



# Security Council

Seventy-fifth year

## 8723<sup>rd</sup> meeting

Thursday, 13 February 2020, 10 a.m.

New York

*Provisional*

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*President:* Mr. Goffin/Mr. Pecsteen de Buytswerve . . . . . (Belgium)

*Members:*

China . . . . .	Mr. Wu Haitao
Dominican Republic . . . . .	Mr. Singer Weisinger
Estonia . . . . .	Mr. Volmer
France . . . . .	Mr. De Rivière
Germany . . . . .	Mr. Licharz
Indonesia . . . . .	Mr. Djani
Niger . . . . .	Mr. Ankourao
Russian Federation . . . . .	Mr. Nebenzia
Saint Vincent and the Grenadines . . . . .	Ms. DeShong
South Africa . . . . .	Mr. Matjila
Tunisia . . . . .	Mr. Ladeb
United Kingdom of Great Britain and Northern Ireland . . . . .	Ms. Pierce
United States of America . . . . .	Ms. Norman-Chalet
Viet Nam . . . . .	Mr. Dang

## Agenda

Peacebuilding and sustaining peace

Transitional justice in conflict and post-conflict situations

Letter dated 4 February 2020 from the Permanent Representative of Belgium to the United Nations addressed to the Secretary-General (S/2020/98)

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

### **Adoption of the agenda**

*The agenda was adopted.*

### **Peacebuilding and sustaining peace**

#### **Transitional justice in conflict and post-conflict situations**

#### **Letter dated 4 February 2020 from the Permanent Representative of Belgium to the United Nations addressed to the Secretary-General (S/2020/98)**

**The President** (*spoke in French*): I warmly welcome the 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 Angola, Argentina, Armenia, Azerbaijan, Bangladesh, Brazil, Canada, Colombia, Croatia, Egypt, El Salvador, Fiji, the Gambia, Georgia, Guatemala, India, Iraq, Italy, Japan, Kenya, Lebanon, Liechtenstein, Luxembourg, Malta, Morocco, Nepal, the Netherlands, Norway, Pakistan, Peru, Portugal, Qatar, Romania, Rwanda, Sierra Leone, Slovakia, Slovenia, Spain, Sri Lanka, Switzerland, the Syrian Arab Republic, Turkey and Ukraine 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: Ms. Michelle Bachelet, United Nations High Commissioner for Human Rights; Mr. Francisco de Roux, President of the Commission for the Clarification of Truth, Coexistence and Non-Repetition of Colombia; and Ms. Yasmin Sooka, Executive Director of the Foundation for Human Rights in South Africa, Trustee of the Desmond Tutu Peace Centre and Chair of the Commission on Human Rights in South Sudan.

Ms. Bachelet is joining today's meeting via video-conference from Geneva.

In accordance with rule 39 of the Council's provisional rules of procedure, I also invite the following to participate in the meeting: Mr. Robert Mardini, Permanent Observer of the International Committee

of the Red Cross to the United Nations; and His Excellency Mr. Björn Olof Skoog, Head of Delegation of the European Union to the United Nations.

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/2020/98, which contains the text of a letter dated 4 February 2020 from the Permanent Representative of Belgium to the United Nations addressed to the Secretary-General, transmitting a concept note on the item under consideration.

I now give the floor to Ms. Bachelet.

**Ms. Bachelet:** I am grateful to Belgium for organizing this vital discussion of such relevance to international peace and security, which I am sure will contribute to the increasing consideration of transitional justice as a useful peacebuilding tool by the Security Council and other bodies.

We know that lasting peace is interlinked with justice, development and respect for human rights. We know that peace does not automatically happen when weapons fall silent and atrocity crimes cease. To be able to rebuild lives without fear of recurrence and for society to move forward, suffering needs to be acknowledged, confidence in State institutions restored and justice done. Demands for justice can be denied, but they will not disappear. The recent popular overthrow of the regime in the Sudan was driven in large part by demands for justice across society built up over decades of impunity for human rights violations. Mass protests across the world have once again brought home the power of popular demands for equality, social justice, gender justice, climate justice and fundamental rights.

Transitional justice processes have repeatedly shown that they can help to address grievances and divisions. I have seen that first-hand. My own experience in Chile convinced me that transitional justice processes that are context-specific, nationally owned and focused on the needs and informed choices of victims can connect, empower and transform societies, and thereby contribute to lasting and just peace. The multiple post-conflict or post-authoritarian situations I have witnessed have strengthened that conviction.

Truth-seeking initiatives not only enable victims to recount their experiences, they also open new spaces where victims and perpetrators can re-establish a connection. They facilitate the recognition and

accommodation of multiple narratives about what has occurred and the formulation of more searching recommendations for redress and reform. Over the past 30 years, various truth commissions in the Americas and elsewhere have greatly contributed to transitional justice processes. Guatemala stands out for the landmark final report of its truth commission — *Memoria del Silencio*. The 1999 report provided an authoritative record of human rights violations during the conflict, giving a voice to the victims and analysing the dynamics underlying 36 years of conflict. It was instrumental in advancing victims' rights, including in several high-profile judicial cases of conflict-related sexual violence and other crimes, which resulted in orders for victim-centred and transformative reparations.

Such processes are often deeply empowering for victims, in particular women, indigenous communities and minorities that have been marginalized. That is vital to healing wounds and binding societies together. I have just returned from a mission to the Democratic Republic of the Congo, where the recent United Nations-supported consultations in the Kasai region enabled many victims to express their views on truth, reconciliation, reparation and the prevention of future conflict. The consultations laid the groundwork for the establishment of a provincial peace, justice and reconciliation commission. That locally driven project, like others supported by the Peacebuilding Fund, establishes important links between transitional justice processes, the root causes of conflict and socioeconomic reintegration.

While I was in Bunia, Ituri province, I was struck by the strong desire expressed by both the Hema and Lendu communities for transitional justice processes and by their emphasis on justice as the path to peace and reconciliation. The current conflict between the Lendu and Hema was preceded by a previous cycle of violence in 2003 that did not give rise to a concerted effort to promote accountability. I am convinced that the failure to sustain justice processes has been a factor in the revival of violence today. Equally, an inability to address the violence of today could pose a serious risk of renewed violations and abuses in the future. We have learned these lessons and know how to address them. The real question is whether there is the collective will to do so.

My Office has witnessed the transformative power of transitional justice in many countries, particularly its role in shaping guarantees of non-repetition. Such

guarantees comprise a package of recommended measures to prevent the recurrence of conflict and human rights abuses and are grounded in deep analysis of the root causes and escalating manifestations of conflict and atrocity crimes. United Nations fact-finding missions and commissions of inquiry have repeatedly played a vital role in bringing facts to light, providing national authorities and the international community with an honest mapping of often complex and long-lasting issues. The contribution of such recent mechanisms in relation to Myanmar, South Sudan, Syria and Yemen, for example, cannot be overstated.

For a society to truly succeed in establishing a transition to sustainable peace, issues such as systemic discrimination and exclusion, institutional deficiencies, unfair power structures, inequalities and structural impunity must be identified, acknowledged and addressed. Guarantees of non-recurrence will therefore often relate to institution-building. It is also essential to ensure the broadest possible participation of civil society organizations in decision-making. In recognition of that value, many transitional justice recommendations emphasize the empowerment of civil society, history education, trauma counselling and memorialization initiatives.

In virtually every conflict or post-conflict situation, it is particularly crucial for military and police forces — and, more broadly, all institutions of Government — to regain the confidence of traumatized and abused communities. Fair, even-handed and accountable use of public power is central to rebuilding shattered trust in law enforcement. To that end, vetting processes and security sector reforms should be given high priority, while noting that a disciplined, professional and principled force is in the interest of the security forces and the Government itself as well.

Considerable work is currently being undertaken in Colombia with regard to such guarantees of non-recurrence in the context of the Comprehensive System for Truth, Justice, Reparation and Non-Repetition, which my Office supports. The landmark victims law of 2011 calls for a wide range of preventive and potentially transformative measures. They include the promotion of mechanisms that prevent and resolve social conflict, legal empowerment of victims, distributive land restitution measures and measures to dismantle economic and political structures that have benefited from, and given support to, armed

groups. I acknowledge the importance of the Council's support of that key process.

To further that work, the Colombian Commission for the Clarification of Truth, Coexistence and Non-Repetition has established 28 field presences and engaged in non-repetition dialogues at the community level. It has also received thousands of testimonies from victims and individuals from State and military institutions. Those and other measures that recognize victims' rights, tackle root causes of the conflict and its consequences for the people and promote positive social, economic and political transformation constitute pillars designed to structure a culture of non-repetition in the country. I look forward to hearing Mr. Francisco de Roux address the Council shortly on his experience and insight in that area.

In its sustaining peace resolution (resolution 2282 (2016)), the Council rightfully emphasized that a comprehensive approach to transitional justice is a key component of the efforts to sustain peace. Creating trust and understanding between former enemies and charting a path towards sustainable peace and reconciliation will always be a difficult challenge. We know that transitional justice cannot be imported or imposed from outside. Locally led and locally appropriate permutations of transitional justice have the best chances of success. Without humility and modesty, the risk of failure is real. However, the international community, and the Council in particular, have key roles to play in assisting transitional States in those complex processes — by sharing experiences, mandating international support and encouraging the implementation of genuinely comprehensive approaches.

A recent example is the Council's mandating, in paragraph 5 (e) of resolution 2489 (2019), of the United Nations Assistance Mission to Afghanistan explicitly to advise on the

“establishment and implementation of judicial and non-judicial processes to address the legacy of large-scale human rights violations and abuses as well as international crimes and to prevent their recurrence”.

Clear mandates such as those provide a strong and welcome foundation for United Nations engagement with Government and civil society.

Transitional justice should not be seen as an alternative to criminal accountability for perpetrators

of atrocity crimes. But that criminal accountability, which is vital, should be accompanied by a broad range of complementary measures to support truth, justice, reparation and guarantees of non-recurrence, which help to break cycles of violence.

There is clearly no single way to get the mix of those measures precisely right. But there is a way to get it wrong — and that is to consider that victims' rightful demands for justice are an inconvenient distraction that can be papered over or indefinitely delayed. A failure to engage in such processes will not resolve conflicts; it will fuel recurrence. I encourage the Security Council to acknowledge and make full use of the transformative impact of transitional justice in its consideration of matters of international peace and security.

**The President** (*spoke in French*): I thank Ms. Bachelet for her briefing.

I now give the floor to Mr. De Roux.

**Mr. De Roux**: I would like to express my gratitude to the Security Council and to the Belgian people for inviting me to take part in today's debate on the issue of transitional justice, which is so important to us.

(*spoke in Spanish*)

On behalf of the victims and Colombia's Truth Commission, I would like to begin by saying that transitional justice is the most comprehensive, dynamic and promising peacebuilding instrument at the disposal of victims around the world and of peoples who have endured gross human rights violations during situations of internal armed conflict. It is currently the best international response to tragic wars waged against humankind. It has a very small budget as compared to the money allocated to military operations and used in business transactions. Yet it is the most sacred and most important activity in the work of the United Nations, because it brings together victims around the world — along with their own understanding of the very nature of being a victim — and future generations, which have the right to live in dignity. Peace between the State and the Fuerzas Armadas Revolucionarias de Colombia (FARC), thanks to those who brokered the peace agreement and thanks to transitional justice, has brought about vital positive changes in Colombia and given our society new hope despite all the difficulties.

I will touch on five points — victims, truth in transitional justice, non-repetition, comprehensive



transition and the role of the Security Council and of the international community.

First, the victims of armed conflict are the *raison d'être* of transitional justice, which allows itself to be influenced by the pain of human tragedy in the quest for solutions that bring about coexistence and reconciliation. During the conflict in Colombia, which lasted 50 years and ended in November 2016, nearly 240,000 civilians died and almost 9 million were recognized as victims. The victimized communities continue to clamour for an end to the war now, from all sides. Transition in all countries undergoing it begins with a ceasefire and peacemaking and develops into the long and difficult process of peacebuilding, in which the most important protagonists are the victims. With transitional justice, not only are reparations made to the victims; they are recognized as citizens, with full political and social rights in their countries and the world.

Secondly, the truth has become the gateway to transitional justice and the basis for the collective building of a shared future in countries divided by war. Transitional justice has been improved and has distinct institutions that form a system that operates on the basis of three kinds of truths. The first is legal truth, which, in Colombia, is unveiled by the Special Jurisdiction for Peace, tasked with ensuring that there is no impunity. It is a truth that determines those who are guilty under the law, as well as their sentences. It is built with the testimonies of the victims and victimizers. The victims participate in the sentencing, while punishment is not based on revenge but on the rehabilitation of victims and perpetrators. One such example in my country is the sentence requested by the victims for former guerrillas to tell the truth and acknowledge their part in the killing by the FARC of 11 deputies of an Assembly of one of our territories. The perpetrators were sentenced to eight years of restricted freedom and must build a school, with their bare hands, for 2,000 children.

The second type of truth is moral, historical and social truth. The Truth Commission is responsible for truth of that kind. It is a truth that is not built but, instead, uncovered. It comes to light and cannot remain shrouded in secrecy. It is truth that starts with the testimony of victims from all sides, seeks to determine the reason for the events and the violence that took place and calls for reflection in the quest for an overall understanding of the tragedy, with the aim of building a new future, whether in Colombia, Peru, Guatemala,

Sierra Leone or Mali. It is a truth without political or economic interests. It seeks the greatest possible independence and condemns no one individual but holds itself accountable to public ethics. It also listens to the various parties to the conflict and compares and contrasts their opinions and interpretations. Truth of that kind does not seek to increase the number of accusations or fuel hatred but rather to overcome social divisions based on the painful but liberating truth.

Lastly, there is a third type of truth, for which the Search Unit for Missing Persons in Colombia is responsible. The Unit assists families in dealing with the aftermath of the most cruel and concrete way to break someone — to make him or her disappear forever. In Colombia, seeking that truth is a tremendous feat, as more than 100,000 people are missing.

Thirdly, non-repetition is the legacy of truth commissions and their contribution to transition. Several programmes are employed to ensure that armed conflict never recurs. That legacy continues with State entities and institutions, civil society and stakeholders who were in the war. In order to ensure non-repetition, public events acknowledging the dignity of the victims and the acceptance of responsibility by those accountable are required. South Africa set the example. Such events are taking place in Colombia today, and tomorrow I will travel to Medellín to participate in one of them. Former FARC fighters asked for forgiveness last week for the terrorist bombing attack in which they killed 36 people and injured 196 others in a prominent social club in Bogotá 17 years ago.

In order to ensure non-repetition, processes for coexistence are also needed in communities divided by war. Such is the case in the small town of Riachuelo, in my country, which is seeking reconciliation after paramilitary troops sexually abused the children of the local high school, and the community became divided in the face of the brutal and overwhelming power of the armed troops. Thousands of communities throughout the world are in need of reconciliation to prevent children in the future from having to experience the violent clashes that their grandparents experienced during the conflict.

My fourth point concerns comprehensive transition. That is the process by which the State and the rebels strive to fully comply with the signed peace agreement. Comprehensive transition demands assuming responsibility for the lives of the ex-combatants and

reintegrating all of them into society with dignity. It demands that the process of cultural, economic and political change in the structures and dynamics that gave rise to the conflict be carried out with foresight and determination over a period of several years. It demands political will within Governments, which must not only comply with the totality of the agreement but go even further, until all political violence is quelled.

When new Governments fail to sign State agreements, lack clarity about supporting what was agreed and create doubts about the transition that has been set in motion, the polarization that existed during the war is re-intensified within society. In such contradictory situations the energy and audacity needed for transition are jeopardized, and the very programmes involving former combatants and communities established by the Administration in order to demonstrate that it favours peace are weakened.

*(spoke in English)*

In that regard, the intense diplomatic activity of the Security Council is of the utmost importance.

*(spoke in Spanish)*

Fortunately, when the process of comprehensive transition is already in the hands of society, especially young people, no one can stop it, as peoples will not give up on peace once they have experienced the joy of living free of terror.

Fifthly, with regard to the Security Council, the Council and the international community must play a vital role in ensuring transitional justice. Peace is the responsibility of a nation's citizens, but the cases that call for transitional justice involve extreme ruptures in the human experience. Ensuring transitional justice is therefore incumbent on the world community, as we are dealing with dynamically and externally interrelated conflicts that no country can manage alone.

Transitional justice is a process involving a high level of ethics at the international level to address the core issue of the human tragedy at hand, absent any interest related to political or military intervention. It is implementing the sum of lessons learned with regard to best practices in order for restorative justice to prevail over criminal justice, safeguard the sentences dictated by this justice of peace and place the interests of people above all other issues.

Without such international support, an end to the wars in the countries being considered in this debate would not have been possible, and neither would the peace and transition in Colombia have been possible, which saw the presence of the United Nations Verification Mission and the mission of the Organization of American States, the constant solidarity of the community of nations and the united and decisive support of the Security Council.

The peoples who are moving towards a greater peace on the path of transitional justice place their trust in the Council and are profoundly grateful to it.

**The President** (*spoke in French*): I thank Mr. De Roux for his briefing.

I now give the floor to Ms. Sooka.

**Ms. Sooka**: I would like to thank the Belgian Government for inviting me to participate in this important open debate on transitional justice.

I come from a country where, during the years of apartheid, scores of detainees were said to have jumped out of windows at police headquarters, hanged themselves in cells or died by hitting their heads against police filing cabinets or by fatally slipping on bars of soap. Inquests held under the apartheid system found nobody responsible for their deaths. Two decades after South Africa's transitional justice process, those inquests are at last being reopened, and families now have hope for justice.

"I would like to know how and why he died," said Jill Burger, the sister of trade union activist and doctor Neil Aggett, two weeks ago when she testified at the reopened inquest. The apartheid State responsible for his death in custody found that he had hanged himself in his cell. Many of those who were detained and tortured during that period are now speaking out about their torture at the hands of South Africa's notorious apartheid security branch.

Reopened inquests are a symbol of hope for countless victims and their families all over the world in their long arduous struggle for truth and justice. The reopened inquests in South Africa and the latest report that Omer Al-Bashir might at last be transferred to the International Criminal Court to face genocide and war crimes charges demonstrate the importance of addressing impunity, which is directly linked to restoring the rule of law as a prerequisite for national healing and reconciliation.

Transitional justice suggests the drawing of a line between the past and the future. However, even the best transitional processes often exclude many people who are not yet ready to speak or who have not been given an opportunity to tell their stories. As in my own country, it can take decades to deliver justice, and often the quest for the truth will be driven by the families of victims, helped by a handful of determined civil society actors assisting them.

I was fortunate to be a part of South Africa's Truth and Reconciliation Commission, established in 1995 by Nelson Mandela, South Africa's first democratically elected President. South Africa's process was deeply influenced by the Latin American experiences of establishing accountability while at the same time ensuring stability and the continuance of the new Government.

As an actor in the process I was, however, always deeply conscious of the limitations of the narrow mandate, which did not allow us to consider structural violations. The Principles to Combat Impunity, developed by Louis Joinet and later updated by Diane Orentlicher, advanced the field of transitional justice, as Joinet posited that States are primarily responsible for ensuring that victims and their families are able to realize their inalienable right to truth, justice and reparations.

Joinet transformed transitional justice from a technocratic process of one-size-fits-all to a holistic approach that is context-specific, inclusive and participatory and centralizes the rights of victims. Joinet's work was premised on the recognition that gross human rights violations and atrocity crimes are rooted in State structures that manifest unequal power asymmetries and shape contexts of extreme violence and repression.

African experiences have also challenged the narrow focus on civil and political rights violations in the light of the legacies of violence and structural violations arising from their colonial histories and wars of liberation, including land dispossession, corruption and economic crimes. Earlier transitional justice processes also ignored the gender dimension of conflict. However, the transitional justice processes adopted in countries like Sierra Leone, Peru and, more recently, Tunisia have adopted a gender lens that deliberately focuses on the inclusion and participation of women and girls.

When they were consulted on the recommendations of the Truth and Reconciliation Commission, rural women in Sierra Leone asked the Commission to ensure that the Government allocate a percentage of the funds that it received from the Heavily Indebted Poor Countries Initiative towards the secondary education of girls, as most poor families prioritized the education of boys. The women also recommended that the Government implement constitutional reforms to improve their legal status regardless of whether they had been married under Islamic law or customary law. The work of the Truth and Dignity Commission in Tunisia has been ground-breaking, including ensuring an independent budget to facilitate the inclusion and participation of women and girls.

However, accountability for conflict-related sexual and gender-based violence remains a challenge at both the domestic and international levels. My experience in investigating sexual and gender-based violence has convinced me of the importance of understanding the role that gender norms play in the fostering of violence and human rights abuses. Sexual and gender-based violence is still too often narrowly framed as a matter of gender identity, and insufficient attention is given to its causes. That obscures the fact that the drivers of conflict-related sexual violence are similar, irrespective of the victim's identity.

In fact, evidence shows that perpetrators use prescribed gender roles to punish and terrorize women and employ the same tactics to humiliate and emasculate men. Focusing on women and girls is critical, but ignoring the violations perpetrated against men and boys limits our analysis of how gender norms fuel the use of sexual violence in conflict and stymies our efforts at prevention. That is evidenced by the testimony that is emerging from many war zones.

However, fragile States emerging from conflict have not always been able to implement the ambitious transitional justice programmes that they adopt. In many instances, they lack technical capacity and, often, the political will to do what is necessary. In both those instances, the United Nations should be required to provide vital support for the implementation of such processes. Since 2004, the Security Council has referred to or prescribed rule-of-law and transitional justice interventions in more than 60 resolutions.

For example, the transitional justice-related role of peacekeeping missions, such as the United

Nations Mission in South Sudan, the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic and the United Nations Multidimensional Integrated Stabilization Mission in Mali, has been critical for international peace and security. Peacekeeping operations are also the best forums for promoting transitional justice through their support programmes for the disarmament, demobilization and reintegration of former combatants and their contributions to prevention through institution-building.

The recent fifth research report on the rule of law of Security Council Report focuses on how impunity has been responsible for some of the world's most devastating conflicts, exploring in great detail four country situations: Myanmar, Syria, Ukraine and Yemen. The report notes that,

“Ending impunity is not only a matter of principle. For the Council, it is also a practical tool to maintain international peace and security. Lack of action on accountability in conflicts where mass crimes are committed risks hampering the Council's ability to address and resolve those conflicts more broadly, in a way that ensures long-term stability and avoids the resumption of conflict.”

Continental bodies, such as the African Union (AU), have also begun to play a critical role in promoting transitional justice, as evidenced by the African Union's role in 2006 in the prosecution of Hissène Habré, the former President of Chad. The AU and the Intergovernmental Authority on Development have also been instrumental in facilitating the peace process for South Sudan, as well as the Revitalized Agreement on the Resolution of the Conflict in South Sudan.

African Union member States also recently adopted the AU's transitional justice policy on 12 February 2019. That policy is meant to guide member States towards achieving sustainable peace, justice, reconciliation, social cohesion and healing after experiencing mass atrocities. While the policy is to be welcomed, we should remember that policies alone cannot substitute for a lack of political will to deal with accountability for grave crimes.

The Security Council Report document I mentioned explores in great detail the response by various organs of the United Nations to the crisis in those four countries, but notes that the Security Council has to date been unable to either bring justice to the victims or seriously

affect the course of the conflict. The Security Council must address impunity using a prevention lens to ensure the non-recurrence of violations, but it also needs to address the indirect causes of conflict or factors that exacerbate conflict, namely, structural violence, discrimination, economic exploitation, unequal power relations and climate justice.

In charting the road ahead, the Council needs to be more innovative, taking decisive approaches towards current conflicts on its agenda and acting in concert with other United Nations bodies, including the Human Rights Council, the Office of the High Commissioner for Human Rights, the General Assembly and continental bodies such as the African Union, so as to enhance its legitimacy and its effectiveness in maintaining international peace and security. That is also true for a continental body like the African Union, if we are to silence the guns by 2020.

As we take forward a transitional justice agenda, it is essential to ensure that peace and justice are seen as mutually reinforcing imperatives and are not replaced by the erroneous notion that peace must come first, before accountability. Prevention and building a sustainable peace require that we address mass atrocity crimes, which are the legacy of violent conflicts, and that we restore the trust deficit between the State and its citizens so that the State works for all citizens, irrespective of ethnicity, religion, gender or race. While we have to acknowledge the constraints that we operate under, we must also focus our efforts on ensuring that victims and their families are able to access justice and have their dignity restored.

**Mr. President** (*spoke in French*): I thank Ms. Sooka for her briefing.

I shall now make a statement in my capacity as Minister for Foreign Affairs and Defence of Belgium.

How can we reconcile and rebuild a society following mass atrocities and massive human rights violations? Such events destabilize families and entire communities. Their consequences are usually felt over decades or even generations. The three testimonies that we heard today illustrate those challenges but also outline prospects for solutions.

Transitional justice is the set of measures intended to respond to that difficult past. It encompasses the full range of tools to provide truth, justice and reparations to victims, with the objective of preventing the recurrence



of future conflicts or atrocities. The Security Council plays an important role in that area. Peace operations can help States build capacity and reform their public institutions in order to restore the rule of law. For almost 30 years, they have contributed to implementing transitional justice measures.

Many of those processes, if not all, have had a significant impact on the populations concerned by giving them some form of justice to which they would otherwise not have had access. For my country, it is clear that establishing accountability for human rights violations and the most serious crimes is crucial in order to restore the population's confidence in inclusive institutions and thereby achieve lasting peace.

Peace and justice should not be seen as opposing objectives, but rather as mutually reinforcing. In accordance with the principle of complementarity, the International Criminal Court may also have a role to play alongside national transitional justice measures in cases where the State concerned is unwilling or unable to effectively carry out the investigation or prosecution.

However, the implementation of transitional justice is complex and of course involves many challenges. There is often a risk of falling into a victor's justice. Certain measures, including the restoration of a criminal justice system, can be very costly and entail a timeline that is unable to address the immediate challenges. Similarly, the financial resources required by disarmament, demobilization and reintegration processes may appear inadequate compared to the victims' expectations with regard to reparation.

The sequence of the measures to be adopted is therefore critical for a successful transition. Mechanisms such as truth commissions and vetting processes are sometimes more appropriate than criminal proceedings when the post-conflict situation remains fragile, although some of those measures may facilitate prosecutions at a later date. Therefore, when the Security Council adopts measures to support a transitional justice process, it must be careful not to take a generic approach. We must focus our attention and actions on clear objectives that take the specific context of each situation into account. Certain guiding principles can nevertheless be drawn from numerous experiences over the past 30 years. In that connection, I would like to emphasize the following points.

First, an approach that encompasses all aspects of transitional justice is fundamental in order to prevent its

four pillars — truth, justice, reparation and guarantees of non-recurrence — from developing independently of each other. Those pillars are interdependent and complementary and should also create synergies with other transition processes. A holistic approach is therefore essential, and the Security Council has a role to play in that regard.

Secondly, any transitional justice process must be subject to national ownership. For example, we have seen cases in which the lack of physical proximity of certain criminal mechanisms can make it difficult to find solutions and support the population. Awareness campaigns are also often crucial.

Thirdly, the needs and demands of victims must be at the heart of transitional justice processes. Victims should be recognized as rights holders and included in the definition of measures decided by the national authorities.

Fourthly, a more inclusive process will be more effective. That means paying particular attention to the most vulnerable victims, beginning at the development phase of transitional justice programmes, by organizing national consultations that involve victims as well as civil society.

Transitional justice processes must also include a gender perspective. The voices of women are often overlooked when it comes to establishing a version of past events.

Fifthly, and finally, transitional justice is a vital tool for enabling sustainable peace and development, and therefore the root causes of conflicts must also be taken into account.

Those are some of the key principles that could guide the Council in its efforts to support transitional justice processes. I welcome the presence of a large number of Member States that have come to share their experiences and suggestions. I look forward to their contributions to this debate.

To conclude, I would like to echo the words of Secretary-General Guterres when he said that the challenge we face here is bringing truth, justice and reconciliation together.

I now resume my functions as President of the Council.

I call on the Minister for Foreign Affairs, Cooperation, African Integration and Nigeriens Abroad of the Republic of the Niger.

**Mr. Ankourao** (Niger) (*spoke in French*): Allow me to congratulate Belgium on its assumption of the presidency of the Security Council. As this is the first time I take the floor here, I wish to assure Belgium of my delegation's full support. I welcome the choice of theme for this open debate, which is particularly relevant due to the importance attached by the international community to transitional justice in conflict and post-conflict situations, especially in Africa.

In his 2004 report on the rule of law and transitional justice, the former Secretary-General said that:

“The notion of ‘transitional justice’ ... comprises the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.” (*S/2004/616, para. 8*)

In the same vein, I would like to recall the words of the current Secretary-General, Mr. António Guterres, during an open debate last year:

“Reconciliation ... cannot be a substitute for accountability or pave the way for amnesty for serious crimes under international law.” (*S/PV.8668, p. 3*)

That is why I remain convinced that, while it is necessary to promote reconciliation, it is equally important to break the cycle of impunity, especially in extreme situations characterized by mass atrocities. Therefore, the successful implementation of a just transition and a process of true reconciliation contributes to preventing the resurgence of conflicts and allows for their sustainable resolution.

In that connection, the Niger supports the actions of the United Nations in the area of transitional justice, in particular those aimed directly at ensuring peacebuilding and peacekeeping. The Niger will always support the efforts of political missions and of the country offices of the Office of the United Nations High Commissioner for Human Rights that aim to strengthen trust between populations and security forces and to consolidate peace in the wake of conflicts.

Due to the conflict we are enduring with terrorist groups that are attacking our people along some of our

borders, the Niger has created the High Authority for Peacebuilding — an entity that has been tasked with the mission of ensuring that the essential needs of victims are met, preventing serious human rights violations, guaranteeing transitional justice and establishing a climate of trust between the population and the security forces. That entity, which has received strong support from the United Nations system and other partners, has achieved significant success, which I must commend.

The Niger supports General Assembly resolution 70/262 and Security Council resolution 2282 (2016), which place particular emphasis on the critical importance of transitional justice in efforts to sustain peace. We also endorse the African Union's transitional justice policy adopted in February 2019. As pointed out by the Chairperson of the Commission, Mr. Moussa Faki Mahamat, transitional justice is essential for the promotion of human rights and justice, peace and security, good governance and development.

In that regard, the Niger notes that it is crucial for the African Union to have a frame of reference for authentic African transitional justice, based on its many progressive approaches and methodologies, that is rooted in African shared values, traditional African justice systems and African experiences.

**Mr. Volmer** (Estonia): Estonia thanks the Kingdom of Belgium for organizing today's open debate, as well as all the briefers for their interventions.

If we intend transitional justice mechanisms to truly heal grief-stricken communities, the measures taken need to be comprehensive, coherent, locally owned and based on international law.

Based on our own national experience — and indeed we have been there — in order to overcome the harmful legacy of mass atrocity crimes, it is vital to build strong institutions capable of preserving the rule of law and ensuring human rights for all. After regaining independence in 1991, Estonia re-established the rule of law and reinstated democratic institutions, in conformity with international legal standards and obligations, while bringing to justice the perpetrators of war crimes and crimes against humanity that were committed during the occupation by the repressive regime.

Estonia has been active in sharing the experience and lessons learned in this process, including by providing capacity-building in the Eastern Partnership region of Europe and programmes relating to good governance,

in particular e-governance and cybersecurity, in all regions of the world.

Estonia has further assisted women in gaining livelihoods and worked to provide children with educational opportunities in various conflict and post-conflict situations through development cooperation initiatives. Today we can hardly imagine a community being whole without the empowerment and full and equal participation of women at all stages of the rebuilding of societies. We also have to ensure the engagement of children in justice and reconciliation processes.

If we want communities to be peaceful and resilient, it is critical to acknowledge past violations and to have redress for victims.

No one can remain above the law. If authorities are unable or unwilling to fulfil their primary responsibility of bringing the perpetrators of the most serious crimes to justice, and there is no other criminal accountability mechanism setup, it is the International Criminal Court (ICC), as a complementary judicial institution, that assists States in bringing about justice for past crimes.

Estonia welcomes recent reports of the Sudan's commitment to cooperate with the ICC and its readiness to hand over all five suspects to the ICC to face charges of crimes against humanity, war crimes and genocide. That would clearly constitute a significant step in the pursuit of justice, since the Security Council's first-ever referral of a situation to the ICC, in March 15 years ago.

As the road to justice may be long and winding, it is also vital to collect and preserve evidence of atrocities committed during conflict and ensure their usefulness for possible future justice mechanisms. In that regard, Estonia strongly supports international independent fact-finding and evidence-preservation efforts, including in Syria and Myanmar.

We acknowledge the role of the United Nations in enhancing the sustainability of transitional justice processes. In a post-conflict situation, the United Nations should be able to provide a smooth transition from humanitarian relief to reconciliation, from the Office for the Coordination of Humanitarian Affairs to the United Nations Development Programme. We further welcome the consolidation of accountability efforts with regard to country situations, so that all transitional justice mechanisms are able to work cohesively.

At the same time, all United Nations activities need to systematically incorporate rule-of-law aspects. We

appreciate the work of the Office of the United Nations High Commissioner for Human Rights as the lead entity of the United Nations on transitional justice issues.

We would like to conclude by calling for transitional justice measures to be better examined and utilized in the area of the prevention of mass atrocity crimes as well. We underline the role of the Security Council in upholding and promoting transitional justice by responding decisively to early warning signs of grave violations of international law, including humanitarian law and human rights law, in order to prevent and mitigate human suffering. We look forward to a more consistent United Nations record on concrete action in the field of atrocity prevention.

**Mr. Matjila** (South Africa): The South African delegation wishes to thank you, Mr. President, for having convened this important debate on transitional justice as a building block towards sustaining peace.

We extend our thanks to the United Nations High Commissioner for Human Rights, Ms. Michelle Bachelet; the President of the Commission for the Clarification of Truth, Coexistence and Non-Repetition of Colombia, Mr. Francisco de Roux; and Ms. Yasmin Sooka, Executive Director of the Foundation for Human Rights in South Africa, for their insightful briefings. We welcome also all the ministers and deputy ministers present today.

South Africa recognizes and values the importance of national transitional justice processes in achieving sustainable peace. In our own case, as Ms. Sooka said, transitional justice was a vital cog in securing a relatively peaceful transition from apartheid to the stable constitutional democracy we are today.

To that end, it is important to note that this debate is taking place shortly after our country marked the thirtieth anniversary of the release from imprisonment of one of the most notable champions of transitional justice and reconciliation, our former President Nelson Mandela, a global icon of our struggle.

Former President Mandela and his leadership collective recognized as early as the time of his release from 27 years of imprisonment that national reconciliation rather than vengeance and retributive justice would be the only viable foundation on which sustainable peace in a democratic South Africa could be constructed.

However, the sustainable peace that former President Mandela and his colleagues sought to build did not have the narrow goal of just ending conflict but aimed to rebuild the political, security, social and economic dimensions of a society emerging from conflict. This included addressing the root causes of conflict and promoting social and economic justice, as well as putting in place political structures of governance and the rule of law to help consolidate peacebuilding, reconciliation and development.

South Africa notes that transitional justice has an enormous role to play as countries evolve from conflict situations to peacebuilding. This would necessarily entail that the whole spectrum of transitional justice be explored, including criminal prosecutions, truth commissions, reparations and restitution programmes, exhumation of mass graves, apologies, amnesty and various kinds of institutional reforms to redress human rights abuses.

Such a process should, however, not follow a one-size-fits-all approach but, rather, respond to the specific context of the country concerned. For South Africa, the restorative justice approach we chose through the Truth and Reconciliation Commission sought to combat impunity and recreate a culture of accountability, uncover the truth about gross human rights violations and assist the families of the victims in getting closure. The Commission also had the broad strategic objective of promoting national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past.

Regrettably, South Africa's experience of a repressive regime is not unique. Many countries emerging from authoritarian rule and conflict also suffered extensive human rights violations and often crimes of a heinous nature. Where atrocities were committed on such a widespread scale, holding individual perpetrators accountable may not be possible or even the most desirable result.

While ensuring justice by means of individual accountability is an important mechanism to achieve peace, it often overlooks the complexity of conflict and the structural nature of violence. It thus fails to address the broader structural challenges that likely contributed to violence in the first place and that may very well cause a State to fall back into conflict.

South Africa is of the view that the United Nations should be enabled to provide more support to national

transitional justice processes through peacekeeping missions, the Peacebuilding Commission and other United Nations structures and representation.

The Security Council has an important role to play in promoting sustainable peace through transitional justice by encouraging adherence to international guidelines and regional policies.

Healing, however, comes from within and cannot be imposed from without. It is therefore important that ownership of transitional justice processes not be appropriated by the international community. Transitional justice must be driven by those emerging from conflict and tailored to their circumstances in order to ensure that it results in long-lasting peace.

In February 2019, the African Union adopted its transitional justice policy to assist African Union member States to develop their own context-specific comprehensive policies, strategies and programmes towards democratic and socioeconomic transformation and achieving sustainable peace, justice, reconciliation, social cohesion and healing. It thus serves as a guide for countries to develop a comprehensive policy while maintaining national ownership, which is imperative to ensure that any transitional justice process is successful.

As the newly elected Chair of the African Union for 2020 and in line with the AU's collective aspiration to silence the guns on the African continent, South Africa will focus its efforts on conflict resolution across the continent. That includes supporting transitional justice processes in our peacebuilding efforts. In that regard, South Africa will continue to advocate for AU-United Nations cooperation.

As we witness the drawdown of peacekeeping missions and see countries transition from conflict to post-conflict situations, South Africa wishes to highlight the importance of including reconciliation, through transitional justice, in holistic comprehensive transition plans. That includes taking into account community-based justice mechanisms and ensuring that the most vulnerable, particularly women and young people, are represented.

Grass-roots populations in conflict-ridden regions generally tend to be the most affected by the scourge of conflict. Transitional justice therefore requires the active participation of all sectors of society. The role of women should also not be underestimated. The African Union Transitional Justice Policy Framework,



for instance, promotes women's representation and participation in the transitional justice process by expressly stipulating their participation in peace agreements, laws and policies.

Less attention is paid to ensuring local grass-roots participation and the inclusiveness of security sector reform in post-conflict situations. While there is expansive and commendable literature in the field of security sector reform, there is scant research on the role of locals in the form of young people, women, traditional leaders, chiefs and community- and village-based organizations in security sector reform processes. As a result, the methods and approaches used tend to be elite-focused and -driven. We should therefore bolster United Nations support for locally driven and generated security sector reform in an effort to enhance the peace dividend and reinforce strategic pillars in order to avoid relapse.

One of the greatest challenges in transitional justice is institutional reform. It is therefore imperative that institutions that were previously the instruments of repression be restructured for the good of society so as to create trust between victims and institutions. In addition, new progressive institutions should also be established with a view to strengthening, consolidating and safeguarding peace and democratic governance in order to avoid a potential relapse into conflict.

As former President Mandela said,

“Peace is not just the absence of conflict; peace is the creation of an environment where all can flourish, regardless of race, colour, creed, religion, gender, class, caste or any other social markers of difference.”

**Ms. Norman-Chalet** (United States of America): I would like to thank all of today's briefers.

Before I begin my remarks today, I must take a moment to raise a point of profound concern for my Government — the release yesterday by the Office of the United Nations High Commissioner for Human Rights of a database of companies operating in, or connected to, Israeli settlements in the West Bank.

We are astonished and deeply disappointed by the decision of High Commissioner Bachelet. The United States has long opposed the creation or release of that database, which was mandated by the discredited Human Rights Council in 2016. Its publication only confirms the unrelenting anti-Israel bias so prevalent

at the United Nations. The United States will never provide any information to the High Commissioner to support the compilation of such lists.

We further express our support for the United States companies referenced. We call upon all States Members of the United Nations to join us in rejecting that effort, which facilitates the discriminatory Boycott, Divestment, Sanctions campaign and delegitimizes Israel. Attempts to isolate Israel run counter to all of our efforts to build conditions conducive to Israeli-Palestinian negotiations that lead to a comprehensive and enduring peace.

Turning to the subject of today's briefing, it has been a number of years since the Council specifically discussed the critical issue of transitional justice; therefore, we very much appreciate and thank Belgium for convening and presiding over such an important discussion. Security Council resolution 2282 (2016) calls for comprehensive approaches to transitional justice. We recognize the vital role that transitional justice plays in uncovering difficult truths, acknowledging abuses and fostering reconciliation. United Nations tribunals can play an integral role in that regard, and we call for more equitable burden-sharing in financially supporting those courts.

Transitional justice must be tailored to local circumstances, with communities playing a central role in its design and implementation. It must incorporate the perspectives of victims and survivors, including religious and ethnic minorities and civil society. Transitional justice is also a political process. Political leaders have a pivotal role to play in setting the tone for justice and accountability during transitions. They should develop a public record of abuses, reform security sectors responsible for abuses and reintegrate those members of the forces into society.

Transitional justice processes must be nationally owned, inclusive processes that account for victims' needs. It is imperative that the needs of women and girls be reflected in transitional justice mechanisms, which will help address the unique barriers to women's participation in peace processes and transitional justice initiatives. That is essential because women's direct participation in peace negotiations increases the sustainability of peace agreements.

We know the characteristics of effective transitional justice measures. Our task is to ensure that they animate our pursuit of justice for victims and accountability

for perpetrators. Furthermore, when considering transitional justice strategies, we must take countries' existing legal and institutional structures into account.

In South Sudan, the people have told us that there can be no peace without justice. We call on South Sudan's leaders to implement all aspects of the Revitalized Agreement on the Resolution of the Conflict in South Sudan, including those related to transitional justice. The establishment of the African Union (AU) hybrid court for South Sudan is critical to securing lasting peace in a country devastated by conflict. That is why we contributed \$4 million to the African Union to help create that institution, which will uphold the rule of law, accountability and justice.

We would also like to recognize the comprehensive approach to transitional justice implemented in the Central African Republic. There, the Peacebuilding Fund supported the latest AU-led peace process, ensuring that it linked back to the inclusive consultative process of the Bangui Forum on National Reconciliation of 2015. We were pleased that some women-led civil society groups were consulted in the peace agreement, but are concerned that no women were signatories.

The United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic has supported the vetting of security forces and a comprehensive assessment of past human rights abuses and atrocities, all of which has enabled transitional justice and security sector reform efforts to proceed. The United Nations Development Programme has worked to build the capacity of Central African police, justice and corrections institutions, with funding from the United States Department of State, thereby shoring up Government institutions to support justice and accountability in the Central African Republic. We have also seen the creation and implementation of the Special Criminal Court.

That comprehensive United Nations approach has supported several key components of transitional justice in the Central African Republic. The United States is committed to supporting all efforts that ensure coherent, comprehensive and integrated United Nations approaches to transitional justice. We underscore that transitional justice processes must be nationally owned, inclusive and gender-sensitive if they are to fully account for the needs of victims. The Council and the United Nations can rely on the full support of the United States for transitional justice initiatives.

Together we can ensure that the voices of survivors and victims are heard, that their needs are met and that their dignity is honoured.

**Mr. Djani** (Indonesia): Let me begin by thanking Belgium for convening this open debate on transitional justice. I would also like to thank the briefers. I welcome the presence of the Ministers for Foreign Affairs of the Niger, Spain and Guatemala and the Deputy Foreign Minister of Estonia.

Indonesia aligns itself with the statement to be made by the representative of Azerbaijan on behalf of the Movement of Non-Aligned Countries.

Countries emerging from conflict are often confronted with numerous challenges in building and sustaining peace, including the provision of justice for victims of conflict and the promotion of reconciliation. Addressing those complex issues, while not easy, is a key requisite to achieving a durable and prosperous peace. In that context, allow me to share the following three pertinent points.

First, transitional justice processes should be forward-looking. They are not only about addressing past grievances; crucially, such processes must also lay the foundation for reconciliation and rebuild trust in society while avoiding repetition. Therefore, a forward-looking approach will help countries move towards sustainable peace and development. Transitional justice processes should become part and parcel of broader efforts to build and sustain peace. Given that each country has its own particular context, needs and capacities, there is no one-size-fits-all strategy. A nationally determined comprehensive approach is required for transitional justice to be successful.

Secondly, transitional justice must be nationally owned and inclusive. All elements of society must be extensively consulted and involved in the design and implementation of a transnational justice process in order to ensure a sense of national ownership, which is essential for the long-term effectiveness of transitional justice. Women must play a central role in that process, and their voices should be heard carefully. Indonesia is a strong advocate of women's robust role along the entire peace process continuum. As part of that commitment, Indonesia is currently working on the establishment of a regional network of women negotiators and mediators. We will continue to amplify the call for greater participation of women in peace processes.

Thirdly, comprehensive reform is essential. Countries in transition often face capacity challenges in the political, legal, security and socioeconomic sectors. To address those issues, countries need to seek solutions beyond institutional reform. While we recognize the importance of supporting countries in building their capacities in effective rule-of-law, governance and related areas, it is also crucial to build their economic resilience to the recurrence of conflict. Among its initiatives, Indonesia organized an international workshop on crops for peace last year, which provided a platform for sharing best-practices on agriculture-based economic development in post-conflict countries. At the global level, Indonesia also continues to contribute to United Nations peacekeeping operations with a view to ensuring coherence in the support to nationally driven transitional justice processes.

In conclusion, while everyone must contribute, the Security Council should play a greater role in effectively supporting countries in transition to build and sustain peace. Indonesia reiterates that justice, reconciliation and economic development should be pursued hand in hand. The various activities surrounding transitional justice should pave the way to well-being and prosperity, with the long-term goal of building a durable peace, putting a human approach at the forefront while protecting humankind and providing hope for future generations.

**Mr. Ladeb** (Tunisia) (*spoke in Arabic*): I would like to begin by thanking the briefers and welcoming the ministers who are here today. I also thank the Kingdom of Belgium for organizing this meeting, which we hope will lead to a productive exchange of experiences and opinions on transitional justice in order to benefit from best practices and lessons learned and provide a comprehensive picture of what the Council can achieve in moving forward in the service of international peace and security.

Many countries around the world have had diverse experiences with transitional justice, including in post-armed conflict and post-dictatorship situations. Although those experiences are many and diverse, the reasons for moving forward in transitional justice processes are tied to profound political changes ushered in after civil wars or during periods of transition following revolutions against dictatorships. Such periods are usually characterized by large-scale violations of people's freedoms and harm to their physical and emotional health. We believe that the

objectives of transitional justice in all cases are based on common elements, namely, promoting peace as well as political, social and economic harmony while preventing the renewal of conflicts and serious human rights violations.

It is indeed difficult for any phase of political transition and peacebuilding to succeed without transitional justice where past violations are investigated in order to shed light on the truth, provide restitution to the victims and their families, ensure accountability and, thereby, make progress towards national reconciliation, with the aim of turning the page and building reconciled societies living in peace and harmony. Without such transitional justice, violations will sow the seeds of hatred and discord that could undermine peacebuilding any time.

In the aftermath of the revolution against the dictatorship and at the beginning of the democratic transition, Tunisia had an important experience in the field of transitional justice. Civil society played an early leading role in moving the process forward even before the adoption of the Constitution of the Second Republic. Indeed, Organic Act No. 53, on the establishment and organization of transitional justice, was adopted on 24 December 2013 with a view to dealing with human rights violations and corruption during the First Republic. Transitional justice in Tunisia drew inspiration from comparative experiences and international references in the field of human rights. It also focused on women and young people. As a result, national law defines transitional justice as

“an integrated process of mechanisms and means put in place to identify and remedy past human rights violations by revealing the truth, holding those responsible for such violations accountable, compensating the victims and restoring their dignity in order to achieve national reconciliation, preserve and archive the collective memory, establish guarantees of non-recurrence and enable the transition from dictatorship to a democratic regime that contributes to the consecration of human rights”.

In addition, we have established the Truth and Dignity Commission, chaired by a woman, and entrusted it with a series of missions in the field of transitional justice, namely, to bring the truth to light until reconciliation is achieved. That independent body completed its work at the end of its four-year mandate.

The implementation of transitional justice mechanisms poses certain problems in some cases. However, such crises can be contained by relying on the political maturity of State institutions and the contribution of civil society to correct mistakes and achieve comprehensive reconciliation among the population, on the one hand, and between the population and the State apparatus and institutions, on the other. Practice has shown that there are no pre-established models for transitional justice. There can be no imposed prescriptions or wholly legal approaches. We must not lose sight of the local dynamics of political, economic and social transition that enable us to address violations and achieve just social changes over the long-term. In that regard, the Security Council can encourage innovative processes of transitional justice through reconstruction contexts that are derived from the specificities and concepts of local justice, while benefiting from the experience and capability of international criminal justice.

Tunisia supports strengthening international cooperation to reform legislation and legal sovereign institutions in post-conflict or post-repressive periods in affected countries so that such legislation is in line with international law, the criteria of international criminal justice and international human rights law. That would lead to providing the requirements of effective national ownership over transitional justice.

Tunisia also supports benefitting from the opportunities provided by international criminal justice in order to realize reconciliation through the Rome Statute and the Trust Fund for Victims of the International Criminal Court. That would allow the victims of gross violations to be offered reparations and reintegration, which contribute to promoting peace, stability and peacebuilding.

**Ms. Pierce** (United Kingdom): May I join others in thanking Belgium for convening today's important debate. I am very pleased that the High Commissioner for Human Rights was able to join us and brief the Security Council today. May there be many more occasions where that might happen. I also thank our other two briefers.

I will make three short points. First, I would briefly like to state the reasons the United Kingdom considers accountability for conflict-related crimes so important for peace and security. Secondly, I would like to acknowledge some of the important

developments in transitional justice policy and practice over the past two decades and their relevance beyond the traditionally understood transition cycle. Thirdly, I would like to propose that, for transitional justice to be more meaningful for sustaining peace, we need to find better ways and means of connecting it with social or socioeconomic justice.

With regard to my first point, the United Kingdom believes that legal accountability for conflict-related crimes serves as a deterrent, punishment and a method for upholding victims' rights. Without it, there can be neither reconciliation of communities, faith in the functioning of rule-of-law institutions nor respect for the rules-based international system. Those are the principles for which my Government stands. There should be no impunity for international crimes and no amnesty for gross violations. As a spokesman for the Sudanese Government put it on Tuesday (see S/PV.8718), justice cannot be achieved if we do not heal the wounds. And I would like to welcome the decision of the Government of the Sudan to hold former President Omer Al-Bashir and others accountable, which will be a significant step towards a peace settlement in Darfur. The victims of human rights violations in Myanmar also deserve justice. It is difficult to see how Rohingya refugees in Bangladesh can return to Rakhine state if they are not confident that the perpetrators, the Burmese military in particular, will be held accountable.

With respect to my second point, transitional justice began as an innovative way of enabling justice in post-conflict environments. Over the past 25 years, there have been significant developments in this field and many of the representatives round the table, in particular South Africa and Tunisia, have set out some of those developments in their countries, which was very interesting. Mechanisms and processes have been increasingly inclusive and nationally owned. The consultative, inclusive and independent manner in which the Gambia established its Truth, Reconciliation and Reparations Commission has shown the benefits of national ownership to secure public confidence. I would also like to welcome the recent verdict by the Bangui Court of Appeal in the Central African Republic, holding accountable 28 individuals for war crimes and crimes against humanity, related to the killing of 75 civilians and 10 United Nations peacekeepers in the Bangassou area.

Transitional justice processes have assumed an increasingly victim-centred approach. More and more



efforts have been situated in broader institutional reform, including security sector reform. Transitional justice initiatives in Afghanistan have demonstrated what can be achieved in terms of local-level reconciliation, even prior to the signing of a comprehensive peace agreement. That breadth of application across such a range of issues has taught us that transitional justice has relevance far beyond the transition cycle traditionally associated with countries emerging from conflict. It can make inroads even amid ongoing hostilities, and its toolkit can serve States and communities long after a conflict ends.

Notwithstanding those developments, the time has come to have a critical conversation about what transitional justice has achieved in terms of building peace that is sustainable and what more can be done. The root causes of conflict are persistent; their manifestations are as adaptable as they are pernicious.

That brings me to my final point. We now possess evidence that, unless there is a proper response for dealing with wider social and economic injustices, the root causes of conflict are highly capable of morphing into other forms of violence and discrimination further down the line. Not only does that risk the achievements of transitional justice being reduced to little more than lip-service in the eyes of those affected by conflict as they continue to experience a wide array of injustices in their daily lives, it presents a real risk of further cycles of conflict and insecurity. As transitional justice policy and practice continue to evolve, we should start to forge closer links with broader challenges to peace, justice and inclusion. Truth and reconciliation commissions in Kenya and Tunisia have shown impressive results in that space, while demonstrating that transitional justice mechanisms and mandates are well positioned to make an increasing contribution to addressing the root causes of conflict.

**Mr. Licharz** (Germany): I would like to echo the expression of gratitude by colleagues to our briefers. I am delighted to see the High Commissioner for Human Rights briefing the Security Council. She has our full support. We look forward to more briefings from her in the very near future.

Colleagues and briefers have eloquently elaborated on the importance of transitional justice. Let me share with the Council an example of our recent past. In 1991, in the aftermath of the fall of the Berlin Wall and in the process of reunification, the so-called State Security

Records Agency was established in Germany. The task of the Agency was to manage research and, most important, make accessible files, documenting how the authorities of the German Democratic Republic spied on its citizens. People were able to obtain hundreds, even thousands, of pages of those files, in which the State Security Agency recorded details of their personal lives. People were also able to obtain the names of those who passed on information that could lead to incarceration, torture or even more severe consequences. Perhaps some representatives have seen the movie *The Lives of Others*. It is an Oscar-winning movie that addresses the issue. If representatives have not seen it, I strongly recommend it.

The shocking findings once the files were opened led to further measures. The German Parliament set up two commissions aimed at the reconciliation of society to create a framework for coming to terms with the German Democratic Republic's past, give back to the people their right to information self-determination, strengthen democratic education and dialogue with the public and support the development of a common political culture. The commissions and the Agency helped keep the subject in the public debate. It was no coincidence that the Head of the State Security Records Agency, Joachim Gauck, became the German President.

What are the lessons that we have learned from our own experience? In echoing what the Ambassador of the United Kingdom said earlier, transitional justice should have a survivor-centred approach. It should not limit itself to punishing perpetrators, but should also respond to the needs of the individuals affected and their families and networks and to the needs and perceptions of communities. That holds especially true for the most egregious crimes against those who are vulnerable, such as sexual and gender-based violence. Resolution 2467 (2019) therefore for the first time introduced a survivor-centred approach.

In the search for reconciliation, it is equally important to establish accountability and to fight impunity. Holding those who are individually responsible for atrocities and human rights violations accountable under criminal law is a key prerequisite for sustaining peace. Therefore, Germany is a strong supporter of the International Criminal Court, as well as the investigative mechanisms mandated by the Human Rights Council and the General Assembly.

National ownership can be guaranteed only by the inclusion of all, most important marginalized groups and civil society, and by the promotion and protection of everyone's human rights. Transitional justice at the local level must be embedded in a broader national discourse and policies. I listened with great interest to the very inspiring statement by Francisco de Roux about the peace process in Colombia.

Through project funding, Germany supports the peace process in Colombia and helps strengthen peace institutions involved in conflict resolution, such as the Special Jurisdiction for Peace, the Truth Commission and the Unit for the Search for Persons deemed Missing in the Context of and Due to the Armed Conflict through the German-Colombian Peace Institute.

Every country, society and community should decide for itself whether it needs outside assistance. If anyone requires such help, we should provide it to the extent possible. In order to help national solutions to progress, we support the Joint United Nations Development Programme-Department of Political and Peacebuilding Affairs Programme on Building National Capacities for Conflict Prevention through peace and development advisers, who have proven to be very apt at supporting reconciliation processes.

In that vein, we explicitly want to express our support for the United Nations toolbox. We need to strengthen the Security Council's focus on human rights, conflict prevention and respective instruments. Reconciliation and mediation capacities must be included in missions' mandates more often. The Security Council should invite commissions mandated by the Human Rights Council to brief the Council on their efforts in collecting evidence and establishing a path leading towards accountability.

In South Sudan, for example, the Commission on Human Rights has a mandate critical for collecting and preserving evidence, with a view to ending impunity and providing accountability and to make such information available to all transitional justice mechanisms. Therefore, I very much welcome the participation of Ms. Yasmin Sooka, Chair of the Commission on Human Rights in South Sudan, in today's debate. We also heard earlier that the transitional Government in Khartoum has publicly apologized to the victims of the military rule. I think that that is a very positive signal with regard to the reconciliation process in the Sudan.

The Peacebuilding Commission plays a crucial role in post-conflict situations, as well as prevention efforts. It contributes to the much-needed platform for cooperation and the exchange and sharing of lessons both within and outside the United Nations. Germany wants the Peacebuilding Commission to make more frequent use of its expertise and advisory role to the Security Council. The Security Council should also look at emerging conflicts more frequently and use mediation as a tool to prevent outbreaks, as called for by Article 33 of the Charter of the United Nations. The link between mediation and transitional justice needs to be reflected in the design of transition processes for peace to be sustainable.

No country can ever be guaranteed that violence and conflict will not reoccur. Transitional justice has no endpoint. It is a constant endeavour that we have to undertake every single day in order to safeguard ourselves and the societies in which we live against sliding back into disaster. Assuming responsibility for its past, Germany is convinced that safeguarding the human rights of all and working towards more inclusive societies is the only way to achieve reconciliation and peace.

**Mr. De Rivière** (France) (*spoke in French*): I thank the United Nations High Commissioner for Human Rights for her briefing, and I once again express to her our full confidence. I also thank Mr. De Roux and Ms. Sooka for their briefings. I will focus on five points.

First, the Colombian and South African experiences perfectly illustrate that no society can recover in a lasting manner from a crisis if a deadlock involving massive violations of human rights and international humanitarian law exists. In every case, achieving lasting peace is predicated upon establishing the truth with regard to the abuses committed, affording victims their status as victims and establishing individual and collective responsibility. It is imperative that the United Nations help States in transition to meet those challenges. Beginning with the peace negotiations stage, the United Nations must devote the necessary resources to meet them within the framework of the resources allocated to peacebuilding and development.

We commend the work of the Office of the United Nations High Commissioner for Human Rights, which enjoys the expertise to assist in developing transitional justice policies. That requires the implementation of judicial as well as non-judicial solutions adapted to the

specific situation of every national context, without resorting to a one-size-fits-all approach.

In the Central African Republic, we encourage the Office of the United Nations High Commissioner for Human Rights to support the establishment of the Truth, Justice, Reparation and Reconciliation Commission provided for in the Political Agreement for Peace and Reconciliation in the Central African Republic, signed one year ago. That body complements the establishment of an impartial and independent judicial system capable of responding to the call for justice demanded by the people of the Central African Republic. In that regard, we are encouraged by the investigations launched by the Special Criminal Court, which France supports in helping train its judges.

Secondly, every segment of society must be involved. Women, who are the first victims of conflicts, must be able to participate in the very development of the transitional justice policy in accordance with resolution 1325 (2000) and the women and peace and security agenda. Young people, historians, community and religious leaders and victims groups must also be able to fully play their role. Strengthening democratic governance and education are also critical prerequisites.

It is the responsibility of States to allow for remembrance and fight against historical revisionism. In the Balkans, as we commemorate the twenty-fifth anniversary of the Srebrenica massacre, it is unacceptable that political leaders glorify war criminals and deny the crimes that were determined to have taken place by the criminal courts established by the Council.

Thirdly, international mechanisms must support the reform of national justice systems. Thanks to the mechanisms established for the crimes committed by Da'esh in Iraq and the atrocities committed in Syria and Burma, evidence will not disappear and those crimes will not go unpunished. France reiterates its unwavering support for the International Criminal Court, which must play a central role at the international level in the fight against impunity, in full accordance with the principle of complementarity. We call for the universal ratification of the Rome Statute and welcome States that have decided to join the International Criminal Court or cooperate with it within the framework of transitional justice, by following the example of Tunisia in June 2011 and the Sudan today.

Fourthly, the attention afforded to victims plays a fundamental role. The establishment of reparation

and compensation mechanisms for victims should be widespread. That is particularly the case for victims of sexual violence, who must receive the medical, psychological, legal and social assistance that is essential for their reintegration into society. That is why we also call for supporting the Global Survivors Fund, launched by Ms. Nadia Murad and Dr. Denis Mukwege.

To conclude, I wish to pay special tribute to the families of victims of forced disappearance. We all have in mind the weekly demonstrations by the Grandmothers of the Plaza de Mayo in Buenos Aires to find their children who were abducted by the military dictatorship. That fight continues today. Sadly, those crimes are far from being a thing of the past or limited to a specific region of the world. The Syrian regime has been using those crimes systematically to eliminate all forms of opposition since 2011. The victims are peaceful activists, intellectuals, artists and ordinary Syrians, who are victims of merciless methods. The resolution of that issue is inseparable from the quest for a political solution, and the Security Council must give the resolution of the Syrian crisis its full attention.

**Ms. DeShong** (Saint Vincent and the Grenadines): We wish to join other members in thanking Belgium for organizing this briefing. We also recognize and welcome the Foreign Ministers and Deputy Foreign Ministers present, and thank High Commissioner Bachelet, Father De Roux and Executive Director Sooka for their insightful and thoughtful briefings.

Saint Vincent and the Grenadines welcomes today's discussion on transitional justice — a critical component of building and sustaining peace in many settings. We wish to recall the Security Council's discussion in November, under the United Kingdom's presidency, on the role of reconciliation (see S/PV.8668). Transitional justice facilitates reconciliation by ensuring accountability for perpetrators and offering justice for victims. Without justice, lasting and sustainable peace will remain elusive. Without reconciliation, our Council's work to build a peaceful and prosperous world will remain futile.

Transitional justice mechanisms should always form part of a larger political strategy that addresses the structural inequalities in conflict-affected societies, for the benefit of all stakeholders without discrimination. That inclusive approach should consider the different needs and abilities of all participants. Women, young people, ethnic and religious minorities, indigenous

populations, persons with disabilities, the elderly, constituents of rural communities and civil society representatives must always be present as crafters, participants and beneficiaries of transitional justice initiatives at all stages of the conflict cycle — before, during and after the conflict. Indeed, building trust and ensuring justice is a never-ending process.

Transitional justice mechanisms should also be complemented by sustainable development initiatives that address the root causes of insecurity and empower people to live in dignity. The Security Council should more often seek to engage the Peacebuilding Commission's strategic advisory capacities and, where necessary, make use of the Secretary-General's Peacebuilding Fund to address important governance gaps and to initiate projects and programmes that stimulate socioeconomic and political participation.

We emphasize, however, that there is no one-size-fits-all approach, as others have said. Those initiatives must always be designed with respect for local customs and values. To that end, we also welcome the African Union's continental guideline for transitional justice, adopted one year ago, which takes into account the many-sided complexities of mass violence yet privileges local traditions when delivering justice and accountability. That comprehensive road map is a credible source of best practices and lessons learned that all members of the international community may find useful.

Transitional justice safeguards institutional integrity and promotes structural improvements across the peace, security and development nexus. Well-designed transnational justice mechanisms help to restore public confidence in State institutions. They also foster normative realignments across societies as new precedents are created to provide accountability, rehabilitation and reparations to survivors of injustices.

On the issue of reparations, it must be emphasized that there should be no statutes of limitation that prevent restitution for mass atrocity crimes, especially where those historical injustices have left legacies of underdevelopment, intergenerational traumas and social inequities in their wake. Saint Vincent and the Grenadines reiterates that the historical injustices of native genocide and chattel slavery, including the trans-Atlantic slave trade, compel all former colonial Powers to provide reparatory justice.

Saint Vincent and the Grenadines is a young nation that reclaimed its independence only 40 years ago. Like many young societies, we understand that only by healing the collective memory enmeshed deep within our social fabric can we truly come to terms with our past indignities and embrace our future possibilities. That is the lens through which we view transitional justice — a medium to bridge a painful past to a peaceful future by listening to those cries that too often go unheard.

**Mr. Wu Haitao** (China) (*spoke in Chinese*): China welcomes and thanks you, Mr. Minister, for presiding over this open debate. We thank Ms. Bachelet, United Nations High Commissioner for Human Rights, as well as Mr. De Roux and Ms. Sooka for their briefings.

Some conflict-affected countries and regions are currently faced with the arduous task of post-war reconstruction. Their conflict-weary populations eagerly look forward to an early restoration of the rule of law and justice so that they can embark on the road towards sustainable development. The United Nations peacebuilding architecture is committed to coordinating the international community's support for the reconstruction of post-conflict countries and has played a positive role in consolidating the fruits of peace and achieving sustainable development in the countries affected. The issue of transitional justice is a key component of peacebuilding. It should be addressed in the context of peacebuilding and sustaining peace and its discussion should be strictly limited to in-conflict and post-conflict situations.

First, based on the Charter of the United Nations and universally recognized international law, it is imperative to respect the sovereignty and territorial integrity of every country. It is important to respect the countries concerned in their efforts to advance their transitional justice processes step by step, in a manner consistent with their own national conditions. No models should be imposed from outside, or should any interference be permitted in their internal affairs or struggles. Only by adhering to the principle of sovereignty can transitional justice efforts be justified, thereby winning the trust of the countries concerned and promoting peace and development.

Secondly, it is necessary to help the countries concerned enhance their capacity-building, with a focus on the effective functioning of their judicial systems. In the long term, no special interim measure or external



measure can substitute an effectively functioning domestic judicial system. After an extended period of turmoil and conflict, the rule of law of a given country will have been seriously affected and it must be faced with shortages and challenges in financial, technological and human resources. The international community should reach out to the countries concerned and enhance their capacity-building. The Peacebuilding Commission, as a body jointly established by the General Assembly and the Security Council, with the advantage of straddling both the political security and development areas, has an important role to play in that regard.

Thirdly, the nexus between transitional justice and the political process, economic development and social integration should be viewed through the correct lens and integrated measures should be taken to promote the rule of law and judicial justice. Transitional justice is not only a legal issue but should also contribute to establishing lasting peace and stability, economic development and social progress in the country concerned, as well as the long-term well-being of local populations. Security sector reform and disarmament, demobilization and reintegration efforts should be carried out in order to advance the transitional justice process. Economic and social measures, such as poverty eradication and job creation, should also be adopted in order to promote peace, achieve national reconciliation and eliminate the latent threats of conflict.

The rule of law and justice must be highlighted at both the national and the international levels. Many of the ongoing conflicts in the world today have remained unresolved for decades, with ever-deepening rifts between the parties — a deplorable situation. Such difficult situations often represent the bitter consequences of breaching international consensus and disrupting the international order based on international law.

The basic principles of international law, such as adhering to the peaceful settlement of international disputes and prohibiting both the threat and use of force, constitute the core of the Charter of the United Nations, which underpins the contemporary international order and other obligations under international law that countries must abide by. They embody the authentic meaning of the rule of law at the international level.

As the cornerstone of the international security architecture, the Council must shoulder the lofty

responsibility of upholding international law and the basic norms governing international relations. It needs to effectively advance political settlements, support good offices and mediation, maintain unity and cooperation and ensure the implementation of relevant resolutions. That is the only way in which we can truly prevent and resolve conflicts and avoid creating further differences and divisions. Efforts should be made to enable the people of the world to enjoy the same vision of peace and prosperity and to facilitate the building of a community of shared future for humankind.

As the late former Secretary-General Annan said at the General Assembly in September 2004:

“Those who seek to bestow legitimacy must themselves embody it; and those who invoke international law must themselves submit to it.”  
(A/59/PV.3, p. 3)

**Mr. Singer Weisinger** (Dominican Republic) (*spoke in Spanish*): We welcome you, Sir, along with the Deputy Foreign Minister of Estonia and the Foreign Ministers of the Niger, Spain and Guatemala. I wish to thank the Kingdom of Belgium for bringing this important topic to the Security Council. We express our appreciation to our briefers, Ms. Bachelet, Father De Roux and Ms. Sooka, for their important statements. Their first-hand experiences in implementing various transitional justice mechanisms have made a major contribution to our better understanding of the advantages of those mechanisms and the challenges they face.

The genuine tragedy experienced by a post-conflict population calls for the urgent establishment of the rule of law in a State where human beings can live in freedom, human rights are respected and legislation is subject to international law. The reinstatement or establishment of the rule of law becomes imperative in order to safeguard human dignity, which is the goal of transitional justice. However, that is no easy task. We must therefore continue to examine and improve the various tools at our disposal to enhance transition mechanisms and ensure that peace and security are permanently restored to societies that have fallen victim to conflict.

When a society experiences conflict, many different kinds of victims emerge. That is why we understand that the classification of the types of victims must be taken into account when drawing up the laws, norms, protocols and regulations of truth commissions, courts

and special commissions, as well as other institutions created for the post-conflict transition. That is of the utmost importance in order to directly and specifically respond to violations of rights so as to create more efficient mechanisms for reconciliation. Post-conflict processes must include specific mechanisms to provide relief and help to families, as well as to develop programmes for family reunification, the search for missing persons, the right to information about family members and reparations for moral damages.

Furthermore, the Dominican Republic would like to highlight the importance of including a gender analysis in the measures created to guarantee rights, justice, reparation and non-recurrence. The realities, needs and evolving nature of the roles of women survivors of the conflict must be taken into account, particularly with regard to preventing impunity.

We take this opportunity to congratulate the people of Colombia for their efforts to achieve a transition from a conflict situation to one of lasting peace, reconciliation and progress for its population, including both the victims and the actors involved in the conflict. There is no doubt that transitional justice presents major challenges, such as the optimization of time and budgets for the operation of the various mechanisms, the participation of victims and the development of special and specific protocols to serve as guidelines.

However, we are confident that those challenges will be successfully overcome and that the Colombian people will emerge as a stronger, safer, more resilient and more united society. During the visit of Security Council members to Colombia last year, we witnessed first-hand the efforts of the Government, the parties and the general public to implement the mechanisms for a peaceful transition. We also observed the important role that Security Council missions play and the significant support they represent within peace and post-conflict processes.

Finally, members of the Security Council must make a greater effort to promote the culture of peace. As an international community, it is incumbent upon us to fight for the restoration of peace and to foster an ideology for effective transitions towards peace, democracy, justice and guarantees of non-recurrence, avoiding at all costs the political polarization of such processes.

**Mr. Dang** (Viet Nam): I thank the Belgian presidency for organizing today's very important open

debate on this topic. I also thank all the briefers for their interventions. We extend our warmest welcome to the Foreign Ministers of the Niger, Guatemala and Spain and the Deputy Foreign Minister of Estonia.

My delegation aligns itself with the statement to be delivered by the representative of Azerbaijan on behalf of the Movement of Non-Aligned Countries.

At the international level, justice plays an extremely important role in relations among States and has solidified its place in international law, including in the Charter of the United Nations itself. Similarly, at the national level, in conflict and post-conflict situations, transitional justice can play an important role in national reconciliation and development.

The United Nations in general and the Security Council in particular have attached vital importance to promoting justice, the rule of law and post-conflict national reconciliation, as well as preventing a return to conflict in the future. Over time, the Security Council has used all of its tools to address transitional justice in conflict and post-conflict contexts. I would like to share the following points in that regard.

First, justice shall be served, and justice shall serve. It can be an immediate result, but it also is a means to the long-term goal of sustainable national unity and development. All efforts to promote transitional justice and post-conflict peacebuilding need to always keep that long-term goal into consideration, including addressing the root causes of conflict.

While the past can be heavy and difficult, focusing on a future that is sustainable, peaceful and prosperous may be the way forward. We owe it to future generations to make the right choice.

Secondly, transitional justice needs to be nationally owned and nationally led. As mentioned earlier, transitional justice reflects a society's attempts to come to terms with a legacy of large-scale past abuses. Transitional justice needs to be society-based and play a harmonious role in conjunction with other attempts to heal society.

As such, the State concerned should have primary responsibility for its own transitional justice, reconciliation and future. Here I would like to underscore one point in the report of the Secretary-General, mentioned also in Ms. Bachelet's briefing: that transitional justice cannot be imported or imposed from outside. A locally led and locally appropriate

implementation of transitional justice has the best chance of success. In other words, nationally owned and nationally led is the only way to go, and there can be no one-size-fits-all solution to all conflicts.

Thirdly, international assistance is crucial and can be most effective if based on national needs, particularities and capacities.

The international community should focus on helping build up and strengthen national institutions and mechanisms in accordance with national conditions. Training, knowledge and experience-sharing are very useful in most situations. Ensuring a smooth transition should be the benchmark of international assistance, especially of United Nations missions.

Fourthly, the development and implementation of the processes and mechanisms of transitional justice need to take into account their impact on and the active role of women, youth, children and other vulnerable groups in peacebuilding processes.

Fifthly, regional arrangements can play a constructive role in assisting peace and reconciliation processes, in accordance with the aforementioned points and the principles of international law.

As the central mechanism for peace, security and stability in South-East Asia, the Association of Southeast Asian Nations (ASEAN) established the ASEAN Institute for Peace and Reconciliation and other mechanisms for conducting activities on capacity-building, experience-sharing on reconciliation, peacebuilding and the promotion of the role of women and children.

In conclusion, based on Viet Nam's own experience, we always speak with candour and are sympathetic to countries and peoples who are going through difficult phases of conflict and post-conflict peacebuilding. They can count on our continued support inside and outside the Council.

**Mr. Nebenzia** (Russian Federation) (*spoke in Russian*): Belgium has proposed a debate on a very important topic, and we are grateful to it. We welcome the presence of Ministers here, and we also welcome Ms. Bachelet and other keynote speakers and thank them for their contribution to this discussion on the role of transitional justice in efforts towards peacebuilding and sustaining peace in conflict and post-conflict situations.

We believe that the approach formulated regarding the topic of our discussion is the right one. It is important to determine the role and the most useful forms of transitional justice in the achievement of its main goal, the establishment of a lasting peace and the prevention of the resumption of conflict. Internal armed conflicts are the main instance of the use of military force in today's world, and there is a dangerous tendency towards their proliferation against the backdrop or as the result of the overthrow or destabilization of legitimate Governments through external interference.

Conflicts do not arise by themselves, therefore in resolving each one of them we must take an approach that bears their causes in mind. Transitional justice is not always the key to establishing peace. What is important is not to get carried away and prescribe the same medicine to all patients, independently of the diagnosis or the symptoms of the disease. However, that does not mean that the extensive instruments of transitional justice available should not be used where they are necessary. That is a multidimensional phenomenon that includes not only legal but political mechanisms, and national and international efforts are essential to establish peace in specific States.

We are not convinced that the 2010 guidance note of the Secretary-General on the United Nations approach to transitional justice, which was drawn up without the participation of Member States, is right in all its aspects concerning this framework.

The United Nations has been through various phases in the use of transitional justice instruments. In the early 1990s, great hopes were pinned on the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, created by the Council. However, by the early 2000s, it had already become clear that this mechanism was not effective. In spite of various political statements by and positions of States, the true assessment by all parties of the work of those bodies was almost identical.

The Council, first, agreed to their costly reform, known as the completion strategy, and then opted not to replicate such mechanisms. The attention of the international community then shifted to the International Criminal Court, a body that seemed very attractive to many because, unlike the Tribunals for the former Yugoslavia and Rwanda, it was based on the principle of complementarity. It was supposed not to replace but rather complement national justice.

However, the further activities of the Court showed that the idea of complementarity remained a dead letter, while the general trend towards the politicization of the work of international judicial bodies manifested itself in its ugliest forms.

To date, the most important international achievement in combating crimes against peace and humanity is the Nuremberg tribunal. It was created on the basis of the unity of all allies in the anti-Hitler coalition based on the principle of fair judicial procedure. That tribunal did not need any kind of completion strategy or any special and costly measures to preserve its legacy. The authority of the decisions of the Nuremberg Tribunal are indisputable, in spite of all the time that has elapsed.

Let us come back to today's world. By the mid-2000s, it had become clear that the most effective forms of transitional justice were those based on national dialogue in conflict-affected countries, complemented by United Nations efforts. Establishing a post-conflict reality is impossible without focusing on local traditions and specific features. In some places, for purposes of reconciliation truth and reconciliation commissions are needed, but in others traditional mechanisms are required, such as the Gacaca trials in Rwanda.

Since sound national reconciliation is the determining factor in the successful resolution of a conflict and preventing its resumption, we believe the United Nations must focus its efforts on providing the most appropriate forms of technical assistance to restore a national justice system and law-enforcement bodies destroyed by conflict. In this process, the United Nations must be an actor that provides examples of good practices and proposes solutions rather than creating problems. In this connection, it is not always acceptable for unconditional demands to be made by the United Nations, such as the unacceptability of amnesty or the primary role of an international component in mixed judiciary and investigative bodies.

It is important to openly discuss cases of the abuse of transitional justice. In United Nations documents, it is common for such mechanisms to be written about only in the most superlative terms. The only criticism we hear relates to the lack of political support, the lack of financing or the fact that the victims of crime do not have an appropriately active role.

At the same time, mechanisms of transitional justice should not be used to consolidate the victory of

one party to a conflict over the other or to settle political accounts, neither should they be used to elicit foreign interference in the internal affairs of a State weakened by conflict.

In addition, transitional justice must be distinguished from direct political manipulation in the guise of fighting impunity, a practice that, unfortunately, is taking root in our Organization. A sad example is the illegitimate 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.

The way to genuinely contribute to ensuring the accountability of foreign terrorist fighters, including those active in Syria, would be to repatriate them and try them in courts of national jurisdiction, in accordance with counter-terrorism conventions, in keeping with the obligation, under those conventions, to extradite or prosecute them. Of course, that would be based on the principle of the inevitability of punishment and its proportionality to the crime committed.

We are convinced that the issues of transitional justice in the work of the Security Council should not be reduced to the search for a universal formula, but rather should reflect country-specific realities and the mandates of peacekeeping and political missions. The United Nations should not dictate but should encourage and complement national initiatives.

**The President** (*spoke in French*): 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. Delegations with longer statements are kindly requested to circulate their texts in writing and to deliver a summarized version when speaking in the Chamber. The red light on the collar of the microphone will begin to flash after four minutes have elapsed. I also wish to inform all concerned that we will suspend this open debate at 1 p.m. and resume it at 3 p.m.

I now call on the Minister for Foreign Affairs of Guatemala.

**Mr. Brolo Vila** (Guatemala) (*spoke in Spanish*): Allow me to congratulate Belgium on its presidency of the Security Council, and particularly Minister Goffin for convening this open debate, which reminds us that, in any peacebuilding process, transitional justice



mechanisms are critical to achieving a firm and lasting peace with a view to reconciling people in conflict.

I appear before the Council for the first time, as the Foreign Minister of the Republic of Guatemala, because of the importance that the new Guatemalan Administration attaches to this issue and to the various organs of the United Nations. I take this opportunity to represent the Government of President Alejandro Giammatei Falla, who is determined to provide security and welfare to its citizens and has prioritized human dignity and the common good through the application of justice. One of the strategic pillars of the Government policy plan for the period 2020 to 2024 recognizes the vital role of multilateralism, in particular the role of the Security Council in the maintenance of international peace and security

Our Government is making efforts to achieve a true national reconciliation that will allow us to reduce social polarization and build the confidence, governance and legal stability that will attract investment and promote the economic and comprehensive development of society so as to guarantee that the Guatemalan people are never again pitted against one another. Moreover, we believe that it is vital to look ahead, build a future and find spaces for dialogue and negotiation in the search for common objectives that will benefit the entire population.

Following the signing of the peace agreements in Guatemala in 1996, the Peace Secretariat was created as an entity that advises and coordinates the implementation of those agreements at the national level. That model institution has contributed to peacebuilding efforts.

Guatemala has made efforts to strengthen its justice system. Now, at the beginning of President Giammatei's Administration, the Government will continue to prioritize ensuring access to justice and strengthening the relevant institutions in an effective and responsible manner.

Regarding its role and international commitment to peace, the State of Guatemala has historically contributed military personnel to peacekeeping operations as a special component of its foreign policy and currently has Blue Helmets deployed in seven peacekeeping missions. Guatemala reiterates its commitment to the Council to continue sending troops, as such missions are one of the Organization's noble tasks to help those in extremely adverse circumstances.

Global challenges, such as the maintenance of peace and security and respect for human rights, must be addressed in this forum, as they require the united political will of the international community. Seventy-five years after the creation of this Organization, we believe in the critical role of the United Nations in resolving conflicts and promoting the rule of law.

**The President** (*spoke in French*): I now call on the Minister for Foreign Affairs, European Union and Cooperation of Spain.

**Ms. González Laya** (Spain) (*spoke in Spanish*): I address the Security Council for the first time as Minister for Foreign Affairs, European Union and Cooperation of Spain — a country that is today a robust democracy, a State governed by the rule of law and scrupulous respect for human rights. However, Spain is also aware that, barely one generation ago, it suffered a bloody civil war that led to a long dictatorship. Even after it became a democracy, the country suffered the ravages of terrorism.

We firmly believe in our model, which is based on democratic transition and is embodied in the 1978 Constitution. It was a true experiment in transitional justice put into practice. However, we recognize that we must continue to respond to the demands of citizens and civil society. Our experience shows us that no country is immune to the enormous risk of hate speech and fearmongering, which can easily degenerate into human rights violations, the rejection of the principles and values of democracy and, ultimately, conflict.

That is why Spain's transitional justice efforts are both internal and international. At the national level, we adopted the Historical Memory Law in 2007 in order to leave no one behind by listening to the testimony of victims and preserving their memory so that they are not forgotten.

At the international level, Spain is firmly committed to transitional justice processes around the world. In the 1980s, Spain supported the efforts of the Contadora Group that led to the Esquipulas I and II Agreements. Today Spain works with the United Nations to support the transitional justice process in Colombia.

We must repeatedly affirm that peace and justice are not contradictory realities. There can be no sustainable peace without justice, while justice cannot be achieved without truth, accountability and recognition for the

dignity of victims and reparations for them. In that connection, I would like to highlight three elements.

The first is the fight against impunity. The international community has developed a valuable instrument to achieve that objective — the Rome Statute. That is why we believe that the members of the Council must cooperate with the International Criminal Court. We must strengthen the Court, revitalize it to make it more efficient and broaden its base — the number of States parties — if we are to enshrine the universality of justice. The process beginning this year to elect the new prosecutor and six judges gives us a perfect opportunity to do so.

Secondly, the dignity of victims must be respected. Caring for the victims of terrorism and of repression against the defenders of democracy is a priority for my Government. Not only do they deserve recognition and reparation, but their testimony is also an extremely effective preventive tool. That is why we believe that the Council should take into account the synergies among the agendas on the protection of civilians, on children and armed conflict and on women and peace and security. The role of women is essential in any transitional process. Their inclusion must be cross-cutting and applied to decision-making centres. In that connection, Spain, together with Finland, has undertaken to achieve that objective by 2025 through Commitment 2025.

Thirdly and lastly, the truth and guarantees of non-repetition are key. I urge the members of the Council to bear that in mind in defining the mandates of peace missions or of Special Representatives of the Secretary-General. This year our Organization, which strives to achieve universal peace and which Spain supports unwaveringly, turns 75. Much remains to be done, but we know the way. We must continue to believe in multilateralism because it alone can consolidate peace in those countries where that has yet to be achieved.

**The President** (*spoke in French*): I now give the floor to the representative of Japan.

**Mr. Ishikane** (Japan): Facing the past and seeking a better future — that is the spirit at the centre of international transitional justice. Successful transitional justice initiatives contribute to building and sustaining peace and, in the long term, to achieving Sustainable Development Goal 16 by strengthening institutions and establishing the rule of law, which are crucial to making

lasting peace possible. It is important to make sure that transitional justice initiatives do not harm peace but rather help sustain it.

I believe that trust is what makes a peaceful society — trust among people and trust of the people in their Government. A society that has endured conflict often lacks the foundation for trust or has seen that foundation destroyed in the course of conflict. In such moments, people are full of fear, uncertainty and grievances and are deprived of access to justice. That is exactly why the human security approach is so important in the implementation of transitional justice initiatives. What we should aim for is not solely to punish perpetrators through a top-down approach but also to support the transformation of our society into a State where people can lead an empowered life free from fear. The building of strong, effective and trustworthy institutions is an integral part of building and sustaining peace and should remain a crucial part of transitional justice as well.

Here I would like to emphasize that legitimacy, inclusivity and local ownership are key to the successful implementation of transitional justice, particularly with regard to institutional reforms. There is no one-size-fits-all approach. Rather, the local context, history and culture in each case need to be taken into account. Transitional justice processes and mechanisms must be considered legitimate and inclusive and be based on local ownership if they are to gain the trust of the population. International support must aim at helping countries engaged in a transitional justice process in their endeavour to stand on their own feet.

Japan is committed to supporting the development and improvement of judicial and security systems and institutions. We have continuously supported conflict-affected countries, such as Côte d'Ivoire, the Democratic Republic of the Congo, Mali, Afghanistan and Iraq, by providing capacity-building and supporting judicial and security-sector reform. Japan is also actively involved in United Nations efforts for building and sustaining peace and is a proud advocate of the importance of institution-building, including in the context of transitional justice. Last month, Japan was appointed one of two vice-Chairs of the Peacebuilding Commission for 2020. Japan looks forward to working closely with Canada as Chair and Colombia as co-Vice-Chair. We would like to take that opportunity to further strengthen cooperation between the Commission and the Security Council.

**The President** (*spoke in French*): I now give the floor to the representative of Norway.

**Ms. Juul** (Norway): I thank you, Mr. President, for having convened this important meeting. We welcome the crucial input from the briefers, including the United Nations High Commissioner for Human Rights.

I have the honour to speak on behalf of the Nordic countries, Denmark, Finland, Iceland, Sweden and my own country, Norway.

Transitional justice exposes the human dimension of a conflict by putting the rights of victims first. In societies emerging from conflict, inclusive and effective responses are an investment in peace, stability, justice and democracy. Transitional justice consists of a broad set of measures, from ensuring accountability for international crimes, honouring victims' right to truth and acknowledging their suffering to providing reparation for damage done. Effective and inclusive institutions at all levels have a vital role. The whole of society must come to terms with the past and work towards reconciliation. Yet this is not easy. Transitional justice measures are set up in complex and sensitive political circumstances. We have experienced in peace negotiations that one of the most difficult questions is impunity. Those with the most power to end conflicts are often the least likely to submit to justice for their crimes.

As we have heard this morning, the Colombian peace agreement showed that the goals of peace and justice for victims could be mutually reinforcing. Today, three years into the agreement's implementation, the Truth Commission, the Special Jurisdiction for Peace and the Search Unit for Missing Persons are fully operational. Support from the Security Council played a crucial role. While not without challenges and controversies, Colombia's experience with transitional justice, though crucial in its own regard, also provides us with important lessons for other peace processes.

Civil society, in particular women, should be included, from the design to the implementation of transitional justice mechanisms. Women must be seen as peacebuilders rather than victims. By integrating a gender equality perspective, conditions are improved for inclusive and democratic societies where human rights are respected. One Nordic example is the specialized police teams to the United Nations mission in South Sudan. They support the national police in

preventing, investigating and prosecuting sexual and gender-based violence.

Let me mention four measures that the United Nations can take to strengthen our work. First, the mandate of United Nations peace operations should include support for nationally owned transitional justice initiatives. Here we can draw lessons from the United Nations Multidimensional Integrated Stabilization Mission in Mali and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo. Secondly, United Nations envoys and special representatives should be encouraged to promote transitional justice initiatives and inclusion at all levels of peace processes. Thirdly, the Council must strengthen its partnership with regional organizations, including the African Union, which last year adopted a transitional justice policy to support reconciliation. Finally, the advisory role of the Peacebuilding Commission to the Council could be better utilized. There are valuable lessons learned from countries that have gone through transitional justice processes.

When done right, transitional justice is transformative, providing local institutions with legitimacy for the challenging path towards lasting peace. When war-torn societies take decisive steps towards peace, we, the international community, should support those efforts in every possible way. The victims of conflict deserve nothing less.

**The President** (*spoke in French*): I now give the floor to the representative of Liechtenstein.

**Mr. Wenaweser** (Liechtenstein): At the heart of our discussion today is the question of how peace and justice correlate to each other. The Council has answered that question by stating that a comprehensive approach to transitional justice, including the promotion of healing and reconciliation, is critical to the consolidation of peace and stability. That is a clear and strong statement, and we fully agree with it. Such a comprehensive approach encompasses the dimensions of truth, justice, reparation and guarantee of non-recurrence — that is, prevention.

The overall purpose of transitional justice is indeed to help societies overcome a difficult, often painful, past, promote reconciliation and support a common way forward towards sustainable peace. Transitional justice is therefore also a key component of conflict prevention and the implementation of Sustainable Development Goal 16. National ownership of such

processes is essential. But in many cases, in particular where atrocity crimes were committed on a large scale, international or regional assistance may be not only helpful but, indeed, necessary.

There are various examples where truth and reconciliation commissions have played a supportive role in post-conflict situations. A commitment to the right to truth is indispensable. Anyone who has suffered atrocities has the right to know who is responsible; anyone whose family members have disappeared has the right to know their fate and whereabouts. Every society where such crimes have taken place has the right to learn about its history, without lies or denial. They are inevitably painful processes, but they form the basis for moving forward together and for taking the measures necessary to ensure that the same does not happen again. Those processes also give victims their rightful place in the discussion — a place that they are too often denied. We heard in yesterday's discussions (see S/PV.8721) how often children's grievances and calls for justice are neglected in peace processes, with devastating results for sustainable peace. Similar things can be said with respect to the women and peace and security agenda. In addition to securing justice for individual violations, transitional justice has to address, in particular, the context of gender inequality and injustice, which gives rise to conflict.

If the Council has a strong conceptual basis from which to work, its practical record is a different story. To begin with, there is no collective political will in the Council's membership to translate thematic agreements on justice into practice. In the case of Myanmar, it has not even seriously considered, let alone acknowledged, the unanimous decision of the International Court of Justice, the principal judicial organ of the United Nations, on the provisional measures to be taken by the authorities of Myanmar on the basis of the Convention on the Prevention and Punishment of the Crime of Genocide. In so doing, the Council misses a unique opportunity to help guarantee non-recurrence.

In the ongoing conflict in the Syrian Arab Republic, it has essentially ignored the accountability and justice dimension and passed the ball to the General Assembly, which established 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, as a result. But, in fairness, there is also a conceptual difficulty

with giving transitional justice tasks to the Council. Of course, there are peacekeeping operations — and the very useful concept note (S/2020/98, annex) has listed those operations where the Council has included relevant elements in their respective mandates. But for the most part, the Council will not stay engaged for the long years that are often required to provide transitional justice.

The United Nations body most underutilized in that respect appears to be the Peacebuilding Commission (PBC), which has the mandate “to support the development of integrated strategies in order to lay the foundation for sustainable development”, of which transitional justice is a key ingredient. Ongoing discussions on the PBC should therefore place strong emphasis on that dimension. The United Nations system should be equipped to assist all States that do not have a PBC configuration but still face transitional justice challenges.

It is a convenient talking point to say that there can be no peace without justice, although it is less in vogue today than it was a few years ago. In practice, however, we often prioritize peace over justice — certainly the Council does. How often have we heard in this Chamber that the involvement of the International Criminal Court (ICC) in Darfur — ironically, mandated by the Council — was not only unwarranted but, in fact, harmful to peace and stability in the Sudan? As it turns out, the authorities in the Sudan seem to have come to a different conclusion. We are following very closely reports concerning a possible transfer of those indicted by the ICC, in connection with the crimes committed in Darfur. The mere fact that those discussions are taking place is the strongest possible statement in support of the relevance of justice for sustainable peace. We hope, of course, that we will witness those transfers. Trials in The Hague would be a late and partial form of relief for the suffering of the victims of the genocide in Darfur. They would illustrate how short-sighted the approach of the Council to the challenge of peace and justice remains, 75 years after its creation.

**The President** (*spoke in French*): I now give the floor to the representative of Azerbaijan.

**Mrs. Baghirova** (Azerbaijan): I have the honour to deliver this statement on behalf of the Movement of Non-Aligned Countries.

At the outset, we would like to congratulate Belgium on its assumption of the presidency of the



Security Council and pay tribute to His Excellency Mr. Philippe Goffin, Minister for Foreign Affairs and Defence of Belgium.

We should also like to welcome Her Excellency Ms. Michelle Bachelet, United Nations High Commissioner for Human Rights, and other briefers to today's open debate.

Promoting and sustaining international peace is a key issue for the Non-Aligned Movement. The Movement and its member States have historically opposed war and supported peace, fought against colonialism and neocolonialism, rejected all forms of racism, racial discrimination, xenophobia and related intolerance and struggled to suppress slavery and the slave trade.

The Movement reaffirms and underscores its principled position and commitment with regard to the promotion of the pacific settlement of disputes, in accordance with the Charter of the United Nations, international law and the relevant United Nations resolutions, including those adopted by the Security Council. The strengthening of the role of the United Nations in the peaceful settlement of disputes, conflict prevention and resolution, confidence-building, national reconciliation, and post-conflict peacebuilding, rehabilitation, reconstruction and development contributes to the strengthening of international peace and security and to saving future generations from the scourge of war and armed conflict.

The States members of the Movement stand ready to take effective measures for the suppression of acts of aggression or other breaches of the peace to defend, promote and encourage the settlement of international disputes by peaceful means in such a manner that international peace and security and justice are not endangered.

The Movement also stresses that the root causes of conflict should be addressed in a coherent, well-planned, coordinated and comprehensive manner, with other political, social, economic and developmental instruments. During their eighteenth summit, held in Baku in October 2019, the Heads of State and Government of the Non-Aligned Movement took note of the importance and merit of the concept of sustaining peace, as understood in the resolutions adopted by the General Assembly (resolution 70/262) and the Security Council (resolution 2282 (2016)), and reaffirmed the primary responsibility of national Governments and

their leadership and ownership in identifying, driving and directing priorities, strategies and activities.

The Non-Aligned Movement also emphasizes the need for the involvement of all segments of society in peace processes, including women and youth, who can play an important role in the prevention and resolution of conflicts, as well as in peacekeeping and peacebuilding efforts and in building peaceful and resilient societies. Inclusivity is key to advancing national peacebuilding processes and objectives in order to ensure that the needs of all segments of society are taken into account.

The Non-Aligned Movement proceeds from the strict belief that the observance of the principles of international law and the fulfilment in good faith of the obligations assumed by States, in accordance with the Charter of the United Nations, are of the greatest importance for the maintenance of international peace and security. Based on that premise, in cases in which violations of international law take place, those responsible must be held accountable in order to prevent their recurrence and seek sustainable peace, justice, truth and reconciliation. Otherwise, impunity would run rampant and perpetrators would be de facto encouraged to continue committing their crimes.

In conclusion, the Non-Aligned Movement underscores that there can be no development without peace, and no peace without development. Therefore, we should redouble our collective efforts to enhance the synergies created by peacekeeping and peacebuilding activities, as appropriate, and attain the overall objective of sustaining peace, thereby fulfilling the commitments made when our Heads of State and Government adopted the 2030 Agenda for Sustainable Development.

**The President** (*spoke in French*): I now give the floor to the representative of Brazil.

**Mr. Vieira** (Brazil): Let me first commend Belgium for having organized this open debate and the briefers for their insightful presentations. Coming to terms with the past to work towards a just and peaceful future is at the core of transitional justice strategies and should inform the Security Council's discussions on post-conflict strategies.

Brazil would like to highlight four main points in today's debate.

First, there are no universal recipes for transitional justice processes. In order to be effective, transitional justice strategies should not only take into account

the local context, but also be based on widespread consultations among different sectors of societies emerging from armed conflict. Moreover, national and local actors, especially women and youth, should be directly involved in the implementation of transitional justice programmes in order to ensure their sustainability. Developing an approach that is sensitive to the situation of the most vulnerable groups in post-conflict settings is crucial to guaranteeing an inclusive, locally owned transitional process while avoiding stigmatization. In that regard, international efforts should aim at assisting countries to develop the necessary national capacity to spearhead the process.

Secondly, despite the uniqueness of each process, they all share basic values. Aspirational goals from early experiences gradually moved into binding legal rules, consolidating the parameters for current and future exercises. As the guidance note of the Secretary-General on the United Nations approach to transitional justice of March 2010 points out, international legal obligations frame transitional justice measures. International law envisages guarantees of the non-repetition of violations and sets the basis to fight impunity for international crimes, even in times of political transition. Most important, the axiological foundations and legal grounds of transitional justice make it not a matter of whether but of how and when to implement it, which leads to our third point.

Transitional justice is a constant balancing exercise. The imperatives of peace, justice, law and politics may be hard to reconcile in practice. The common answer that they are complementary to one another is a useful guideline, although not a concrete or detailed one. Transitional justice strategies should encompass potential tensions between peace and justice and find ways to overcome them. Criminal prosecution for the most serious crimes can be combined with acts of reconciliation by the perpetrators of minor offenses and a fair programme of reparations for the victims. Calibrating the variety of transitional justice mechanisms is key to achieving balance among seemingly contradictory goals.

Fourthly, the combination of different mechanisms only partially addresses the challenges of building peace. Transitional justice should be integrated into broader peacebuilding efforts. Both security-sector reform and disarmament, demobilization and reintegration (DDR) programmes may benefit from well-planned transitional justice strategies. Vetting

programmes may gather information and, at the same time, contribute to non-recurrence.

However, if poorly designed, those tools may undermine one another. The prospect of criminal prosecution might negatively impact DDR, whereas reintegration might generate resentment if not accompanied by reparations for victims. All those initiatives must be mutually supportive in order to build resilient, peaceful and just societies.

Transitional justice is a multidimensional endeavour. Significant aspects of the matter fall outside the mandate of the Security Council, particularly in situations that do not amount to armed conflict. While recognizing the limitations of the Council with regard to this particular issue, we consider that it can make an important contribution to transitional justice processes in post-conflict societies, including by encouraging the incorporation of transitional justice mechanisms into peace agreements and designing the mandate of United Nations missions in support of the implementation of transitional justice processes.

**The President** (*spoke in French*): I now give the floor to the Permanent Observer of the International Committee of the Red Cross.

**Mr. Mardini:** After the guns go silent, transitional justice creates a space for truth, accountability and reconciliation. It helps break the cycles of violence and atrocities. Equally important, it plays a humanitarian role. It recognizes wounds and addresses the suffering of individuals, families and communities whose lives were fundamentally changed by the conflict. One humanitarian issue that intersects with transitional justice is the situation of missing persons and their families. If one speaks to families, one hears that their suffering is both acute and haunting. It is the last open wound.

As the Security Council meets today to discuss how to improve transitional justice mechanisms, the International Committee of the Red Cross (ICRC) would like to make the following three recommendations.

First, it is important to include a stated objective on the clarification of the fate of missing persons and support for families for all cases of missing persons, without discrimination. Such mechanisms must involve the families and have due regard for their emotional well-being and security. We encourage the Security Council and United Nations Member States and missions to see

transitional justice processes as an important avenue to implement resolution 2474 (2019), on missing persons in armed conflict, adopted last year.

Secondly, all families looking for a missing relative must be provided an individualized answer and support. That applies even if the case is not part of a judicial investigation under a transitional justice mechanism. People can also go missing in circumstances that might fall outside the scope of the judicial pillar of a transitional justice mechanism. For instance, combatants can go missing in action, or civilians can go missing during displacement or intercommunal violence. Even families in such cases have a right to know the fate and whereabouts of their missing relatives.

Thirdly, there must be no impunity for war crimes. In all types of armed conflicts, States have the obligation under international humanitarian law to investigate and prosecute suspects of alleged war crimes, some of which may include violations that have led to people going missing, including cases of enforced disappearances.

The ICRC stands ready to provide expert advice and to support States, United Nations missions and transitional justice mechanisms on ways to: first, include the issue of missing persons and their families in transitional justice processes, whether in truth-seeking, reparations or judicial pillars; secondly, guarantee complementarity between transitional justice processes and any other mechanism set up to clarify the fate and whereabouts of missing persons; and, thirdly, ensure consistency between transitional justice processes and States' obligations under international humanitarian law.

**The President** (*spoke in French*): There are still a number of speakers remaining on my list for this meeting, and I intend, with the concurrence of the members of the Council, to suspend the meeting until 3 p.m.

*The meeting was suspended at 1 p.m.*