

International Law Association (American Branch)

Legal Developments at the United Nations

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The following is a summary of legal developments and activities which took place at the United Nations, or under the auspices of the organization, during 2016. The focus is on the outcomes of the work of some of the principal organs of the United Nations, as well as selected International Courts and Tribunals. No attempt is made at providing a detailed account of each activity. Instead, this report seeks to provide the reader with a broad overview of activities during the period under review. The reader is provided with relevant hyperlinks to sites on the Internet for further research.

1. General Assembly

The General Assembly continued to be active throughout the period under review, which covered the remainder of its 69th session, and the convening of the 71st session on 13 September 2016.

During the remainder of the 70th session (January to September 2016), the General Assembly adopted 53 resolutions.² Of particular interest, for present purposes, were:

- Res. 70/264 of 13 May 2016, in which the Assembly, *inter alia*, acknowledged the role of the International Criminal Court in a multilateral system that aims to end impunity, promote the rule of law, promote and encourage respect for human rights, achieve sustainable peace and further the development of nations, in accordance with international law and the purposes and principles of the Charter of the United Nations;
- Res. 70/290 of 30 June 2016, in which the Assembly, *inter alia*, adopted the modalities for the high-level meeting of the plenary of the General Assembly on addressing large movements of refugees and migrants, to be held on 19 September 2016;
- Res. 70/296 of 25 July 2016, in which the Assembly, *inter alia*, adopted the Agreement concerning the Relationship between the United Nations and the International Organization for Migration (bringing the IOM into the United Nations system of organizations); and
- Res. 70/302 of 9 September 2016, transmitting the outcome document entitled “New York Declaration for Refugees and Migrants”, annexed to the resolution, to the General Assembly at its seventy-first session for action during the high-level plenary meeting on addressing large movements of refugees and migrants to be held on 19 September 2016.

² Resolutions 70/252 to 305.

Following the opening of its 71st session, the Assembly adopted an agenda containing 173 items,³ organized around the following thematic areas:

- Promotion of sustained economic growth and sustainable development in accordance with the relevant resolutions of the General Assembly and recent United Nations conferences;
- Maintenance of international peace and security;
- Development of Africa;
- Promotion of human rights;
- Effective coordination of humanitarian assistance efforts;
- Promotion of justice and international law;
- Disarmament;
- Drug control, crime prevention and combating international terrorism in all its forms and manifestations;
- Organizational, administrative and other matters;

The vast majority of the agenda items were allocated to the Main Committees of the Assembly (with the remainder to be considered in the Plenary of the Assembly itself): the First Committee (Disarmament and International Security), which met from 3 October to 3 November 2016; the Second Committee (Economic and Financial), which met from 3 October to 23 November 2016; the Third Committee (Social, Humanitarian and Cultural), which met from 3 October to 23 November 2016; the Fourth Committee (Special Political and Decolonization), which met from 3 October to 8 November 2016; the Fifth Committee (Administrative and Budgetary), which held its main session from 29 September to 23 December 2016; and the Sixth Committee (Legal), which met from 3 October to 11 November 2016.

As of 23 December 2016, 274 resolutions were adopted by the General Assembly, on the basis of draft resolutions negotiated either directly in the Plenary or proposed by the various Main Committees. Of particular interest, for present purposes, were the following:

Resolutions negotiated in the Plenary of the General Assembly:

- Res. 71/1 of 19 September 2016 – **New York Declaration for Refugees and Migrants**: the Assembly endorsed a set of commitments applying to both refugees and migrants, as well as separate sets of commitments for refugees and migrants;

³ See A/71/250. A further agenda item was subsequently added. See A/71/250/Add.1

- Res. 71/4 of 13 October 2016 – **Appointment of the Secretary-General of the United Nations**: the Assembly appointed Mr. António Guterres Secretary-General of the United Nations for a term of office beginning on 1 January 2017 and ending on 31 December 2021;
- Res. 71/123 of 7 December 2016 – **Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments**: the Assembly, inter alia, reaffirmed the importance it attaches to the long-term conservation, management and sustainable use of the living marine resources of the world's oceans and seas and the obligations of States to cooperate to this end, in accordance with international law, as reflected in the relevant provisions of the United Nations Convention on the Law of the Sea, in particular the provisions on cooperation set out in Part V and Part VII, section 2, of the Convention, and where applicable, the Agreement;
- Res. 71/129 of 8 December 2016 – **Safety and security of humanitarian personnel and protection of United Nations personnel**: the Assembly, inter alia, urged all States to make every effort to ensure the full and effective implementation of the relevant principles and rules of international law, including international humanitarian law and human rights law, and refugee law as applicable, related to the safety and security of humanitarian personnel and United Nations personnel;
- Res. 71/253 of 23 December 2016 – **Report of the International Criminal Court**: the Assembly, inter alia, welcomed the States that had become parties to the Rome Statute of the International Criminal Court, and called upon all States in all regions of the world that were not yet parties to the Rome Statute to consider ratifying, accepting, approving or acceding to it without delay;
- Res. 71/257 of 23 December 2016 – **Oceans and the law of the sea**: the Assembly, inter alia, reaffirmed the unified character of the Convention and the vital importance of preserving its integrity, and encouraged States to further progress towards the establishment of marine protected areas, including representative networks, and calls upon States to further consider options to identify and protect ecologically or biologically significant areas, consistent with international law and on the basis of the best available scientific information.

Resolutions based on the reports of the First Committee:

- Res. 71/26 of 5 December 2016 – **African Nuclear-Weapon-Free Zone Treaty**: the Assembly, inter alia, expressed its appreciation to the nuclear-weapon States that had

- signed the Protocols to the Treaty that concerned them, and called upon those that had not yet ratified the Protocols that concerned them to do so as soon as possible;
- Res. 71/27 of 5 December 2016 – **Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)**: the Assembly, inter alia, encouraged once again States parties to Additional Protocols I and II to the Treaty of Tlatelolco to review their interpretative declarations thereto;
 - Res. 71/28 of 5 December 2016 – **Developments in the field of information and telecommunications in the context of international security**: the Assembly, inter alia, called upon Member States to promote further, at multilateral levels, the consideration of existing and potential threats in the field of information security, as well as possible strategies to address the threats emerging in this field, consistent with the need to preserve the free flow of information;
 - Res. 71/29 of 5 December 2016 – **Establishment of a nuclear-weapon-free zone in the region of the Middle East**: the Assembly, inter alia, urged all parties directly concerned seriously to consider taking the practical and urgent steps required for the implementation of the proposal to establish a nuclear-weapon-free zone in the region of the Middle East;
 - Res. 71/30 of 5 December 2016 – **Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons**: the Assembly, inter alia, reaffirmed the urgent need to reach an early agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, and appealed to all States, especially the nuclear-weapon States, to work actively towards an early agreement on a common approach and, in particular, on a common formula that could be included in an international instrument of a legally binding character;
 - Res. 71/31 of 5 December 2016 – **Prevention of an arms race in outer space**: the Assembly, inter alia, reaffirmed the importance and urgency of preventing an arms race in outer space and the readiness of all States to contribute to that common objective, in conformity with the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies;
 - Res. 71/32 of 5 December 2016 – **No first placement of weapons in outer space**: the Assembly, inter alia, urged an early commencement of substantive work based on the updated draft treaty on the prevention of the placement of weapons in outer space and of the threat or use of force against outer space objects introduced by China and the Russian Federation at the Conference on Disarmament in 2008;
 - Res. 71/33 of 5 December 2016 – **The Hague Code of Conduct against Ballistic Missile Proliferation of 5 December 2016**: the Assembly, inter alia, welcomed the fact that 138 States had so far subscribed to the Hague Code of Conduct against

Ballistic Missile Proliferation as a practical step against the proliferation of weapons of mass destruction and their means of delivery;

- Res. 71/34 of 5 December 2016 – **Implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction**: the Assembly, inter alia, invited all States that had not signed the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction to accede to it without delay;
- Res. 71/36 of 5 December 2016 – **Preventing and combating illicit brokering activities**: the Assembly, inter alia, encouraged Member States to fully implement relevant international treaties, instruments and resolutions to prevent and combat illicit brokering activities;
- Res. 71/38 of 5 December 2016 – **Measures to prevent terrorists from acquiring weapons of mass destruction**: the Assembly, inter alia, appealed to all Member States to consider early accession to and ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism, and encouraged States parties to the Convention to review its implementation on the occasion of the tenth anniversary of its entry into force;
- Res. 71/45 of 5 December 2016 – **Implementation of the Convention on Cluster Munitions**: the Assembly, inter alia, urged all States outside the Convention on Cluster Munitions to join as soon as possible, whether by ratifying or acceding to it, and all States parties that were in a position to do so to promote adherence to the Convention through bilateral, sub-regional and multilateral contacts, outreach and other means;
- Res. 71/47 of 5 December 2016 – **Humanitarian pledge for the prohibition and elimination of nuclear weapons**: the Assembly, inter alia, urged all States parties to the Treaty on the Non-Proliferation of Nuclear Weapons to renew their commitment to the urgent and full implementation of their existing obligations under article VI, and called upon all States to identify and pursue effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons and to cooperate with all stakeholders to achieve this goal; and called upon all States to pursue an additional legal instrument or instruments with urgency and to support international efforts to prohibit and eliminate nuclear weapons;
- Res. 71/49 of 5 December 2016 – **United action with renewed determination towards the total elimination of nuclear weapons**: the Assembly, inter alia, renewed the determination of all States to take united action towards the total elimination of nuclear weapons, with a view to achieving a safer world for all and a peaceful and secure world free of nuclear weapons;
- Res. 71/50 of 5 December 2016 – **The Arms Trade Treaty**: the Assembly, inter alia, called upon all States that had not yet done so to ratify, accept, approve or accede to

the Treaty, according to their respective constitutional processes, and called upon those States parties in a position to do so to provide assistance, including legal or legislative assistance, institutional capacity-building and technical, material or financial assistance, to requesting States in order to promote the universalization of the Treaty;

- Res. 71/51 of 5 December 2016 – **Nuclear-weapon-free southern hemisphere:** the Assembly, inter alia, welcomed the continued contribution that the Antarctic Treaty and the treaties of Tlatelolco, Rarotonga, Bangkok and Pelindaba were making towards freeing the southern hemisphere and adjacent areas covered by those treaties from nuclear weapons and adjacent areas;
- Res. 71/54 of 5 December 2016 – **Towards a nuclear-weapon-free world:** accelerating the implementation of nuclear disarmament commitments: the Assembly, inter alia, reiterated that each article of the Treaty on the Non-Proliferation of Nuclear Weapons was binding on the States parties at all times and in all circumstances and that all States parties should be held fully accountable with respect to strict compliance with their obligations under the Treaty;
- Res. 71/55 of 5 December 2016 – **Ethical imperatives for a nuclear-weapon-free world:** the Assembly, inter alia, declared that the global threat posed by nuclear weapons must urgently be eliminated;
- Res. 71/58 of 5 December 2016 – **Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons:** the Assembly, inter alia, underlined once again the unanimous conclusion of the International Court of Justice that there existed an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control;
- Res. 71/59 of 5 December 2016 – **Measures to uphold the authority of the 1925 Geneva Protocol:** the Assembly, inter alia, renewed its previous call to all States to observe strictly the principles and objectives of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, and reaffirms the vital necessity of upholding its provisions, and called upon those States that continued to maintain reservations to the 1925 Geneva Protocol to withdraw them;
- Res. 71/60 of 5 December 2016 – **Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control:** the Assembly, inter alia, reaffirmed that international disarmament forums should take fully into account the relevant environmental norms in negotiating treaties and agreements on disarmament and arms limitation and that all States, through their actions, should contribute fully to ensuring compliance with the aforementioned norms in the implementation of treaties and conventions to which they are parties;

- Res. 71/61 of 5 December 2016 – **Promotion of multilateralism in the area of disarmament**: the Assembly, inter alia, underlined the importance of preserving the existing agreements on arms regulation and disarmament, which constituted an expression of the results of international cooperation and multilateral negotiations in response to the challenges facing mankind and non-proliferation;
- Res. 71/63 of 5 December 2016 – **Nuclear disarmament**: the Assembly, inter alia, called upon the nuclear-weapon States, pending the achievement of the total elimination of nuclear weapons, to agree on an internationally and legally binding instrument on a joint undertaking not to be the first to use nuclear weapons;
- Res. 71/65 of 5 December 2016 – **Treaty on a Nuclear-Weapon-Free Zone in Central Asia**: the Assembly, inter alia, welcomed the entry into force on 21 March 2009 of the Treaty on a Nuclear-Weapon-Free Zone in Central Asia;
- Res. 71/66 of 5 December 2016 – **Preventing the acquisition by terrorists of radioactive sources**: the Assembly, inter alia, called upon Member States to support international efforts to prevent the acquisition and use by terrorists of radioactive materials and sources and, if necessary, suppress such acts, in accordance with their national legal authorities and legislation and consistent with international law;
- Res. 71/68 of 5 December 2016 – **National legislation on transfer of arms, military equipment and dual-use goods and technology**: the Assembly, inter alia, invited Member States that were in a position to do so, without prejudice to the provisions contained in Security Council resolution 1540 (2004) of 28 April 2004 and subsequent relevant Council resolutions, to enact or improve national legislation, regulations and procedures to exercise effective control over the transfer of arms, military equipment and dual-use goods and technology, while ensuring that such legislation, regulations and procedures were consistent with the obligations of States parties under international treaties, such as the Arms Trade Treaty;
- Res. 71/69 of 5 December 2016 – **Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction**: the Assembly, inter alia, condemned in the strongest possible terms the use of chemical weapons by anyone under any circumstances, emphasizing that any use of chemical weapons anywhere, at any time, by anyone, under any circumstances was unacceptable and was and would be a violation of international law, and expressed its strong conviction that those individuals responsible for the use of chemical weapons must and should be held accountable;
- Res. 71/75 of 5 December 2016 – **Convention on the Prohibition of the Use of Nuclear Weapons**: the Assembly, inter alia, reiterated its request to the Conference on Disarmament to commence negotiations in order to reach agreement on an

international convention prohibiting the use or threat of use of nuclear weapons under any circumstances;

- Res. 71/84 of 5 December 2016 – **Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects**: the Assembly, inter alia, called upon all States that had not yet done so to take all measures to become parties, as soon as possible, to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and the Protocols thereto, as amended, with a view to achieving the widest possible adherence to these instruments at an early date and so as to ultimately achieve their universality;
- Res. 71/86 of 5 December 2016 – **Comprehensive Nuclear-Test-Ban Treaty**: the Assembly, inter alia, stressed the vital importance and urgency of signature and ratification, without delay and without conditions, in order to achieve the earliest entry into force of the Comprehensive Nuclear-Test-Ban Treaty;
- Res. 71/87 of 5 December 2016 – **Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction**: the Assembly, inter alia, noted with satisfaction the successful outcome of and the decisions on all provisions of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction reached at the Seventh Review Conference of the States Parties to the Convention, and called upon States parties to the Convention to participate and actively engage in their continued implementation;
- Res. 71/258 of 23 December 2016 – **Taking forward multilateral nuclear disarmament negotiations**: the Assembly, inter alia, decided to convene in 2017 a United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination;
- Res. 71/259 of 23 December 2016 – **Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices**: the Assembly, inter alia, urged the Conference on Disarmament to agree on and implement at its earliest opportunity a balanced and comprehensive programme of work that included the immediate commencement of negotiations on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.

Resolutions based on the reports of the Second Committee:

- Res. 71/229 of 21 December 2016 – **Implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa**: the Assembly, inter alia, encouraged developed countries party to the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, to actively support the efforts of developing countries party to the Convention in promoting sustainable land management practices and in seeking to achieve land degradation neutrality, by providing substantial financial resources, facilitated access to appropriate technology and other forms of support, including through capacity-building measures;
- Res. 71/230 of 21 December 2016 – **Implementation of the Convention on Biological Diversity and its contribution to sustainable development**: the Assembly, inter alia, encouraged the respective parties, in close collaboration with relevant stakeholders, to take concrete measures towards achieving the objectives of the Convention on Biological Diversity and the Protocols thereto, the Cartagena Protocol on Biosafety and the Nagoya Protocol.

Resolutions based on the reports of the Third Committee:

- Res. 71/167 of 19 December 2016 – **Trafficking in women and girls**: the Assembly, inter alia, urged Member States that had not yet done so to consider ratifying or acceding to, as a matter of priority, the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, taking into consideration the central role of those instruments in the fight against trafficking in persons, and urges States parties to those instruments to implement them fully and effectively; and urged Member States to consider signing and ratifying, and States parties to implement, the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto, the Convention on the Rights of the Child and the Optional Protocols thereto, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the Forced Labour Convention, 1930 (No.29) and the Protocol thereto, the Labour Inspection Convention, 1947 (No. 81), the Migration for Employment Convention (Revised), 1949 (No. 97), 23 the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No.138), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No.

143), the Private Employment Agencies Convention, 1997 (No. 181), the Worst Forms of Child Labour Convention, 1999 (No. 182), and the Domestic Workers Convention, 2011 (No.189), of the International Labour Organization.

- Res. 71/173 of 19 December 2016 – **Assistance to refugees, returnees and displaced persons in Africa**: the Assembly, inter alia, called upon African States that had not yet signed or ratified the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa to consider doing so as early as possible in order to ensure its wider implementation;
- Res. 71/177 I of 19 December 2016 – **Rights of the child**: the Assembly, inter alia, urged States that had not yet done so to consider acceding to the Convention on the Rights of the Child and to the Optional Protocols thereto as a matter of priority and to implement them effectively and fully;
- Res. 71/178 of 19 December 2016 – **Rights of indigenous peoples**: the Assembly, inter alia, requested the President of the General Assembly to make the arrangements necessary for the high-level event to be held during the sixteenth session of the Permanent Forum on Indigenous Issues, in 2017;
- Res. 71/179 of 19 December 2016 – **Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance**: the Assembly, inter alia, called for the universal ratification and effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, and encouraged those States parties that had not yet done so to consider making the declaration under its article 14, thus providing the Committee on the Elimination of Racial Discrimination with the competence to receive and consider communications from individuals or groups of individuals within their jurisdiction claiming to be victims of a violation by a State party of any of the rights set forth in the Convention;
- Res. 71/180 of 19 December 2016 – **International Convention on the Elimination of All Forms of Racial Discrimination**: the Assembly, inter alia, recalled the fiftieth anniversary of the adoption of the Convention, and reiterated its call for the universal ratification and effective implementation of the Convention by all States parties to eliminate all forms of racial discrimination;
- Res. 71/182 of 19 December 2016 – **Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination**: the Assembly, inter alia, reaffirmed that the use of mercenaries and their recruitment, financing, protection and training were causes for grave concern to all States and that they violated the purposes and principles enshrined in the Charter of the United Nations;
- Res. 71/183 of 19 December 2016 – **Universal realization of the right of peoples to self-determination**: the Assembly, inter alia, reaffirmed that the universal realization

of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination was a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

- Res. 71/184 of 19 December 2016 – **The right of the Palestinian people to self-determination**: the Assembly, inter alia, reaffirmed the right of the Palestinian people to self-determination, including the right to their independent State of Palestine;
- Res. 71/186 of 19 December 2016 – **Human rights and extreme poverty**: the Assembly, inter alia, reaffirmed that extreme poverty, deep inequality and exclusion constituted a violation of human dignity and that urgent national and international action was therefore required to eliminate them;
- Res. 71/187 of 19 December 2016 – **Moratorium on the use of the death penalty**: the Assembly, inter alia, reaffirmed the sovereign right of all countries to develop their own legal systems, including determining appropriate legal penalties, in accordance with their international law obligations, and called upon all States to establish a moratorium on executions with a view to abolishing the death penalty;
- Res. 71/188 of 19 December 2016 – **Human rights in the administration of justice**: the Assembly, inter alia, reaffirmed the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice, and invites States to assess their national legislation and practice against those standards;
- Res. 71/189 of 19 December 2016 – **Declaration on the Right to Peace**: the Assembly, inter alia, adopted the Declaration on the Right to Peace, as contained in the annex to the resolution;
- Res. 71/191 of 19 December 2016 – **The right to food**: the Assembly, inter alia, reaffirmed that hunger constitutes an outrage and a violation of human dignity and therefore required the adoption of urgent measures at the national, regional and international levels for its elimination;
- Res. 71/193 of 19 December 2016 – **Human rights and unilateral coercive measures**: the Assembly, inter alia, urged all States to cease adopting or implementing any unilateral measures not in accordance with international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature, with all their extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development;
- Res. 71/196 of 19 December 2016 – **Freedom of religion or belief**: the Assembly, inter alia, emphasized that the right to freedom of thought, conscience and religion or belief

applied equally to all persons, regardless of their religion or belief and without any discrimination as to their equal protection by the law;

- Res. 71/197 of 19 December 2016 – **Globalization and its impact on the full enjoyment of all human rights:** the Assembly, inter alia, recognized that, while globalization, through its impact on, inter alia, the role of the State, may affect human rights, the promotion and protection of all human rights is first and foremost the responsibility of the State;
- Res. 71/198 of 19 December 2016 – **Extrajudicial, summary or arbitrary executions:** the Assembly, inter alia, called upon all States, in order to prevent extrajudicial, summary or arbitrary executions, to comply with their obligations under the relevant provisions of international human rights instruments;
- Res. 71/199 of 19 December 2016 – **The right to privacy in the digital age:** the Assembly, inter alia, affirmed that the same rights that people have offline must also be protected online, including the right to privacy, and encouraged all States to promote an open, secure, stable, accessible and peaceful information and communications technology environment based on respect for international law, including the obligations enshrined in the Charter of the United Nations and human rights instruments;
- Res. 71/201 of 19 December 2016 – **Missing persons:** the Assembly, inter alia, called upon States to take measures to prevent persons from going missing in connection with armed conflict, including by fully implementing their obligations and commitments under relevant international law;
- Res. 71/208 of 19 December 2016 – **Preventing and combating corrupt practices and the transfer of proceeds of corruption, facilitating asset recovery and returning such assets to legitimate owners, in particular to countries of origin, in accordance with the United Nations Convention against Corruption:** the Assembly, inter alia, expressed concern about the magnitude of corruption at all levels, including the scale of stolen assets and proceeds of corruption, and in that regard reiterated its commitment to preventing and combating corrupt practices at all levels, in accordance with the United Nations Convention against Corruption.

Resolutions based on the reports of the Special Political and Decolonization Committee (Fourth Committee):

- Res. 71/90 of 6 December 2016 – **International cooperation in the peaceful uses of outer space:** the Assembly, inter alia, urged States that had not yet become parties to the international treaties governing the uses of outer space to give consideration to

ratifying or acceding to those treaties in accordance with their national law, as well as incorporating them into their national legislation;

- Res. 71/96 of 6 December 2016 – **Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories:** the Assembly, inter alia, reaffirmed that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,¹ was applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
- Res. 71/97 of 6 December 2016 – **Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan:** the Assembly, inter alia, called for the consideration of measures of accountability, in accordance with international law, in the case of continued non-compliance, stressing that compliance with and respect for international humanitarian law and international human rights law was a cornerstone for peace and security in the region;
- Res. 71/122 of 6 December 2016 – **Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:** the Assembly, inter alia, reaffirmed once again that the existence of colonialism in any form or manifestation, including economic exploitation, was incompatible with the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Universal Declaration of Human Rights.

Resolutions based on the reports of the Sixth Committee:

- Res. 71/133 of 13 December 2016 – **Responsibility of States for internationally wrongful acts:** the Assembly, inter alia, acknowledged that a growing number of decisions of international courts, tribunals and other bodies refer to the articles on responsibility of States for internationally wrongful acts; and continued to acknowledge the importance and usefulness of the articles, and commended them once again to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action;
- Res. 71/134 of 13 December 2016 – **Criminal accountability of United Nations officials and experts on mission:** the Assembly, inter alia, welcomed the commitment of the Secretary-General to refer credible allegations of sexual exploitation and abuse to the Member State of the United Nations officials or experts on mission for appropriate action;
- Res. 71/135 of 13 December 2016 – **Report of the United Nations Commission on International Trade Law on the work of its forty-ninth session:** the Assembly, inter

alia, commended the Commission for the finalization and adoption of the Model Law on Secured Transactions, the 2016 Notes on Organizing Arbitral Proceedings and the Technical Notes on Online Dispute Resolution;

- Res. 71/136 of 13 December 2016 – **Model Law on Secured Transactions of the United Nations Commission on International Trade Law**: the Assembly, inter alia, recommended that all States give favourable consideration to the Model Law when revising or adopting legislation relevant to secured transactions;
- Res. 71/137 of 13 December 2016 – **2016 Notes on Organizing Arbitral Proceedings of the United Nations Commission on International Trade Law**: the Assembly, inter alia, recommended the use of the 2016 Notes, including by parties to arbitration, arbitral tribunals and arbitral institutions, as well as for academic and training purposes with respect to international commercial dispute settlement;
- Res. 71/138 of 13 December 2016 – **Technical Notes on Online Dispute Resolution of the United Nations Commission on International Trade Law**: the Assembly, inter alia, recommended that all States and other stakeholders use the Technical Notes in designing and implementing online dispute resolution systems for cross- border commercial transactions;
- Res. 71/139 of 13 December 2016 – **United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law**: the Assembly, inter alia, authorized the Secretary-General to carry out the activities specified in his reports in 2017, including a number of activities to be financed from provisions in the regular budget;
- Res. 71/140 of 13 December 2016 – **Report of the International Law Commission on the work of its sixty-eighth session**: the Assembly, inter alia, expresses its appreciation to the International Law Commission for the work accomplished at its sixty-eighth session, and noted in particular (a) the completion of the second reading of the draft articles on the protection of persons in the event of disasters with the adoption of an entire set of draft articles on the topic; (b) the completion of the first reading of the draft conclusions on identification of customary international law with the adoption of an entire set of draft conclusions on the topic; and (c) the completion of the first reading of the draft conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties with the adoption of an entire set of draft conclusions on the topic;
- Res. 71/141 of 13 December 2016 – **Protection of persons in the event of disasters**: the Assembly, inter alia, took note of the draft articles on the protection of persons in the event of disasters, presented by the Commission, and invited Governments to submit comments concerning the recommendation by the Commission to elaborate a convention on the basis of the articles;

- Res. 71/142 of 13 December 2016 – **Diplomatic protection:** the Assembly, inter alia, commended once again the articles on diplomatic protection to the attention of Governments, and invited them to submit in writing to the Secretary-General any further comments, including comments concerning the recommendation by the International Law Commission to elaborate a convention on the basis of the articles;
- Res. 71/143 of 13 December 2016 – **Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm:** the Assembly, inter alia, commended once again the articles on prevention of transboundary harm from hazardous activities, the text of which was annexed to General Assembly resolution 62/68, to the attention of Governments, without prejudice to any future action, as recommended by the International Law Commission regarding the articles; and also commended once again the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, the text of which was annexed to General Assembly resolution 61/36, to the attention of Governments, without prejudice to any future action, as recommended by the Commission regarding the principles;
- Res. 71/144 of 13 December 2016 – **Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts:** the Assembly, inter alia, welcomed the universal acceptance of the Geneva Conventions of 1949,² and noted the trend towards a similarly wide acceptance of the two Additional Protocols of 1977 in the context of their upcoming fortieth anniversary;
- Res. 71/145 of 13 December 2016 – **Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives:** the Assembly, inter alia, strongly condemned all acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives to international intergovernmental organizations and officials of such organizations, and emphasized that such acts could never be justified;
- Res. 71/146 of 13 December 2016 – **Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization:** the Assembly, inter alia, recognized the important role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work, as well as the importance of having recourse to the Court in the peaceful settlement of disputes, and noted that, consistent with Article 96 of the Charter, the Court's advisory jurisdiction may be requested by the General Assembly, the Security Council or other authorized organs of the United Nations and the specialized agencies;
- Res. 71/147 of 13 December 2016 – **Commemoration of the seventieth anniversary of the International Court of Justice:** the Assembly, inter alia, solemnly commended the International Court of Justice for the important role that it had played as the

principal judicial organ of the United Nations over the past 70 years in adjudicating disputes among States, and recognized the value of its work;

- Res. 71/148 of 13 December 2016 – **The rule of law at the national and international levels:** the Assembly, inter alia, reaffirmed the imperative of upholding and promoting the rule of law at the international level in accordance with the principles of the Charter of the United Nations;
- Res. 71/149 of 13 December 2016 – **The scope and application of the principle of universal jurisdiction:** the Assembly, inter alia, recognized the diversity of views expressed by States and the need for further consideration towards a better understanding of the scope and application of universal jurisdiction;
- Res. 71/150 of 13 December 2016 – **The law of transboundary aquifers:** the Assembly, inter alia, commended to the attention of Governments the draft articles on the law of transboundary aquifers annexed to its resolution 68/118 as guidance for bilateral or regional agreements and arrangements for the proper management of transboundary aquifers;
- Res. 71/151 of 13 December 2016 – **Measures to eliminate international terrorism:** the Assembly, inter alia, reiterated that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes were in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;
- Res. 71/152 of 13 December 2016 – **Report of the Committee on Relations with the Host Country:** the Assembly, inter alia, considered that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations and the observance of their privileges and immunities, which was an issue of great importance, were in the interest of the United Nations and all Member States the Host Country.

2. Security Council

*Resolutions*⁴

During 2016, the Security Council adopted the following 76 resolutions:

- 2260 (2016) - Côte d'Ivoire;

⁴ See: <http://www.un.org/en/sc/documents/resolutions/2016.shtml>

- 2261 (2016) - Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council;
- 2262 (2016) - The situation in the Central African Republic;
- 2263 (2016) - The situation in Cyprus;
- 2264 (2016) - The situation in the Central African Republic;
- 2265 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2266 (2016) - The situation in the Middle East (Yemen);
- 2267 (2016) - Guinea-Bissau;
- 2268 (2016) - The situation in the Middle East (Syria);
- 2269 (2016) - International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR);
- 2270 (2016) - Non-proliferation/Democratic People's Republic of Korea;
- 2271 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2272 (2016) - United Nations peacekeeping operations;
- 2273 (2016) - The situation in Libya;
- 2274 (2016) - The situation in Afghanistan;
- 2275 (2016) - The situation in Somalia;
- 2276 (2016) - Non-proliferation/Democratic People's Republic of Korea;
- 2277 (2016) - Democratic Republic of the Congo;
- 2278 (2016) - The situation in Libya;
- 2279 (2016) - The situation in Burundi;
- 2280 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2281 (2016) - The situation in the Central African Republic;
- 2282 (2016) - Post-conflict peacebuilding;
- 2283 (2016) - The situation in Côte d'Ivoire;
- 2284 (2016) - The situation in Côte d'Ivoire;
- 2285 (2016) - The situation concerning Western Sahara;
- 2286 (2016) - Protection of civilians in armed conflict;
- 2287 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2288 (2016) - The situation in Liberia;
- 2289 (2016) - The situation in Somalia;
- 2290 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2291 (2016) - The situation in Libya;
- 2292 (2016) - The situation in Libya;
- 2293 (2016) - The situation concerning the Democratic Republic of the Congo;

- 2294 (2016) - The situation in the Middle East (UNDOF);
- 2295 (2016) - The situation in Mali;
- 2296 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2297 (2016) - The situation in Somalia;
- 2298 (2016) - The situation in Libya;
- 2299 (2016) - The situation concerning Iraq;
- 2300 (2016) - The situation in Cyprus;
- 2301 (2016) - The situation in the Central African Republic;
- 2302 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2303 (2016) - The situation in Burundi;
- 2304 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2305 (2016) - The situation in the Middle East (UNIFIL);
- 2306 (2016) - International Criminal Tribunal for the former Yugoslavia (ICTY);
- 2307 (2016) - Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council (S/2016/53);
- 2308 (2016) - The situation in Liberia;
- 2309 (2016) - Threats to international peace and security caused by terrorist acts: Aviation security;
- 2310 (2016) - Maintenance of international peace and security;
- 2311 (2016) - Recommendation for the appointment of the Secretary-General of the United Nations;
- 2312 (2016) - Maintenance of international peace and security;
- 2313 (2016) - The question concerning Haiti;
- 2314 (2016) - The situation in the Middle East (Syria);
- 2315 (2016) - The situation in Bosnia and Herzegovina;
- 2316 (2016) - The situation in Somalia;
- 2317 (2016) - The situation in Somalia;
- 2318 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2319 (2016) - The situation in the Middle East (Syria);
- 2320 (2016) - Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security;
- 2321 (2016) - Non-proliferation/Democratic People's Republic of Korea;
- 2322 (2016) - Threats to international peace and security caused by terrorist acts;
- 2323 (2016) - The situation in Libya;
- 2324 (2016) - Tribute to the outgoing Secretary-General;

- 2325 (2016) - Non-proliferation of weapons of mass destruction;
- 2326 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2327 (2016) - Reports of the Secretary-General on the Sudan and South Sudan;
- 2328 (2016) - The situation in the Middle East (Syria);
- 2329 (2016) - International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991;
- 2330 (2016) - The situation in the Middle East (UNDOF);
- 2331 (2016) - Maintenance of international peace and security;
- 2332 (2016) - The situation in the Middle East (Syria);
- 2333 (2016) - The situation in Liberia;
- 2334 (2016) - The situation in the Middle East, including the Palestinian question;
- 2335 (2016) - The situation concerning Iraq;
- 2336 (2016) - The situation in the Middle East (Syria).

Presidential statements⁵

During 2016, 19 Presidential statements were issued, as follows:

- 17 March 2016 - Reports of the Secretary-General on the Sudan and South Sudan;
- 31 March 2016 - Maintenance of international peace and security;
- 7 April 2016 - Reports of the Secretary-General on the Sudan and South Sudan;
- 25 April 2016 - Peace consolidation in West Africa;
- 25 April 2016 - Middle East (Yemen);
- 11 May 2016 - Threats to international peace and security caused by terrorist acts;
- 13 May 2016 - Threats to international peace and security caused by terrorist acts;
- 24 May 2016 - Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security;
- 15 June 2016 - Women and peace and security;
- 22 July 2016 - Middle East (Lebanon);
- 28 July 2016 - Peace consolidation in West Africa;
- 28 July 2016 - Peacebuilding and sustaining peace;
- 19 August 2016 - The situation in Somalia;
- 14 September 2016 - The situation in Afghanistan;
- 1 November 2016 - Middle East;

⁵ See: <http://www.un.org/en/sc/documents/statements/2016.shtml>

- 3 November 2016 - The situation in Mali;
- 16 November 2016 - The situation in the Central African Republic;
- 5 December 2016 - The situation concerning the Democratic Republic of the Congo;
- 21 December 2016 - Peace consolidation in West Africa.

3. Courts and Tribunals

International Court of Justice⁶

The following is an overview of the main events that took place at the International Court of Justice during 2016:

- 17 March 2016: **Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)** - The Court found that it had jurisdiction, on the basis of Article XXXI of the Pact of Bogotá, to adjudicate upon the dispute regarding the alleged violations by Colombia of Nicaragua's rights in the maritime zones which, according to Nicaragua, the Court declared in its 2012 Judgment appertained to Nicaragua;
- 17 March 2016: **Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua v. Colombia)** - The Court found that it had jurisdiction, on the basis of Article XXXI of the Pact of Bogotá, to entertain the First Request put forward by Nicaragua in its Application, in which it requested the Court to determine “[t]he precise course of the maritime boundary between Nicaragua and Colombia in the areas of the continental shelf which appertain to each of them beyond the boundaries determined by the Court in its Judgment of 19 November 2012”, and that that Request was admissible;
- 5 October 2016: **Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)** - The Court upheld the objection to jurisdiction raised by India, based on the absence of a dispute between the Parties, and found that it could not proceed to the merits of the case;
- 5 October 2016: **Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. Pakistan)** - The Court upheld the objection to jurisdiction raised by Pakistan, based on the

⁶ See: <http://www.icj-cij.org/en>

absence of a dispute between the Parties, and found that it could not proceed to the merits of the case;

- 5 October 2016: **Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. United Kingdom)** - The Court upheld the first preliminary objection to jurisdiction raised by the United Kingdom, based on the absence of a dispute between the Parties, and found that it could not proceed to the merits of the case;
- 7 December 2016: **Immunities and Criminal Proceedings (Equatorial Guinea v. France)** - The Court found that France had to guarantee the protection of the premises presented as housing the diplomatic mission of Equatorial Guinea in France.

The Court held hearings in the following cases:

- **Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)** - Jurisdiction;
- **Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. Pakistan)** - Jurisdiction and admissibility;
- **Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. United Kingdom)** - Preliminary objections;
- **Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)** - Preliminary Objections.

Other activities:

- 20 April 2016: the International Court of Justice held a solemn commemorative sitting at the Peace Palace, in the presence of His Majesty the King of the Netherlands and the Secretary-General of the United Nations, to celebrate its **seventieth anniversary**;
- 6 June 2016: **Chile instituted proceedings against Bolivia** with regard to a dispute concerning the status and use of the waters of the Silala;
- 14 June 2016: **The Republic of Equatorial Guinea instituted proceedings against France** with regard to “the immunity from criminal jurisdiction of [its] Second Vice-President in charge of Defence and State Security, and the legal status of the building which houses [its] Embassy in France”;
- **Iran instituted proceedings against the United States** with regard to a dispute concerning alleged violations of the 1955 Treaty of Amity.

International Tribunal for the Law of the Sea (ITLOS)⁷

- On 4 November 2016, the Tribunal, in the **M/V “Norstar” case (Panama v. Italy)**, found that it had jurisdiction to adjudicate the dispute and decided that Panama’s application was admissible.

Other activities:

- The International Tribunal for the Law of the Sea celebrated its **twentieth anniversary** from 5 to 7 October 2016.

International Criminal Tribunal for the Former Yugoslavia (ICTY)⁸

The following is an overview of the main events which took place at the ICTY during 2016:

- 24 March 2016 - the Trial Chamber of the Tribunal **convicted Radovan Karadžić** for crimes of genocide, crimes against humanity and violations of the laws or customs of war committed by Serb forces during the armed conflict in Bosnia and Herzegovina, from 1992 until 1995. He was sentenced to 40 years’ imprisonment;
- 31 March 2016 - the Trial Chamber of the Tribunal **acquitted Vojislav Šešelj**, President of the Serbian Radical Party and a former member of the Assembly of the Republic of Serbia;
- 30 June 2016 - the Appeals Chamber of the Tribunal **confirmed the convictions of Mićo Stanišić**, former Minister of the Interior of Republika Srpska, **and Stojan Župljanin**, former Chief of the Regional Security Services Centre of Banja Luka, Bosnia and Herzegovina. The Appeals Chamber affirmed that Stanišić and Župljanin were criminally responsible for war crimes and crimes against humanity committed in 1992, in 20 and eight municipalities respectively. The Judges affirmed both of the accused’s sentences of 22 years imprisonment;
- 22 July 2016 - the Trial Chamber **terminated the proceedings against Goran Hadžić**, former President of the self-proclaimed Republic of Serbian Krajina in Croatia, who died on 12 July 2016.

⁷ See: <https://www.itlos.org/>

⁸ See: <http://www.icty.org>

Special Tribunal for Lebanon⁹

- On 11 July 2016 the Appeals Chamber (Judges Nsereko and Baragwanath dissenting) determined that there was sufficient evidence to conclude, based on the requisite standard of proof, that Mustafa Amine Badreddine was deceased. The Appeals Chamber ordered the **proceedings against him to be terminated**, without prejudice to resuming them should Badreddine be found alive in the future, and ordered the Prosecution to file an amended indictment.

⁹ <https://www.stl-tsl.org/en/>