



# General Assembly

Seventy-eighth session

**25**<sup>th</sup> plenary meeting  
 Wednesday, 1 November 2023, 3 p.m.  
 New York

Official Records

*President:* Mr. Francis . . . . . (Trinidad and Tobago)

*The meeting was called to order at 3.10 p.m.*

## Agenda item 74 (continued)

### Report of the International Criminal Court

#### Note by the Secretary-General (A/78/322)

#### Reports of the Secretary-General (A/78/320 and A/78/321)

#### Draft resolution (A/78/L.6)

**Mr. Pérez Ayestarán** (Bolivarian Republic of Venezuela) (*spoke in Spanish*): We thank the President of the International Criminal Court (ICC) for presenting (see A/78/PV.21) the report (see A/78/322), of which we have taken due note. Through the report, we were able to become familiar with the legal activities conducted by the institution in compliance with its mandate, including in relation to cases under way, the conclusion of some of them and the status of ongoing investigations.

The Venezuelan State is firmly committed, both in its national legislation and in practice, to respecting the promotion and protection of all human rights and fundamental freedoms. We therefore express our categorical rejection of all crimes against humanity, war crimes, genocide and ethnic cleansing, all of which are defined in the Rome Statute. We also reiterate the key role played by States, at all times, as the guarantors of the fundamental rights of their people, as well as our support for ensuring that justice is served in those cases when such egregious crimes have been committed, always based on the primacy of national jurisdiction.

Venezuela therefore reiterates its firm commitment to the Rome Statute and to the fight against impunity with regard to the most serious crimes of concern to the international community. We know that it is crucial step both for maintaining international peace and security and for strengthening the rule of law internationally. Because of that commitment, we take this opportunity, first, to take note of the statements made by Prosecutor Karim Khan on 29 October and, secondly, to call, once and for all, for specific and urgent measures to be taken, including by the International Criminal Court, to ensure that Israel, the occupying Power, be held accountable for the egregious crimes it has committed with impunity for years in the occupied Palestinian territories. That includes those committed in the past three weeks in another regrettable spiral of violence, death and destruction, which has claimed the lives of thousands of innocent civilians, including women and children, and can be described only as, without a shadow of a doubt, a true genocide.

In February 2020, my country made a referral to the ICC, requesting that it initiate an investigation into the criminal responsibility of members of the United States Government who have perpetrated serious crimes of concern to the international community against the Venezuelan people, as a result of the application of a cruel and inhumane economic, trade and financial embargo, which, among other things, prevents our people from having access to food and medicine. The systematic and intentional use of the embargo is clearly a crime against humanity, according to the provisions of article 7 of the Rome Statute. It entails a whole set of unilateral coercive measures, which violate the Charter

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of United Nations and all norms of international law and are clearly aimed at depriving the Venezuelan people of their means of subsistence. That is why we await with interest the swift start of an investigation into the so-called Venezuela II situation.

Despite our clear commitment to justice and the Rome Statute, as demonstrated not only through the referral, which we made more than three years ago, and our increasing and proven cooperation with the Office of Prosecutor Khan, we must acknowledge that it is natural that, on some occasions, there have been discrepancies with the criteria or vision of the Court's Office of the Prosecutor in the adoption of some of its decisions. However, that has not prevented us from continuing our smooth communication and cooperation with the Court. On the contrary, over the past few years, we have been strengthening our dialogue with the ICC's Office of the Prosecutor, including based on the recent signing in June of a memorandum of understanding, by which a framework was established for the opening of an Office of the Prosecutor of the Court in our country to provide technical assistance and support to the efforts of the Venezuelan legal system aimed at determining the truth and dispensing justice.

On 14 August, the Bolivarian Republic of Venezuela presented the basis of its appeal to the Appeals Chamber of the International Criminal Court with regard to the decision taken by the Pre-Trial Chamber, which authorized the resumption of the investigation into the Venezuela I situation. By seeking an appeal, my country argued that the Chamber's decision of 27 June contained factual and legal errors, which undermined the fundamental provisions of the Rome Statute and international law. The outcome was therefore at odds with the truth and with justice. By submitting its notice of appeal, my country hopes that the commitment to international law will be restored.

In line with its national Constitution, Venezuela is a democratic and social State, based on the rule of law and justice. We therefore demand respect for our constitutional system of justice and take this opportunity to recall that, since at least 2018, we have denounced and demonstrated the fact that the process started by a group of countries at the Court is clearly politically motivated and can be characterized as a failed strategy to bring about regime change, driven by foreign Powers against Venezuela and its constitutional authorities. The process is based on false accusations of Venezuela's supposed crimes against humanity — something that has never occurred in my country.

In that context, it is worth bringing to the attention of the General Assembly the remarks made by the Foreign Ministers of the members of the Movement of Non-Aligned Countries at their most recent meeting, held in July in Baku, with regard to the issue. The Foreign Ministers

“noted with concern the recent decision of the International Criminal Court to proceed with an investigation on the alleged commission of crimes under its purview in the Bolivarian Republic of Venezuela, despite the demonstrated cooperation with the Prosecutor of the ICC in this regard and the ongoing procedures in place in Venezuela, in exercise of its national criminal jurisdiction and in line with its relevant domestic and international obligations. They further noted that such course of action violates the principle of complementarity, as foreseen in the Rome Statute of the ICC, and therefore called on the ICC to avoid its works from being politicized and weaponized, as part of lawfare efforts that only serve agendas of dubious nature, and to preserve both the integrity of the Rome Statute and the independence of the Court.”

The Bolivarian Republic of Venezuela reaffirms that the International Criminal Court is a court of last resort that establishes a justice system for serious crimes of concern to the international community, rooted in national courts. National authorities therefore have the primary responsibility of investigating and prosecuting crimes that are defined as such in the Rome Statute. The Court is involved only when States are unwilling or unable to conduct the relevant national proceedings within their jurisdiction.

I would like to take this opportunity to say that my country, through its Public Ministry — which, in addition to ensuring respect for constitutional guarantees in judicial proceedings, organizes and spearheads criminal investigations when punishable acts are committed — has been implementing a series of reforms and has adopted several innovative measures to ensure the effective administration of justice on its national territory, while always seeking to provide restitution to the victims of human rights violations. That is all in full compliance with our national and international obligations in that area, including those based on the Rome Statute. It fully reflects the spirit of cooperation in the memorandum of understanding signed with the Office of the Prosecutor of the International Criminal Court.

Furthermore, we take this opportunity to recognize the work of public defenders who work at the ICC. Their efforts are crucial to ensuring the proper functioning of this judicial institution. We would also like to express our serious concern about the current labour situation faced by these public servants. We urge the Government of the Netherlands, in its capacity as host State to the International Criminal Court, to recognize their plight and return to the situation prior to 2014, when taxation was similar to that imposed on other ICC civil servants with the same terms. We also call for the independence, objectivity, non-selectivity, impartiality and transparency of the Court's work to be preserved. We should avoid the Court being used to advance dark political interests that are contrary to the spirit of the Rome Statute and undermine its credibility and the primacy of justice and human rights.

In that vein, we conclude by rejecting, in the most categorical terms, the recent remarks made by the representative of the United States in the Assembly Hall only two days ago (see A/78/PV.22). They again show the double standards applied in the area of human rights and its renewed interest in politicizing the work of the International Criminal Court, whose judges and prosecutors have even been sanctioned due to the simple fact that they have tried to initiate investigations aimed specifically at doing what so many other situations require — justice for atrocity crimes. It makes no sense to claim to champion great causes around the world while, at the same time, being determined to block investigations into the painful crimes committed by its own nationals throughout history in various countries around the world and perpetuating, over time, a climate of impunity to protect its well-known partner in genocide and oppressor of an entire people. They have no authority, much less the moral high ground, to make such statements or talk about the situation in my country. We have had enough of the audacity of the Government of the United States and its satellites. It is now time for justice and truth.

**Mrs. González López** (El Salvador) (*spoke in Spanish*): The Republic of El Salvador thanks the President of the International Criminal Court for presenting the annual report (see A/78/322) on the work of the Court (see A/78/PV.21). Allow me to make the following comments in that regard.

The establishment of the International Criminal Court was a crucial step in the evolution of international criminal law. The Court reflects the commitment of the international community to ensuring that the most

serious crimes of concern to the international community as a whole do not go unpunished. Twenty-five years after adopting the Rome Statute of the International Criminal Court, El Salvador takes note of the work of this important Court in international criminal justice. We urge the institution to remain permanent and independent and retain its universal calling. We also encourage the principle of complementarity with national jurisdictions. That principle allows the International Criminal Court to intervene when States cannot or are unwilling to prosecute those responsible for serious crimes. In that regard, my delegation acknowledges that complementarity is essential to ensuring that there be no space for impunity and to adopting measures that are key in protecting witnesses and victims.

The relationship between the International Criminal Court and the United Nations is fundamental. The United Nations is the cornerstone of international cooperation, and the International Criminal Court has become a key part of that structure. In that regard, my delegation takes note of the presentation of the report on the work of the Court in 2022 and 2023 and the report contained in document A/78/321, on the expenses incurred and reimbursement received by the United Nations in connection with assistance provided to the International Criminal Court. We also take note of the report (A/78/320) on information relevant to the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court.

El Salvador encourages the promotion of capacity-building in programmes for legal and judicial reform, supported by the United Nations, so as to strengthen the institutional and technical capacity of States parties to the Rome Statute and improve training for legal professionals in the investigation and prosecution of international crimes. Undoubtedly, promoting capacity-building will allow the States parties to the Statute to exercise their primary responsibility for investigating and prosecuting the crimes defined in the Rome Statute. We therefore believe that the recommendations set out in paragraph 71 of the report on this issue are timely.

Lastly, my delegation would like to reiterate its commitment to continuing to review this agenda item. We would also like to become sponsors of the draft resolution (A/78/L.6), which will be adopted once the plenary debate has been concluded. We will continue to provide follow-up to the work of the Court, which will ensure access to international criminal justice so that it is respected and

put into practice in a lasting way, while prioritizing the protection of the human dignity of victims.

**Ms. Zabolotskaya** (Russian Federation) (*spoke in Russian*): Many delegations have spoken here in the Assembly Hall about the lofty ideals of combating impunity and about the equality of every person before the law. We support those principles; they are the right ones. Historically, my country has championed those principles. It was one of the countries behind the Nuremberg Tribunal. Russia was one of the most active participants in the drafting of the Rome Statute of the International Criminal Court (ICC). Russia voted in favour of its adoption, signed it and even started the ratification process. Like many others, we genuinely believed that the Court would have continued the glorious legacy of the tribunals that were established at the end of the Second World War to convict Nazi and military criminals. The ICC was supposed to investigate the most serious crimes under international law. It would do so impartially and effectively. Many had high hopes for the Court. The majority of the enthusiastic language in draft resolution A/78/L.6, which is under consideration today, dates back to the first few years after the establishment of the ICC. Back then, positive reviews were often given in advance. Yet they do not reflect the current situation at and surrounding the ICC.

Time and practice have shown that the lofty ideals of justice were not destined to be realized. Hopes were far removed from reality. The trajectory of its development, or rather degradation, repeated the rather dubious achievements of the International Tribunal for the Former Yugoslavia (ICTY), which became famous for its clear anti-Serb bias in convictions, as well as for whitewashing war criminals, including the real butchers, among the other parties to the conflict. Unconventional courts established through the European Union have allegedly only now begun to investigate those criminals.

The main achievement of the ICC is that it has managed to greatly surpass the odious ICTY in terms of the selectivity, partiality and politicization of the judicial process, as well as its skill in sweeping under the carpet the war crimes of its Western masters. The term “Hague justice”, which had become a dirty word in the Yugoslav context, has taken on new meaning, thanks to the ICC.

The ICC was able to refute the idea that combating impunity was the key to long-term reconciliation and conflict resolution. The situations in the Sudan and

Libya are the best proof of that. The Security Council’s experiments in referring those situations to the ICC were not just unsuccessful; they turned into a real disaster for those countries, stretching over many years.

The ICC has issued a measly handful of judgments during its tenure. The number of final verdicts can be counted on one hand. A significant number of cases simply collapsed as they were being investigated by the ICC Prosecutor’s Office without ever reaching the Court. Billions of dollars have been spent on those unimpressive results. The regular budget of the ICC, a punitive machine in the hands of the collective West, is three times the budget of the International Court of Justice. That does not include the hundreds of millions of dollars that Western countries have poured into the sham Ukrainian process, under the guise of voluntary donations. Against that backdrop, regular attempts by the ICC leadership to justify to the Security Council the blatant long-term ineffectiveness of this pseudo-court in the Libyan and Darfur cases due to an alleged lack of funds are simply pathetic.

For the West, however, this investment is paying off handsomely. Since its establishment, the ICC has indicted 52 people, 47 of whom are Africans. That is an interesting statistic given that Western countries have committed the worst and bloodiest mass atrocities in modern-day history. An African colleague once referred to the ICC as the “international colonial court”, and that was not in jest. The ICC has completely degenerated into a purely political instrument to persecute those who have crossed the collective West. The neo-colonialists themselves enjoy absolute impunity, whatever they may have done, in the best traditions of the rules-based world order, as opposed to the international law-based order.

One need not go far to find examples. The Court and its tame, corruption-ridden British Prosecutor literally in a snap de-prioritized, or simply put, stopped investigating, the deaths of civilians, including women and children, in Afghanistan, Libya and Iraq at the hands of NATO. There are hundreds of thousands of victims, but no perpetrators — “Hague justice” in action. Indeed, why bother investigating when you could find evidence of crimes committed by the United States and the United Kingdom? It could be dangerous. Washington imposed sanctions for the mere fact of starting these investigations, and then the sanctions were lifted after the deprioritization of these situations.

Similarly, the ICC, at the click of a button, also fabricates cases on the orders of its Western masters

against “undesirable” countries and “regimes”. The arrest warrant for Mr. Al-Qadhafi was drawn up in just three days. It was based on such disgraceful and clumsy fakes that even Mr. Powell’s famous test-tube at the Security Council pales in comparison (see S/PV.4701).

The ICC, however, did its job. It dehumanized the Libyan leader, creating a fig leaf for the NATO military aggression. As a result, the country and its economy are in ruins. Mr. Al-Qadhafi was killed without a trial or investigation. The fate of those who did not die from NATO bombs is not enviable either. Hundreds of thousands of people burned in the flames of the civil war, drowned in the sea on their way to Europe in search of a better life or, having swam there, faced blatant discrimination and inhumane treatment by those who destroyed their native country. Who has been held responsible for that? We see total impunity at the ICC.

The rush to issue so-called arrest warrants against Russians on the eve of the Russian-Chinese summit has become a shameful circus that has nothing to do with justice. The judge in the Pre-Trial Chamber had to be replaced quickly. Meanwhile, the composition of the Chamber had not even been approved at the time of the Prosecutor’s appeal. That is understandable because who cares about procedural rules when there are political orders to be executed?

The Prosecutor also got his bonus. Just days before his appeal to the ICC judges, his own brother, by the way, a former member of the British Parliament, who was serving a sentence for paedophilia, was released from prison early. It is worth noting that the issuance of those so-called warrants was announced on the eve of a donor conference in support of the ICC in London, at which the sponsors openly declared that the funds they allocated should be earmarked exclusively to bringing Russia to justice. In other words, the interested parties are openly paying for the fabricated ICC trial. Just think about that. What kind of justice are we talking about here?

The charges brought against Russians are a separate matter. They are not only groundless, they violate international law, including the law on the immunities of State officials, and are therefore legally null and void. They are simply inhumane. They are accused of evacuating neglected children from a war zone. According to the logic of the ICC, should they simply have been abandoned in the line of fire? That is how this cannibalistic pseudo-court cares about children.

Against that backdrop, we are not at all surprised by the shameful position of the ICC and its Western

moralizing masters on the tragic events of the Israeli-Palestinian conflict that have been going on for three weeks now. Civilians have not been evacuated from the war zone; thousands of children have already died from indiscriminate shelling. And hospitals are regularly hit, burying patients, doctors and rescue workers under rubble. Hundreds of thousands of people are suffering from water and medicine shortages. Individual United Nations agencies have only recently woken up, cautiously labelling what is happening as possible war crimes.

And what about the lauded ICC? Where are the arrest warrants? Or are they given only for saving children, not for killing them? The Office of the British Prosecutor makes general political statements threatening only Palestinians with prosecution for some reason. That again demonstrates the true nature of the ICC; its ideals and goals and whose interests it really serves.

The attempts of the ICC, that flawed structure, to position itself as an institution acting on behalf of the entire international community appear simply ridiculous. The idea of its supposedly universally recognized international mandate has nothing to do with reality. More than a third of the States Members of the United Nations, representing more than half of the world’s population, do not participate in this pseudo-court. It manages to keep many in it only by threats, but that is just for now.

We have just looked at today’s ICC together. Let us compare this unsavoury picture with draft resolution A/78/L.6, under consideration today. The document has been frozen since 2016. Its wording lost any connection with reality much earlier than that. In 2011, this pseudo-court sealed its own fate with false information on the situation in Libya. The fact that that information was false, as we understand, has already been universally recognized. Most of the positive assessments of the ICC were made in a resolution when it was first established and had not yet begun its work. That was perhaps its only golden period.

Apart from its scandalous image from the outside looking in, the situation inside the Court is no less depressing — absolute non-transparency, dubious election procedures and unequal geographical representation. All key positions are invariably reserved for Westerners and their satellites. Everything is being done to prevent developing countries from being at the helm of this repressive political instrument used by the collective West to fight undesirable States and Governments.

A separate issue is the linkage in the draft resolution between the ICC and the United Nations. It does not in any way benefit the credibility of the United Nations. The laudatory language of the draft resolution under consideration by the General Assembly stopped reflecting reality long ago because it was simply impossible to describe the actual situation in its text due to the intransigent position of pro-ICC activists.

Against the backdrop of what the ICC has degenerated into, we do not intend to put up with this text anymore, even in its frozen state. We do not want the General Assembly to remain in the grip of idealistic notions that have been disproved by reality and the 20-year history of the ICC's decay. We demand that the draft resolution be put to a vote and call on all States that care about the real fight against impunity and the principles of justice and sovereign equality among States to vote against it.

**The President:** I now give the floor to the Deputy Permanent Observer of the Observer State of Palestine.

**Mr. Bamya (Palestine):** In all of 2022, across all conflict areas around the world combined, approximately 3,000 children were killed — 3,000 too many. In three weeks, Israel killed 3,600 Palestinian children in the Gaza Strip — more than all the children killed in all conflict areas in a year. Of the 8,800 Palestinians killed so far, more than 70 per cent are women and children. Nearly all are civilians. Is there anyone here with a shred of humanity and decency who thinks that there is any justification for that? Is there anyone here who believes that those numbers would be possible if Israel were not targeting civilians or, at the very least, conducting indiscriminate attacks?

The rules of international law came in response to the tragedies we failed to prevent. We remember the names of those tragedies. They are the names of towns, cities and provinces that are forever etched in our collective memory as open wounds and stains on humankind's conscience, as reminders of what happens when the worst occurs and the many remain silent.

Gaza's name is in bold on that list. It has appeared several times for the decades of military occupation, for the 16 years of blockade, for five wars and, now more than ever, for three weeks during which the Gaza Strip has been besieged and bombed, with no regard for the life of the 2.3 million Palestinians who live there.

The international community has failed those who were killed. It is failing the besieged, the wounded, the

sick and the displaced. But thousands of lives hang in the balance; they can still be saved. There is no way to describe what Israel is doing in the Gaza Strip as anything other than war crimes.

If members recognize that those acts are committed as part of a widespread or systematic attack against the civilian population, these are crimes against humanity. If members recognize they are committed with intent to destroy, in whole or in part, a national group, then they are genocide. These are the choices — genocide, crimes against humanity or war crimes. Which one does any country here want to try and justify? Is there any country still ready to evoke unconditional support for Israel while it is committing these atrocities, while it is occupying, colonizing, besieging, killing and maiming? The States Members of the United Nations pledged unconditional support to the Charter of the United Nations and to the rule of international law. Every nation has to choose where its loyalty lies. What is clear is that support for Israel in this war is incompatible with that pledge and Member States' obligation to uphold international law.

As a leading humanitarian non-governmental organization puts it, the humanitarian rulebook has been thrown out, and polite pleas from politicians to minimize civilian fatalities are naive at best and, at worst, seem blind to the unimaginable horrors already taking place in Gaza. International law is the standard against which all our actions are measured. Condoning double standards can only undermine and jeopardize the credibility and the rules of international law. There is no exception for Israel, and no exception for Palestine and the Palestinian people.

Members now know that what is happening in Palestine is possible. Looking at the images, one wonders how is this possible? And not for one or two days but for days and weeks now. There are massacres taking place, being carried live on television screens being broadcast around the world. How is it possible? Simply read the Rome Statute; it has all the answers. Its States parties are determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes. Impunity leads to the recurrence of crimes.

In 75 years, not a single Israeli leader, commander or soldier has been held accountable for the crimes committed against the Palestinian people — not one. We joined the International Criminal Court (ICC) almost 10 years ago, and still we wait for justice to be

delivered. There were countries that were opposed to joining the ICC. There were countries that were opposed to the General Assembly seizing the International Court of Justice. How can they explain why Israel can never be held accountable in any form or in any forum? This is not what history taught us. It taught us that our best chance against horrors is for the law to be upheld and for justice to be ensured, regardless of the identity of the victims and regardless of the identity of the perpetrators. It taught us that there is no justification whatsoever for war crimes, crimes against humanity and genocide — none.

The Israeli Permanent Representative stood in the Security Council and placed a yellow star on his jacket evoking the Holocaust (see S/PV.9462), while at the same time justifying the bombings that are killing Palestinian civilians by the thousands — children by the thousands. No one can instrumentalize the Holocaust to justify atrocities — no one. We honour the victims of the Holocaust and all victims by never justifying the killing of innocent civilians and by upholding international law for all.

The Holocaust was one of the worst horrors that humankind has ever witnessed and, along with other horrors, it led us to elaborate the very rules that have been breached today — the Charter, the Geneva Conventions, the Universal Declaration of Human Rights. It led us to adopt the Rome Statute, 50 years too late, and build the Court with a universal calling — not for one group against another but for all humankind. Are we not part of that human family? Are Palestinian civilian lives less sacred? Does anyone here agree with Israel that we are subhuman?

During each statement delivered here, every five minutes a Palestinian child is killed. When we say every minute counts, we mean it. It is the difference between life and death for hundreds of people, for thousands of people. Palestinian families have lost 10, 20, 30, 40 of their relatives, killed en masse, several generations at a time. Some have disappeared from the face of the Earth.

Members have families. Members have grandparents, parents, siblings, children and grandchildren. Think of them, and then think of a single Palestinian family that has lost all of them, or of the child that has survived the rest of his family and has to go through life with that reality. Hundreds of Palestinian families have lost more than 10 members of

their family. Nothing can justify this war going on for a single minute — nothing.

We have 2,000 Palestinians under the rubble. We cannot reach them. We cannot save those who can still be saved. We cannot bury those who were killed. A mother said she could still hear her child under the rubble. She will never know if he could have been saved or not.

“Never again” means never standing idly by while atrocities are committed. It means never justifying such atrocities under any pretence or pretext. It means standing up to them and standing up for those enduring them. The General Assembly adopted a resolution (resolution ES-10/21) grounded in morality and legality, calling for an immediate, durable and sustained humanitarian truce, for upholding international humanitarian law and the protection of all civilians, for humanitarian access and aid to the Palestinian people throughout the Gaza Strip, for the release of the civilians held captive, for stopping and reversing the forced transfer of the population, for accountability and for peace. We appreciate all those who voted in favour of that resolution and call on them to spare no effort to ensure its implementation. We call on those who did not vote in favour of the resolution to review their untenable position.

We appreciate every effort to get humanitarian aid in. We appreciate every effort to allow us to save lives. But the only way for us to address this catastrophic situation under way is to stop the assault immediately. We call on the Prosecutor, who made an important visit to the region in the midst of this unfolding tragedy, to uphold his mandate, and all States to help ensure accountability. We need members’ unconditional support to civilians, including children, and humanitarian personnel, who are performing in impossible conditions. Sixty-seven members of the staff of the United Nations Relief and Works Agency for Palestine Refugees in the Near East have been killed. Many doctors and rescue teams have been bombarded. Many hospitals and schools are being bombed. There is no safe haven or safe place in Gaza. People have been asked to go south, and the south is being bombed. Forty per cent of those killed were killed in the south.

Do not believe the lies. There is nothing called “an evacuation order to protect civilians”. Israel has admitted in a memo of its Ministry of Intelligence that the goal was the forced displacement of people outside of the Gaza Strip and outside of Palestine — the same goal that has been pursued for more than 75 years. We have 75 years of experience with Israeli goals. We know

those goals. The goal is not to protect our civilians. It has never been to protect our civilians. It has always been to dispossess and displace our people. It is an unlawful order, and no one should justify it. Protection follows civilians; it is not civilians who run after protection. They should be protected wherever they are. This order is a death sentence for many who cannot leave where they are. There are no shelters. There is no infrastructure to receive them. There is not a single safe place in Gaza.

We need members' unconditional support for the wounded and the sick, to the law and humanity and to a reality in which no Palestinians or Israelis are killed, in which our rights are no longer denied, families are reunited in life, not death, and in which we are all able to live in peace and security. Only one path can lead us there. No one should obstruct it. Everyone should help us on that path. It is the one we identified when we joined the ICC with three simple words — justice, not vengeance.

**The President:** We have heard the last speaker in the debate on this item.

The Assembly will now take a decision on draft resolution A/78/L.6, entitled "Report of the International Criminal Court".

I give the floor to the representative of the Secretariat.

**Mr. Nakano** (Department for General Assembly and Conference Management): I should like to announce that, since the submission of the draft resolution and in addition to the delegations listed in the document, the following countries have become sponsors of draft resolution A/78/L.6: Albania, Andorra, Argentina, Australia, Austria, Barbados, Belgium, Belize, Bosnia and Herzegovina, Botswana, Bulgaria, Cabo Verde, Canada, Chile, Colombia, Congo, Costa Rica, Croatia, Cyprus, Czechia, the Democratic Republic of the Congo, Denmark, the Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Gabon, the Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malta, the Marshall Islands, Mexico, Montenegro, New Zealand, Nigeria, North Macedonia, Norway, Paraguay, Peru, Poland, Portugal, the Republic of Korea, the Republic of Moldova, Romania, Samoa, San Marino, Senegal, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania and Uruguay.

**The President:** A recorded vote has been requested.

*A recorded vote was taken.*

*In favour:*

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Bangladesh, Barbados, Belgium, Belize, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Bulgaria, Cabo Verde, Canada, Chad, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czechia, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Jordan, Kenya, Kiribati, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Maldives, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Myanmar, Namibia, Netherlands (Kingdom of the), New Zealand, Nigeria, North Macedonia, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Suriname, Sweden, Switzerland, Thailand, Timor-Leste, Trinidad and Tobago, Tunisia, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Zambia

*Against:*

Belarus, Mali, Nicaragua, Russian Federation, Syrian Arab Republic, Togo

*Abstaining:*

Algeria, Bahrain, Brazil, Brunei Darussalam, Cambodia, China, Cuba, Egypt, Eritrea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Kuwait, Lao People's Democratic Republic, Lebanon, Libya, Malaysia, Mozambique, Oman, Pakistan, Philippines, Qatar, Saudi Arabia, Singapore, Sri Lanka, Sudan, United Arab Emirates, Viet Nam, Yemen

*Draft resolution A/78/L.6 was adopted by 115 votes to 6, with 31 abstentions (resolution 78/6).*



[Subsequently, the delegation of India informed the Secretariat that it had intended not to participate.]

**The President:** Before giving the floor for explanations of vote after the voting, may I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

**Mr. Bernardes** (Brazil): As I mentioned during the debate (see A/78/PV.22), the difficulty of achieving consensus for the first time in this annual resolution highlights the need for us to reflect on how we may overcome the current pressing challenges faced by the International Criminal Court (ICC), rather than simply disregarding them. And that is why Brazil chose to abstain in the voting.

Achieving universal adherence, addressing concerns related to partiality, selectivity and double standards, ensuring effective State cooperation, fostering coherence within the international legal system and rectifying geographical imbalances within the ICC's institutional structure are some of the critical challenges. It is essential that the ICC conduct a thorough self-assessment of its current activities, as outlined in its annual report (see A/78/322), while addressing these and other concerns to further its noble mission of ending impunity for the most serious crimes of concern to the international community as a whole.

In conclusion, allow me to reiterate Brazil's unwavering commitment to international law and international justice, as underscored in my remarks during this debate.

**Mr. Cappon** (Israel): Israel was an early advocate for the establishment of the International Criminal Court. However, Israel decided to abstain in the voting for the reason it expressed in previous years when it disassociated itself from the resolution.

As a democratic State based on the rule of law, and as the nation of the State of the Jewish people, we remain committed to ensuring that the perpetrators of mass atrocities that deeply shock the conscience of humankind are held accountable. In that context, Israel has already stated that it has launched a national investigation in relation to the barbaric and ongoing crimes committed by Hamas against Israeli children, women and men in the murderous terrorist attack that started on 7 October and will seek to hold those responsible to account.

**Mr. Khaddour** (Syrian Arab Republic) (*spoke in Arabic*): My country's delegation chose to join the States

that voted against resolution 78/6 and clearly expressed their dismay about the unprecedented politicization of the performance of the International Criminal Court (ICC).

My country was one of the States that actively participated in the Rome Conference in 1998 and made important contributions to the drafting of the Statute of the Court. We were one of the first States to sign the Rome Statute. However, the ICC's poor performance and the selective approach that the Court has adopted since its establishment is the main reason that made my country not ratify the Court Statute.

Despite the fact that the Court's work at the beginning of the current century addressed the most dangerous and brutal crimes committed in Iraq, Afghanistan and occupied Palestine, the Court's record at the time was replete with failures, including betraying the victims of the Iraq and Afghanistan invasions, the victims of Israeli violations and the victims of Guantanamo and Abu Ghraib, among others. Today, 25 years after the adoption of the Rome Statute, we are quite confident that we were right in our position vis-à-vis the Court and in not ratifying its Statute.

It is regrettable to see that the Court has been taken hostage by the will, policies and even directives of Western States, including the United States, which withdrew its signature on the Rome Statute and declared hostility to the Court, along with adopting legislation against it and obstructing its work. We all remember the famous United States American Service-members' Protection Act, known by The Hague Invasion Act. What has changed? Did the United States rediscover the Court, or together with its Western allies decide to redefine the Court by turning it into a tool for putting pressure on, and using coercive diplomacy against, certain States?

By the way, those targeted States are African States. What a coincidence that the majority of the targeted countries have been African States, as if gross violations were a trademark of African leaders. History has taught us otherwise. History has taught us that the most heinous and brutal crimes committed in Africa were perpetrated by the West, which continues to commit crimes against Africa and against its peaceful people.

That issue has not stopped at this point. The Court recently started to expeditiously issue international subpoenas on demand. That is a new service for its customers. Even if the subpoenas were issued for senior officials of non-member States, they constitute a clear violation against the established rules of international law on personal and objective sovereign immunities

guaranteed by international customary law and confirmed by the decisions of the International Court of Justice.

In full view of the world and on television screens, we are witnessing today an ongoing act of genocide against an entire people in Gaza. Where is the Criminal Court about what is taking place? The Court chose to remain silent, or to only make statements. The Court decided to stand idly by while children are being killed and hospitals are being targeted. Even those who are already dead are being targeted in Gaza. Since its inception, that has been the position of the Court towards violations committed against Palestinians.

As for States promoting the Court and calling on other States to join it, they want us to be partners in the carnage and in remaining shamefully silent about what is happening.

The majority of Israeli leaders and war criminals who clearly state that they are determined to annihilate civilians, destroy Gaza and treat its people like animals, are citizens of Member States of the Court. I repeat, they are all citizens of Member States of the Court, in addition to their borrowed nationality. That is enough for the Court to have jurisdiction pursuant to article 12 of its Statute. Why, then, do those States that claim to protect international justice not hand them over to the Court? The same applies to terrorists who belong to Da'esh. The majority of them are citizens of those States. My simple answer is because that does not serve the interests of the States that are partners in the crimes committed by the Israeli occupation and Da'esh.

We are not exaggerating when we say that the Court's silence on the crimes being committed in Gaza makes it a partner in perpetrating those crimes. It is a partner because it does not act. It was also a partner in dividing the Sudan, a partner in destroying Libya and a partner in failing the victims of Abu Ghraib, Guantanamo and Afghanistan.

In conclusion, what I said before are not mere claims. They are facts, confirmed by history. Therefore, talking about the universality of international criminal justice, which the Court is supposed to represent — or was supposed to have represented — is an exaggeration. We might be better off admitting that the selective performance and systematic targeting that now guide the work of the Court have undermined the credibility of the concept of international criminal justice. We are now faced once again with justice of the victors, justice

of those who seek vengeance and even justice of those who are funders.

**The President:** The exercise of the right of reply has been requested. May I remind members that statements in the exercise of the right of reply are limited to 10 minutes for the first intervention and to five minutes for the second intervention and should be made by delegations from their seats.

I now give the floor to the representative of Israel.

**Mr. Cappon (Israel):** We regret that, once again, the Palestinian representative has chosen to exploit this platform and exhaust its valuable time by sharing misleading information and inflating numbers, seemingly running out of valid legal arguments. We should all remember that there is no law without facts, and the facts are very clear. Hamas, the genocidal terrorist organization started this war, and Israel has the legal and moral right to protect its citizens. Hamas is the ruler of the Gaza Strip. Hamas is behind this attack, and it will be held accountable for the ramifications of its actions.

In this asymmetric “lawfare”, everything is asymmetric. On one side, there is a democratic State, which abides by international law and does everything within its power to minimize civilian casualties. On the other side, there is a genocidal terrorist organization, which blatantly ignores and violates international law time and again and strives to maximize civilian casualties on the Israeli side as well as on the Palestinian side.

If the Palestinian representative and his supporters' concerns are genuinely for the well-being of Palestinians in Gaza, we suggest they address Hamas, which hides in tunnels under hospitals and whose actions and use of civilians as human shields significantly impacts the situation on the ground. The right thing to do is to condemn Hamas. If they will not condemn Hamas, as they have refused to do since the massacre on 7 October, perhaps it would be better for this forum to focus on developing international law rather than on being influenced by those who wish to spread false information and political agendas.

**The President:** May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 74?

*It was so decided.*

*The meeting rose at 4.15 p.m.*