archipelago as soon as possible. The Court's position was supported by the General Assembly in its resolution 73/295, which



was opposed by the votes of only the United Kingdom, the United States and four other delegations.

Those circumstances certainly did not embarrass London at all, which even today continues its colonial occupation of the archipelago and hosts a United States military base there. During the land-clearing necessary to establish the American military facility, the local population was forcibly displaced. When considering General Assembly resolution 73/295, the United Kingdom was called upon to pay fair compensation to its victims of crimes against humanity. Those calls were categorically rejected.

All of that brings us to a very simple conclusion, namely, that Western countries are willing to make pompous statements about implementing the orders of the International Court of Justice, the fight against impunity and providing compensation for victims of violence, but only as long as it does not concern them.

I will also say a few words about the 16 March order on provisional measures of the International Court of Justice. The order was issued in response to a claim by Ukraine, which requested to not be subjected to the use of force on account of false claims that the provisions of the Convention had been violated. I cannot help but draw members' attention to the similarity with the situation in 1999. At that time, Yugoslavia, referring to the Genocide Convention, also sought an order on provisional measures. Its request was completely rejected by the International Court of Justice because it was opposed by NATO.

With regard to the order on provisional measures concerning Ukraine, the situation is entirely the opposite. Behind the detailed legal argument, a simple thesis begins to appear — under strong political pressure, the Court may make inconsistent decisions.

Western countries sense that. On 20 May, 41 Western States and the European Union, with the support of the Marshall Islands and Micronesia, sent the Court a so-called joint statement, which was an unprecedented attempt to influence the position of the Court in favour of Ukraine. In any case, the order to suspend military operations was issued by the Court solely in the context of a claim under the Genocide Convention. Accordingly, it does not and cannot apply to the stated aims, objectives and grounds of the special military operation.

In that regard, we would like to remind the Council that our special military operation was launched on the basis of Article 51 of the Charter of the United Nations. On 24 February, we submitted to the Security Council a corresponding notification in writing in the manner prescribed by Article 51. The issue of abolishing certain provisions of the Charter of the United Nations, including its Article 51, or depriving a Member State of the right to exercise its inalienable right to collective or individual self-defence has not, as far as we know, been considered by the International Court of Justice.

We now hear on an almost daily basis about initiatives to create more and more investigative mechanisms or quasi-tribunals. The most interesting thing, however, is how exactly those tribunals for Russia are being planned. Authors of those initiatives propose to do it on the basis of an agreement among the countries concerned.

But let us reflect further on that: a group of countries is seriously discussing the possibility of jointly convicting a third State. The mechanisms of international criminal justice are of course far from ideal, but when they were established there at least appeared to be some form impartiality and geographical balance in the mix. Now that the masks have been taken off completely, the collective West considers itself entitled to administer justice alone.

By flooding Ukraine with weapons, allegedly to strengthen its potential and ability to fight back against Russia, the West is committing another war crime. With Western assistance, Ukrainian raiders continue to shell the peaceful residential areas of Donbas, killing women, children and the elderly, as they have been doing for eight years now.

By way of another example, the United States has supplied Ukraine with British-made long-range M-777 howitzers, and, on the eve of International Children's Day, shells fired from those guns killed five people in Makiivka in Donetsk, including a 5-year-old girl. The United States has also announced plans to supply Ukraine with multiple-launch rocket systems, which will lead only to a further escalation of the conflict that Washington hypocritically asserts it wants to end as soon as possible. The ICC should also be aware of that, if the Court is concerned about the cause of justice.

The list of crimes committed by the most vocal advocates of international justice is long. Today we have touched on only a negligible number of them. No

statement would be long enough to cover them all. I have one recommendation for the collective West. If it wants to condemn aggression, it should start by condemning itself. It should set an example to the world by condemning its military adventures, illegal economic restrictions, bloody colonial and neocolonial wars and genocide and plunder of indigenous peoples. It should begin paying reparations to the affected countries and peoples. Such a step could indeed bring closer the advent of a more just world order, in which there would be no place for any self-proclaimed exceptionalism.

**Mrs. Ngyema Ndong** (Gabon) (*spoke in French*): I congratulate you, Sir, on your presidency of the Security Council, the functioning of which you will ensure for the month of June. I also thank you taking the initiative to convene this important debate on a subject of concern that is at the heart of the international agenda. I thank the President of the International Court of Justice, Ms. Joan Donoghue; the United Nations High Commissioner for Human Rights, Ms. Michelle Bachelet; and Professor Dapo Akande for their informative briefings.

Justice plays a critical role in maintaining peace in the world. Clearly, the issue of international accountability, the goal of which is to seek justice for serious crimes and atrocities, has profound ramifications for achieving peace. The international community has the tools at its disposal today to prosecute perpetrators of serious crimes or extradite them to countries that can prosecute them.

The International Criminal Court (ICC) is one such tool, the mandate of which is to investigate and prosecute war crimes, crimes against humanity and genocide. In the same vein, there are also international criminal tribunals and their residual mechanisms, as well as national courts exercising universal jurisdiction. All those legal mechanisms clearly indicate the strong resolve of the international community to reject impunity and the most serious human rights violations.

As the late Secretary-General Kofi Annan noted,

“Impunity ... can be an even more dangerous recipe for sliding back into conflict” (*S/2004/431, para. 55*).

The failure to demand accountability for crimes against humanity or genocide could seem like an encouragement for committing such serious crimes and erode the foundations for peace. Undoubtedly, under the pressure of peace negotiation efforts, justice is

sometimes relegated to the background. Its dividends, however, are of the utmost importance in deterring repressive leaders from committing further crimes. At the same time, fair trials help restore victims’ dignity by acknowledging their suffering and establishing a historical record of events so as to prevent the possibility of revisionism or negationism by those who might seek to deny the atrocities committed.

Despite the efforts of the international community, it must be noted that international criminal justice remains a weak deterrent, and its scope continues to be based on variable geometry — or rather variable geography. Indeed, the determination of international jurisdictions to seek out a warlord in Africa often contrasts with their sluggishness with regard to other regions of the world. That double standard is difficult to understand insofar as justice and accountability must not reflect power relations among nations at the risk of being seen as a validation of injustice to the detriment of those that are less prosperous. Wherever serious crimes under international law are committed, peace and justice must both be goals in negotiations to end conflicts.

In Africa, we do not need to look back to the time of the slave trade or colonization to highlight areas in which accountability is required. Today in many battlefields on the continent, it is important to demand and impose accountability along the entire chain of horror, from the warlords to the sponsors of war. Support for accountability efforts in Ukraine should become the model for the international community’s response to crises and conflicts throughout the world. In Ukraine, as everywhere else in the world, the fight against impunity must not be allowed to slacken.

Without justice, peace cannot be sustained. The belief that people will simply forget with time is a terrible mistake, since even after centuries unpunished crimes continue to represent huge stumbling blocks in terms of preserving peace. It is therefore our hope that the momentum of national and international investigative mechanisms, together with the struggle on the ground, will become the yardstick by which all wars in the world will be measured.

Realizing international justice often takes a long time. For the cases involving Thomas Lubanga Dyilo and Dominic Ongwen, the ICC required 10 years and 16 years respectively, from the time of their crimes to the verdicts. Such delays, which are predicated on the time

needed to conduct investigations, are hardly compatible with the urgent need to provide meaningful relief for the victims. However, during that time, attempts to sensationalize or revert to the media for justice should be prevented.

The Council must play its role as a cornerstone in the emerging system of international criminal justice and must assume it by taking every opportunity for constructive action at its disposal, including the systematic activation of the legal instruments and mechanisms at its disposal.

Moreover, strengthening accountability and justice in cases of serious violations of international law, like the maintenance of international peace and security, will remain difficult goals to achieve without incorporating the prevention dimension.

Optimizing the use of all tools aimed at preventing crimes against humanity, criminal acts and all human rights violations therefore remains imperative. We know that such crimes are not committed spontaneously but are often the product of a long process during which mediation, good offices, early-warning systems and regional and subregional organizations can play a decisive role in preventing escalation and the loss of human lives.

It is therefore critical that the Council accord particular attention to preventative diplomacy as an effective instrument to achieve peace and security, by working to narrow the gap between the critical importance of prevention and the limited resources allocated to it. It is far less costly to prevent crimes than to intervene to stop them. For several decades, Gabon has been steadfastly committed to promoting preventive diplomacy, including in the Central African Republic, through continued engagement in peace missions, mediation and good offices.

Effective justice is justice that condemns, on the one hand, and that makes amends on the other. In that regard, accountability must always be part of the global objectives to be considered, not only from the perspective of ending wars but also from the perspective of building lasting peace. In that context, the establishment of monitoring mechanisms, such as the Office on Genocide Prevention and the Responsibility to Protect, must be strengthened to ensure the follow-up of potentially at-risk areas.

In conclusion, my country reaffirms its commitment to accountability and equitable justice that

is neither politicized, selective or variable. We share the conviction of the late Archbishop Desmond Tutu that no matter how painful and unsettling justice may be, not demanding accountability is always worse.

**Mr. Dai Bing (China)** (*spoke in Chinese*): China thanks Albania for its initiative to hold this meeting and welcomes the briefings by Judge Donoghue, President of the International Court of Justice; Ms. Michelle Bachelet, United Nations High Commissioner for Human Rights; and Professor Dapo Akande of the University of Oxford.

Peace and justice are what humankind as a whole strives to uphold and are the primary responsibility of the Security Council. The process of maintaining peace and achieving justice is an intersectional, interdisciplinary enterprise. Accountability is an important means of serving justice. The role it plays in restoring and maintaining peace defies oversimplification, as it hinges on specific circumstances and conditions.

The issue of accountability and its implications for the maintenance of peace and security should be examined with a multidimensional focus and a judicious approach. In that vein, I would like to underscore the following points. First, peace and justice are mutually reinforcing and complementary. Without justice, peace is unsustainable. Without peace, there is no justice of which to speak. We are informed by history that in the absence of a systemic solution that addresses fundamental and long-term issues, such as peace and development, the kind of justice achieved through accountability in isolation would be fragile and unsustainable.

The pursuit of justice is as much about bringing perpetrators to justice and ending impunity as it is about facilitating reconciliation and achieving lasting peace. Any accountability exercise should be forward-looking, taking into account the nexus between peace and justice and ensuring that the very act of accountability does not lead to heightened or prolonged resentment or antagonism among the parties concerned that would leave the general public to face bitter consequences.

Secondly, accountability should aim to maintain the integrity and unity of international law. In pursuing accountability for violations of international law, the first order of business is an objective and impartial judgment with regard to “violations of international law” and that requires the equal and uniform application

of international law, as opposed to the selective application thereof.

Asserting the will of a minority of countries as a universally applicable rule for other countries to follow or applying different rules to different countries on the same issue does nothing to truly uphold the authority of international law, nor will it lead to an objective and fair judgment. Pursuing accountability by such rules has little chance of bringing about genuine and lasting justice.

Thirdly, accountability should respect the judicial sovereignty of the States concerned. States have the primary responsibility for punishing serious crimes, ending impunity and achieving justice. Adherence to the principle of State ownership is not only an important manifestation of the principles of sovereign equality and non-interference in internal affairs, but also a crucial assurance for the smooth advancement of accountability and the achievement of the desired results.

The international community should continue to work with countries concerned and actively support them in strengthening capacity-building and exercising effective jurisdiction over serious international crimes. International judicial institutions should act in strict accordance with their mandates, abide by such important principles as the consent of the States concerned and complementary jurisdiction and maintain judicial independence, objectivity and impartiality.

Fourthly, the pursuit of accountability must not be tainted by political manipulation and the presumption of guilt. Accountability must be consistently guided by the rule of law, both as philosophy and as logic. It must be based on facts and governed by the law. Under no circumstances must accountability become a political tool for suppressing those who hold different views and positions or for exerting pressure on them and exacting retribution or for staging regime change to serve the geopolitical interests of a handful of countries.

China has always maintained that the exact circumstances and specific causes of violations of international humanitarian law in conflict situations must be established and that any accusations made should be based on facts. Before drawing conclusions, all parties should exercise restraint and avoid making unfounded accusations or interfering in the internal affairs of States in the name of justice. Given the crucial importance of the Council's responsibilities,

every decision that it makes must be able to withstand the test of history.

In the aftermath of the Cold War, the Security Council has authorized the creation of a number of international accountability mechanisms, which have played a special role in achieving justice and promoting reconciliation. However, it should be acknowledged that not all accountability mechanisms have achieved their intended objectives within their prescribed time frames, and some of them have, for a long time, used considerable resources of the countries concerned and/or of the United Nations, with very little to show for it. While we will remain seized of the issue of accountability for violations of international law, we must also review the existing international accountability mechanisms, reflect on and draw lessons from them.

I would like to conclude by highlighting that, in their statements, the representatives of the United States and the United Kingdom brought unfounded accusations against China, which China firmly rejects. As the saying goes, to hide a lie, a thousand lies are needed. Allegations of "genocide" or "forced labour" in Xinjiang are lies of the century, pure and simple. The United States and the United Kingdom fear that the international community will see through their cooked-up lies about so-called genocide and forced labour in Xinjiang, so they come up with more lies to discredit China, hoping to continue misleading the international community. However, none of the lies spread by the United States and the United Kingdom can deny the fact that Xinjiang enjoys stability and prosperity and that its people live and work in peace and happiness.

People who have visited Xinjiang, China will not believe the lies peddled by the United States and the United Kingdom. What they are doing only further exposes the nature of their tactics, namely, to politicize and instrumentalize human rights and their political agenda of containing China by exaggerating the Xinjiang issue. We must ask the question — with regard to countries, such as the United States and United Kingdom and to the individuals concerned who spread rumours, tell barefaced lies, confuse and mislead and attempt to smear and discredit other countries, should accountability not apply to them as well?

**The President:** I wish to remind all speakers to limit their statements to no more than four minutes in order to enable the Council to carry out its work expeditiously. Flashing lights on the collars of the microphones will



prompt speakers to bring their remarks to a close after four minutes.

I now give the floor to the representative of Malaysia.

**Mr. Aidid** (Malaysia): At the outset, Malaysia would like to thank the delegation of Albania for organizing today's timely meeting. We would also like to thank the briefers for their valuable contributions to today's debate.

Accountability is not an option; it is essential. It remains the only way to end impunity and ensure justice and reconciliation, and prevent further conflict. Serious violations of international law such as genocide, war crimes, ethnic cleansing, crimes against humanity and other severe human rights abuses can destabilize countries and regions, thereby threatening international peace and security.

At the core of our collective effort to establish accountability are indispensable and interconnected rights, namely, the right to truth, justice, remedy and reparations. Malaysia continues to support efforts aimed at promoting and strengthening accountability for violations of human rights and international law, including through international tribunals. At the same time, we strongly believe that true accountability can be achieved only if mechanisms are credible, independent, impartial and transparent.

Malaysia reiterates its call on all parties to uphold the Charter of the United Nations, international humanitarian law and international human rights law. All parties must refrain from the threat or use of force against the territorial integrity or political independence of any State or from any other action that is inconsistent with the United Nations Charter. That should never be compromised, regardless of the motive.

But what is equally important is that the United Nations, particularly the Security Council, must lead by example. All alleged crimes and violations of international law, including crimes and violations by those who consistently violate Security Council resolutions, must be addressed equally and objectively, no matter where and when they occurred.

One clear example of the Security Council's paralysis is its lack of action to enforce accountability for Israel's numerous and severe violations of international law and the Council resolutions. The Council must rise above its accountability deficit, which puts its credibility and legitimacy into question.

My delegation also stresses the importance of accountability for the abuse of veto power, especially with regard to actions aimed at preventing and ending mass atrocity crimes. For that reason, we supported the recent adoption of General Assembly resolution 76/262, which provides a standing mandate for the General Assembly to hold a debate whenever a veto is cast in the Security Council.

The Security Council has a crucial role in defending the Charter of the United Nations, promoting respect for international law and advancing the rules-based international order. The Charter of the United Nations, in Chapter VII, also mandates the Security Council to take enforcement measures to maintain or restore international peace and security. To that end, it is my delegation's firm belief that enforcing justice and accountability must be an integral feature of the Security Council's work and responsibilities.

**The President:** I now give the floor to the representative of Romania.

**Mr. Jinga** (Romania): Let me begin by thanking the Albanian presidency of the Security Council for convening this open debate on a very important topic for the entire international community.

It is our view that much of the global architecture needed to counter impunity is already in place. Yet, looking around, we face widespread death and destruction, which persist around the world, including in Romania's close vicinity. We firmly believe in the long arm of justice and are confident that no perpetrator of atrocities will remain unpunished. In that respect, we must recommit to a series of actions and principles.

First, no one is above the law, no State is exempt from responsibility for internationally wrongful acts and no perpetrator can avoid individual criminal responsibility. The members of the Security Council in particular should set a high moral example in terms of their commitments and actions in the international arena.

Instead, we are witnessing a brutal, unjustified and unprovoked illegal military aggression directed by a member of this very organ against Ukraine. The international community must continue to stand firm against Russia's aggression and united in protecting those who are already suffering or face imminent threats. The unified and consistent response of the international community will serve as clear proof of our commitment to the rule of law and will help deter such illegal acts in the future.



Secondly, we must abide by the judgments of the International Court of Justice. The world Court has a crucial role in the international community's efforts to preserve peace, security and stability, and we have a duty to uphold the institutions that promote and sustain the rules-based international order.

Romania is playing its part in those efforts, as one of the States that have accepted the jurisdiction of the International Court of Justice as compulsory. In addition, Romania launched an initiative to promote the broader recognition of the jurisdiction of the International Court of Justice. We will continue to promote that initiative and invite all States to join us.

We recall the order of the International Court of Justice of 16 March calling on the Russian Federation to immediately suspend military operations on the territory of Ukraine. We urge full compliance with that order.

Romania announced its intention to formulate a request for intervention in the proceedings initiated by Ukraine against the Russian Federation at the International Court of Justice. That decision reflects my country's constant position in favour of the use of international law instruments and institutions in support of maintaining and restoring international peace and security.

Thirdly, we must support the International Criminal Court (ICC). Romania places its full trust in the independent and impartial ability of the ICC to render justice in all the situations under its consideration. We will continue to support its vital role in the fight against impunity and providing assistance and reparations to victims of mass atrocities. To that end, the Romanian Government recently approved two voluntary financial contributions: one in response to the ICC Prosecutor's appeal to States parties and one to benefit the Trust Fund for Victims.

The Security Council has a particular responsibility to ensure that the outstanding arrest warrants issued in the situations that it has referred to the ICC are executed. Such actions would send a strong signal that the perpetrators of atrocity crimes must and can be held accountable if States are unable or unwilling to do so.

In the face of the most heinous acts, it is our common responsibility to act. That is why Romania joined other State parties to the Rome Statute in referring to the Prosecutor of the International Criminal Court the investigation of any acts that might constitute

war crimes, crimes against humanity and genocide that have occurred on the territory of Ukraine.

We must continue to condemn and publicly expose the attacks against civilians. We also have to support targeted efforts to investigate human rights and international humanitarian law violations at the level of the United Nations and beyond.

Romania stands ready to continue to play its part in all those efforts, as a responsible actor in the international arena and a strong supporter of international law and justice.

**The President:** I now give the floor to the representative of Liechtenstein.

**Mr. Wenaweser (Liechtenstein):** The reason the Security Council is discussing ways to strengthen its work on accountability is obvious. There is a strong link between sustainable peace and justice that we have agreed on various occasions, including when we adopted the 2030 Agenda for Sustainable Development. There is ample evidence to support that connection, including too many examples of situations that are on the Council's agenda — from Myanmar to the Sudan and from Syria to Ukraine — in which the pattern of war crimes and crimes against humanity is a direct continuation of the manner in which the war in Syria has been conducted for more than a decade.

Such blatant violations of international law have been largely met with silence by the Security Council, which attempted to refer the situation in Syria to the International Criminal Court (ICC) in 2014 but was unable to do so owing to the vetoes cast by China and the Russian Federation.

Finding the right balance between peace and justice is not the exclusive responsibility of the Security Council — far from it. Effective accountability is typically a long-lasting process, which often requires both criminal accountability and forms of restorative justice. On the latter question in particular, there is great potential for a strong role to be played by the Peacebuilding Commission, which has yet to be explored after more than 15 years of its existence.

But the Security Council has the very important role and responsibility of underlining that justice matters for the maintenance of peace and security and should do so consistently.

As we meet today, we are very far from meeting that standard, and the reality is starkly different. The attempt to include relevant elements in the decision-making of

the Council is the exception rather than the rule. While those issues regularly feature in the speaking points of a number of Council members, there is a silent understanding that effective accountability work in the Security Council is not feasible.

We need to see more innovative approaches in Council consultations and outcomes.

We and many others will of course continue to ask that situations that are particularly alarming be referred to the ICC, which has now been attempted in the Security Council for eight years. We hope that the fact that the veto is no longer the last word in this Organization will change the mindset among Council members in that respect.

But there are other and simpler ways for the Council to address accountability issues.

First and foremost, the Council has a key role to play in asking for the full respect of international humanitarian law by all parties to conflict and in standing ready to take action when that call is not heeded.

Secondly, it should remind parties to conflict of their primary obligation under international law to investigate and prosecute the most serious crimes, in line with the principle of complementarity. In that respect, I join our Chinese colleagues in the comments that they just provided to the Council.

Thirdly, it should welcome efforts undertaken to ensure accountability and prevent impunity, for example, through action by national judiciaries under the principle of universal jurisdiction.

There is no bigger responsibility for the Security Council than to enforce the Charter of the United Nations, at the heart of which is the prohibition of the use of force — the bedrock of the modern international order. Since July 2018, the International Criminal Court has had the competence to investigate and prosecute the crime of aggression. We join the call made in the Council this morning on all States to ratify the Kampala amendments to the Rome Statute.

Since July 2018, the Security Council has also had the power to refer situations involving the crime of aggression to the ICC. That tool has the tremendous potential to deter aggression and support the Council's mandate to maintain international peace and security. The brazen aggression against Ukraine is an obvious case for the Council to make use of that tool. In the

absence of such a referral, the United Nations system will have to find a different way to ensure that there is no impunity for that frontal assault on the international order and the United Nations Charter.

We are committed to engaging with the United Nations membership to build on General Assembly resolution ES/11-1, of 2 March, which addressed the aggression against Ukraine in an overwhelming fashion. We have the law to do so — the definition of the crime of aggression codified in the Rome Statute, reflecting customary international law. We have strong accountability precedents at the United Nations on which to draw, and we have a joint responsibility to protect the international order, as reflected in the United Nations Charter.

**The President:** I now give the floor to the representative of the Czech Republic.

**Mr. Kulháněk (Czech Republic):** Let me begin by congratulating Albania on its first-ever and historic presidency of the Security Council.

We fully support the statements to be delivered on behalf of the European Union, the Group of Friends of Accountability following the Aggression against Ukraine and the Group of Friends of the Rule of Law. This open debate could be no more timely or more topical, as we are now witnessing grave breaches of international law and serious crimes being committed. At the same time, it is States that are the creators of international law and it is States that have the primary responsibility to uphold it. When such instances of the violation of international law occur, the international community must act. We therefore appreciate all meaningful accountability efforts that Member States undertake to ensure justice. The international community must never give up on strengthening accountability and justice for serious violations of international law, even if sometimes the road to justice is complicated and seemingly facing a dead end. The existence of judicial organs, including the International Court of Justice as the principle United Nations judicial organ, is an essential pillar of the international system. We call on all States to comply with its legally binding orders.

When the Security Council, due to the use of the veto, was unable to refer the situation in Syria to the International Criminal Court (ICC) for five long years, in 2016 the General Assembly then stepped in and established the International, Impartial and Independent Mechanism (IIIM). Although the ICC is still the best-

suited judicial organ to deal with the complex situation in Syria, the establishment of the IIIM made a great contribution to ensuring justice.

The role of States does not end once judicial, or quasi-judicial, mechanisms are created. As a matter of fact, it is the cooperation of States that is crucial in delivering justice. In the case of the ICC, it is the legal obligation of States parties to cooperate, and it is the obligation of all to cooperate when there is a Security Council referral under Chapter VII of the Charter of the United Nations or when a State has concluded an agreement with the ICC in that regard. The Security Council must respond to cases of non-cooperation with the ICC.

We remain deeply concerned about reports and testimonies of horrific crimes being committed in Ukraine since the unprecedented, unprovoked and unjustified Russian military aggression, including widespread reports of indiscriminate killings of civilians, as well as deliberate attacks against civilian infrastructure and sexual and gender-based violence. The perpetrators of those war crimes must be held accountable.

We express our deepest solidarity to the victims and survivors of such horrific crimes. We express our strong support for the work of the Independent International Commission of Inquiry on Ukraine, established by the United Nations Human Rights Council. We also appreciate the timely report of experts established under the Moscow Mechanism of the Organization for Security and Cooperation in Europe, which describes clear patterns of violation of international humanitarian law and human rights by the Russian forces. Part and parcel of all accountability efforts is the documentation of crimes. Evidence collection can later be used in criminal proceedings, and those various mechanisms therefore play a crucial role as we strive to achieve and strengthen accountability.

**The President:** I now give the floor to the representative of the Islamic Republic of Iran.

**Mr. Takht Ravanchi** (Islamic Republic of Iran): I would like to thank you, Mr. President, for convening this high-level open debate. I also thank the briefers for their insightful briefings.

Accountability and justice for serious violations of basic rules of international law, particularly those accepted and recognized as peremptory norms and that serve as the foundation of the international legal

order, are essential in the maintenance of international peace and security, while States have the primary legal obligation to adhere to international law and prevent the commission of such atrocities, as well as their prosecution.

Meanwhile, serious violations of international law continue with impunity, and the Security Council has at times failed to uphold its responsibilities in that regard.

In that context, a reference can be made to the Security Council's silence over the Israeli regime's persistent, well-documented and irrefutable atrocities, including war crimes and crimes against humanity, committed against the Palestinian people.

Unilateral coercive measures are employed by certain States as a method of war to starve innocent civilians. Those international wrongful acts violate the Charter of the United Nations and international law. We believe that countries that impose unilateral coercive measures, including sanctions, as a State policy should be held accountable for such crimes.

For decades, Iran has been the target of the most severe economic and financial sanctions of the United States, directly endangering the lives of Iran's most vulnerable population, including children, the elderly and patients. Some patients, particularly children with rare diseases, even died as a result of import restrictions on medicine and medical supplies — a heartbreaking reality.

As a result of Iran's submission to the International Court of Justice on 3 October 2018, the Court unanimously issued an order on provisional measures requiring the United States to remove any sanction on the importation of humanitarian goods. The Court also ordered the United States to make sure that all necessary permits and authorizations are in place and that payment and other financial activities linked to humanitarian goods and services are not restricted. Unfortunately, the United States has not only failed to comply with the Court's order, but also defied it by imposing additional sanctions, particularly during the coronavirus disease pandemic.

In a statement made during her recent visit to Tehran on 18 May, the United Nations Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights emphasized the illegality of such inhumane measures, asserting that States have an obligation under international human rights law to ensure that any activity under their jurisdiction or

control does not result in human rights violations. In that regard, she called on sanctioning States, particularly the United States, to observe the principles and norms of international law and lift all unilateral measures, in particular in areas that affect the human rights and lives of all the people in Iran.

Finally, any efforts at the national level made under the pretence of addressing impunity and maintaining accountability based on universal jurisdiction remain a serious concern due to the selective and arbitrary application of those principles by certain States. It only undermines the international legal order based on international law, in particular the fundamental principles enshrined in the Charter of the United Nations, such as the equal sovereignty of States.

**The President:** I now give the floor to the representative of Luxembourg.

**Mrs. Dostert** (Luxembourg) (*spoke in French*): Luxembourg is grateful to Albania for organizing this open debate on strengthening justice and accountability for serious violations of international law. I thank the President of the International Court of Justice, the United Nations High Commissioner for Human Rights and Mr. Dapo Akande for their briefings.

Luxembourg fully aligns itself with the statements to be made by the observer of the European Union and the representative of the Marshall Islands on behalf of the Group of Friends of Accountability following the aggression against Ukraine (see S/PV.9052). Allow me to add a few remarks in my national capacity.

Strengthening justice and accountability is essential to ensuring and maintaining international peace and security. Peace and justice go hand in hand and are mutually reinforcing.

The link between justice and peace becomes even more evident in the light of Russia's aggression against Ukraine. Luxembourg condemns, in the strongest terms, Russia's aggression against Ukraine and the atrocities perpetrated by the Russian armed forces in the country. Those atrocities can constitute war crimes and crimes against humanity. We must do everything in our power to hold the perpetrators accountable and bring justice to the victims. In that connection, Luxembourg supports the crucial work carried out by the Prosecutor of the International Criminal Court (ICC) in cooperation with the Ukrainian judicial authorities.

The lack of accountability for acts committed in the past and present only encourages the commission of other crimes in the future. I will cite three examples in that regard. In both Myanmar and the Sudan, armed forces accused of acts of genocide carried out coups d'état against legitimately elected civilian authorities. With regard to Syria, we deeply regret the fact that the Security Council was unable to adopt a draft resolution referring the situation in Syria to the ICC on 22 May 2014 due to the use of the veto by two permanent Council members (see S/PV.7180). Eight years later, such crimes continue.

We encourage the Security Council to use its right of referral to the ICC when crimes within the Court's jurisdiction appear to have been committed. We invite all Member States to subscribe to the code of conduct by which more than 120 States have already pledged not to vote against any draft Security Council resolution that seeks rapid and resolute action to end genocide, crimes against humanity or war crimes or seeks to prevent such crimes occurring.

When the Council is paralysed, it is important to support the mechanisms and commissions of inquiry set up by the General Assembly and the Human Rights Council to document serious violations of international law in order to fight against impunity, whether in Syria, Myanmar, Ethiopia or Ukraine.

The role of civil society is also essential. Gathering evidence and collecting testimonies helps to lay the foundations in order to ensure that, when the time comes, the perpetrators of atrocities are held accountable.

Accountability is also the responsibility of States. We can rely on the International Court of Justice, the principal judicial organ of the United Nations, to render judgments and give impartial advisory opinions. Like other speakers, I would like to recall the order on provisional measures issued by the Court on 16 March, including the stipulation that Russia must immediately suspend the military operations launched on 24 February on Ukraine's territory. We urge Russia to comply with that legally binding order.

Luxembourg remains committed, alongside all victims, international courts and other partners, to prevent impunity for the perpetrators of atrocities and ensure respect for international law.

**The President:** I now give the floor to the representative of Poland.



**Mr. Szczerski** (Poland): I wish to express our appreciation to the Albanian presidency for organizing this open debate and to all briefers and delegations for their important contributions on this timely topic. I say so especially given that Poland is a proud member of the Group of Friends of Accountability following the aggression against Ukraine.

Let us be honest with ourselves. We did not succeed, as an international community, in preventing the Russian war against Ukraine. It is therefore not our duty, as some voices are advocating, to search for face-saving solutions for the aggressors — rather, we must do everything we can to save the face of the international community. That strategy should be based on assuring justice and accountability for the crimes and serious violations of international law committed in Ukraine.

The Security Council should play a significant role in that process, and a special duty within this organ lies with its permanent members. While pursuing the main goal of the United Nations to maintain international peace and security, the Council also has a track record of strengthening justice and accountability for serious violations of international law.

It is unacceptable that there have been instances — including in the context of the Syrian conflict and the current war in Ukraine — in which some Council members have acted against the goals of the United Nations by preventing international lawbreakers from being brought to justice. In doing so, they have obstructed accountability for violations of international law and made it difficult if not impossible to punish the perpetrators.

In that context, reference should be made to the principle enshrined in Article 2, paragraph 2, of the Charter of the United Nations, requiring that all members fulfil, in good faith, the obligations they have assumed in accordance with the Charter. That principle also applies to the veto power exercised by the five permanent members of the Council. If a permanent Council member uses a veto to avoid responsibility for aggression, as Russia recently did, then such behaviour constitutes an abuse of its veto rights and cannot be considered to be in accordance with international law.

In cases in which the Security Council's work is being obstructed, appropriate actions should be taken by other United Nations organs. After all, the

preservation of international peace and security is not solely the task of the Security Council and requires an active and effective search for legal solutions to ensure that justice is delivered.

In a world in which access to the global network of communication is rapidly growing, Poland also attaches great importance to the issue of countering propaganda and disinformation. The work of independent and free media constitutes an effective accountability mechanism used to document gross violations of international law and serves as a platform for bringing the necessary attention to victims.

The process of strengthening accountability and justice for war crimes and serious violations of international law cannot be completed without establishing truth, justice and effective remedies for victims and their families. It is never too late to do so. Many examples show that victims await justice for decades.

The Katyn massacre, during which almost 22,000 Polish prisoners of war were executed by the Soviets in the spring of 1940, is one such example of the most atrocious crimes and illustrates the repugnant process of avoiding international responsibility. It is a blatant example of the denial and distortion of the truth and concealment of the facts, thereby preventing a proper investigation.

To date, the families of Katyn victims have not received any sort of redress due to the fact that the perpetrators of the massacre disappeared, first because of the Soviet presence among the Allies and then due to the fog of the Cold War, when the Allied Powers chose to turn a blind eye to it. Although the Soviet responsibility for the massacre was finally confirmed after the collapse of the Soviet Union, the victims' relatives are still seeking justice 82 years later.

Let us not repeat the mistakes of the past. Assuring justice and accountability is our common obligation in the face of every war crime committed, no matter where in the world.

**The President:** There are still a number of speakers remaining on my list for this meeting. Given the lateness of the hour, with the concurrence of the members of the Council, I intend to suspend the meeting until 3 p.m.

*The meeting was suspended at 1.20 p.m.*