

11 April 2011

Interactive Thematic Debate on The Rule of Law and Global Challenges

Background

The rule of law is a principle of governance which lies at the heart of the United Nations' mission. It is an end in itself as well as a means to attain the fundamental goals of the Charter in the fields of peace and security, human rights and sustainable development. In the 2005 World Summit Outcome (A/RES/60/1), Heads of State and Government reaffirmed their commitment to the purposes and principles of the Charter and international law and to an international order based on the rule of law, which is essential for peaceful coexistence and cooperation among States. They also acknowledged that the rule of law at the national and international levels is essential for sustained economic growth, sustainable development and the eradication of poverty and hunger. Since the 61st session of the General Assembly, the Sixth Committee has considered every year the agenda item "The rule of law at the national and international levels."

Objective

The interactive thematic debate is a key step in the process leading to the high-level meeting of the General Assembly on rule of law, mandated for the high-level week of the Assembly's 67th session. It will help draw out common ground among Member States and foster agreement on the modalities of this high-level meeting, to be finalized during the 66th session (A/RES/65/32). A thematic debate on rule of law and global challenges in the spring of 2011 is thus a critical stepping stone in the process leading up to the high-level debate to focus Member States' attention and develop momentum for potential outputs for the high-level meeting of the General Assembly.

Modalities

The one-day interactive debate will be opened by the President of the General Assembly and the Secretary-General, followed by two keynote addresses, two thematic panel discussions and a wrap-up session. An interactive discussion will be part of each panel. The format will allow for the engagement of a wide range of stakeholders involved in strengthening the rule of law, including Member States, the United Nations system and civil society.

Panel 1: “Rule of law and conflict situations”

Conflict prevention involves measures targeted at reducing the risk of conflict by strengthening national capacities at all levels for conflict management and laying the foundations for sustainable peace and development. Essential to these tasks is enhancing the delivery of security and justice, including through strengthened law enforcement, judicial and corrections services, legal protection and access to justice for all and the peaceful settlement of disputes within communities. Reinforcing capacities in these areas also plays a critical role in peacebuilding in the aftermath of violent conflict. At the international level, a rules-based international system and dispute settlement mechanisms, such as the International Court of Justice, as well as non-judicial ones, play an important role in preventing conflict. Transitional justice mechanisms which address the legacy of large-scale human rights abuses can contribute to achieving the broader objectives of prevention of further conflict, peacebuilding and reconciliation.

Key questions:

- How can sustainable rule of law assistance and support to creating resilient societies help to prevent conflict?
- In what ways can the rule of law contribute to peacebuilding in the aftermath of conflict?
- What further steps should be taken to promote accountability, serve justice and achieve reconciliation to prevent relapse into conflict in peacebuilding contexts?
- How can the international community better galvanize efforts to support States to strengthen the rule of law in peacebuilding and conflict prevention contexts in a coordinated, coherent and predictable manner?

Panel 2: “Rule of law and development”

Access to justice and the rule of law are critical to creating an overall enabling environment in countries for social and economic progress and achievement of the MDGs. Addressing poverty reduction involves ensuring that the poor are able to adequately voice their needs, seek redress against injustice, protect or leverage their resources, participate in public life, and influence policies that ultimately shape their lives. An effective legal and judicial system with harmonized investment protection and trade laws can also spur economic progress and improve living conditions. In today’s globalized world, development is also increasingly affected by transnational challenges, such as transnational crime and corruption. To address them, global responses, grounded in the rule of law at the national and international levels as well as in local needs and realities, are essential.

Key questions:

- In what ways can the rule of law contribute to social and economic justice, economic growth and sustainable development?
- What is the contribution of harmonization of investment protection and trade laws to achieving economic growth?

- How will rule of law assistance, including through harmonization of laws, regulations and effective law enforcement cooperation across borders help combat transnational challenges and further sustainable development?
- How can rule of law programming in developing countries better take into account local needs and realities, and ensure local participation and ownership?
- What can be done to integrate rule of law in the development agenda in a more coordinated, coherent and consistent manner?
- How can the support from the international community to addressing transnational challenges and strengthening rule of law and development be more coordinated, coherent and predictable?

Wrap-up session: “The United Nations and Global Governance: Our shared responsibility in strengthening the rule of law”

Drawing on the experience in all key areas of the rule of law discussed throughout the event, the wrap-up session will summarise the progress that has been achieved by the UN since the 2005 World Summit Outcome in strengthening the rule of law. It will further explore how to best address the most pressing global challenges to effectiveness of rule of law assistance in the context of global governance. A focus will be given to the need for increased partnerships and resources and for greater coordination and coherence among all stakeholders involved in strengthening the rule of law at the national and international levels, including steps that can be taken to enhance UN cooperation and coordination with international actors, regional organizations and other expert networks.

**GENERAL ASSEMBLY INTERACTIVE THEMATIC DEBATE
ON
THE RULE OF LAW AND GLOBAL CHALLENGES**

DRAFT AGENDA

10:00 – 11:00 Opening session

- H. E. Mr. Joseph Deiss, *President of the 65th Session of the General Assembly*
- H. E. Mr. Ban Ki-moon, *Secretary-General of the United Nations*

Keynote addresses:

- H. E. Ms. Christiana Tah, *Minister of Justice of Liberia*
- H. E. Mr. Michael Spindelegger, *Minister of Foreign Affairs of Austria*

11:00 – 13:00 Panel 1 - Rule of law and conflict situations

Presentations by panelists, followed by an interactive discussion, will explore the key questions contained in the concept note.

Chair:

- Prince Zeid Ra'ad Zeid al-Hussein, *Permanent Representative of the Hashemite Kingdom of Jordan to the United Nations*

Panelists:

- Ms. Navanethem Pillay, *United Nations High Commissioner for Human Rights*
- Mr. Jean-Marie Guéhenno, *former Under-Secretary-General for Peacekeeping Operations*
- Ambassador Ernest Petric, *President of the Constitutional Court of Slovenia*
- Mr. Michael von der Schulenburg, *ERSG UNIPSIL (Sierra-Leone)*

13:15 – 14:40 *Lunch hosted by the President of the General Assembly*

15:00 – 17:00 Panel 2 – Rule of law and development

Presentations by panelists, followed by an interactive discussion, will explore the key questions contained in the concept note.

Chair:

- H. E. Mr. Juan Manuel Gómez-Robledo, *Deputy Foreign Minister for Multilateral Affairs and Human Rights of Mexico*

Panelists:

- Ms. Helen Clark, *Under-Secretary-General and Administrator of the United Nations Development Programme*
- Ms. Michele Bachelet, *Under-Secretary-General for Gender Equality and the Empowerment of Women (UN Women)*
- Ms. Anne-Marie Leroy, *Senior Vice-President and General Counsel of the World Bank Group*
- H. E. Ms. Athaliah Molokomme, *Attorney General of Botswana*

17:15 – 18:00 Wrap-up session: UN and Global Governance: Our shared responsibility in strengthening the rule of law

Closing remarks by H.E. Mr Joseph Deiss, *President of the General Assembly* and Ms. Asha-Rose Migiro, *Deputy Secretary-General of the United Nations*

Summary of common messages from the panel discussions:

- Prince Zeid Ra'ad Zeid al-Hussein, *Permanent Representative of the Hashemite Kingdom of Jordan to the United Nations*
- H. E. Mr. Juan Manuel Gómez-Robledo, *Deputy Foreign Minister for Multilateral Affairs and Human Rights of Mexico*

UNITED NATIONS



NATIONS UNIES

NEW YORK

OFFICE OF THE PRESIDENT OF THE GENERAL ASSEMBLY

The Office of the President of the General Assembly presents its compliments to all Permanent Missions and Permanent Observer Missions to the United Nations and has the honour to transmit the President's summary of the Interactive Thematic Debate on The Rule of Law and Global Challenges, held on 11 April 2011.

The Office of the President of the General Assembly avails itself of this opportunity to renew to all Permanent Missions and Permanent Observer Missions to the United Nations the assurances of its highest consideration. *W*

New York, 24 May 2011

All Permanent Missions and
Permanent Observer Missions to the
United Nations
New York

**THEMATIC DEBATE
OF THE 65TH SESSION OF THE GENERAL ASSEMBLY
ON THE RULE OF LAW AND GLOBAL CHALLENGES**

New York, 11 April 2011

President's Summary

The Informal Thematic Debate on the Rule of Law and Global Challenges was convened to examine how strengthening the rule of law can assist in addressing the key concerns facing the international community. It also aimed to focus Member States' attention on the breadth of the issues in this area in an informal setting in view of the high-level meeting of the General Assembly on rule of law, mandated for the high-level segment of the Assembly's 67th session (A/RES/65/32).

Opening session

High-level speakers in the opening session highlighted how recent events in the Middle East and North Africa illustrate the universal desire for strengthening the rule of law, which lies at the heart of the United Nations' mission. The fundamental principle that all persons, and the State itself, must be accountable to the law is central to international order and hopes of building peaceful, prosperous societies. Speakers highlighted that progress has been achieved on strengthening the rule of law at the national and international levels since the World Summit in 2005, when the General Assembly last debated the issue in plenary. UN rule of law assistance has expanded to more than 125 countries, in all regions and contexts. The Sixth Committee of the General Assembly has since held annual debates on the agenda item entitled "The rule of law at the national and international level". There is increased attention to the issue by the Security Council, resulting, for example, in stronger rule of law mandates for peacekeeping and special political missions.

Still, shortcomings remain in the international community's action in this field. Recognizing that a weak rule of law framework can be an underlying cause of conflict, strengthening rule of law frameworks should be more prominent in conflict prevention. Sophisticated types of criminality, such as drug and human trafficking, have emerged as new threats undermining the rule of law and require an adequate response at the national, regional and international levels. Building an effective rule of law system at the national level remains challenging, especially in post-conflict settings, where strategy development, operational support, capacity strengthening, logistics and infrastructure will require outside assistance. The political nature of the process must at all times be recognised and addressed. Further, the community of relevant actors on rule of law remains fragmented, among multilateral and non-governmental organisations as well as Member States. Greater coordination and coherence among them and more sustainable funding mechanisms are needed. For efforts to strengthen the rule of law to be effective, they must be centred more consistently around national perspectives of recipient countries. A global forum among all stakeholders, for which the United Nations would be a natural home, could help address many of these shortcomings.

Panel 1: “Rule of law and conflict situations”

The absence of rule of law within a country may not only cause suffering to its people, but can become a threat to international peace and security. Establishing the rule of law should be a key component of any conflict prevention and peacebuilding strategy. In a post-conflict society it requires bolstering confidence that agreed norms and justice can prevail, which often involves changing perceptions of public institutions, especially those in charge of justice and security. For the rule of law to be sustainable, there is a need for a comprehensive and balanced approach to strengthening justice and security institutions.

Accountability for gross violations of human rights law and international humanitarian law is of crucial importance for peace and reconciliation after conflict. Establishing that human rights violations have occurred including through international inquiries into these violations as well as transitional justice mechanisms is critical to this end. Support for domestic capacity to prosecute gross human rights violations should remain an important element of UN rule of law activities. Commitment to victims should be demonstrated by providing remedies for past injustices. International dispute settlement and accountability mechanisms play an important role in maintaining international peace and security. Judgments and advisory opinions of the International Court of Justice can help diffuse tension through the application of international law. Ad hoc and hybrid tribunals, while trying a minority of higher profile cases, have sent strong pre-emptive messages to potential perpetrators and are leaving behind a critical legacy in international criminal law.

Processes to strengthen the rule of law need to be nationally driven and the international community must not replace national authorities in the task. It is important to recognize local circumstances and strengthen national capacities when seeking to advance the rule of law at country level. For example, traditional and informal mechanisms are widely used for the provision of justice. Whilst some systems may raise concerns in relation to human rights or gender equality, it is critical to take them into account when developing approaches to strengthen the rule of law. Custom and tradition, and the justice systems based on them, are not static and can evolve to meet new needs.

Panel 2: “Rule of law and development”

The rule of law is important to overall development and the attainment of the MDGs. Strengthening the rule of law should be a continuous endeavour for both developing and developed countries. Among others, the role of a rules-based trade was emphasised by several Member States as a vehicle for stimulating consumption, production, and promoting employment. Predictable, fair, and properly enforced laws in societies can create an enabling environment for long-term investment returns, as well as ensure equitable distribution of rights and resources that underpin development efforts. Citizens who feel safe, are aware of their rights and confident that institutions and processes will deliver legal redress when they need it, will be better able to take their lives and progress into their own hands and can help drive development. In the private sector, the rule of law helps businesses move from the informal to the formal sector. In the same vein, women’s access to justice is critical to development. While the powerful link between focusing development resources on women and achieving poverty reduction targets are now well established, such gains will be short-lived if they are not protected by a commitment to women’s rights and access to justice.

The link between rule of law, conflict, and development was also highlighted. Conflict and fragility impede development. Developed societies are able to continually, incrementally and peacefully change without being subject to violent rupture and crisis. Effective institutions that can deliver justice and security are integral to achieving this ability of societies to adapt and pave the way out of fragility. However, it is important to acknowledge that there is no one institutional form to aim for.

Establishing the rule of law thus needs to be seen as an integral part of overall development strategies, designed to build resilience, improve governance and advance inclusive growth, and not as something to be initiated only in response to crises. Rule of law should be integrated into broader development programming, at the request of Member States and tailored to the local realities and priorities. Strengthening the rule of law is a national responsibility. Fostering a true sense of ownership by all, including civil society, is critical for successful rule of law initiatives. At a national level, countries need to take genuine steps to ensure that laws and practices are not incompatible with international norms and standards while adapting to social, economic, and political change. They also need to internalize an inclusive rule of law culture.

Closing session and conclusion

The Informal Thematic Debate reaffirmed the vital importance of strengthening the rule of law in addressing today's global challenges. It illustrated the critical role the rule of law plays in preventing conflict and violence, both of which threaten global and regional peace, and in fostering stable and sustainable development.

While the debate highlighted the progress achieved since the 2005 World Summit, it illustrated that progress remains uneven. One issue of concern is that, too often, the support provided by the international community, including bilateral donors and assistance providers, has not yielded the expected results at the national level. Further, the voices of national actors have largely been absent from the global discussion on rule of law assistance. Assistance has often been piece-meal and donor-driven, resulting in unsustainable results and conflicting approaches to developing justice and security institutions. Assistance has also suffered from a lack of strategic planning and coherence, which is essential given the wide range of issues and the large number of actors involved. The record to date thus strongly suggests the need for an inclusive international policy forum that brings together all stakeholders, for which the United Nations would appear to be a natural home.

The Interactive Thematic Debate was intended to contribute to the preparatory process for the high-level event on the rule of law which the General Assembly mandated for the beginning of the 67th session through an informed but informal discussion. While some Member States expressed concerns about linking these two initiatives, it was emphasised that the Interactive Thematic Debate was not intended in any way to prejudge the content of the high-level meeting or to define the discussion around its modalities, but merely to focus Member States' attention on the issues. It will be for Member States to take forward the content of the discussions with a view to shaping a high-level event in accordance with their shared priorities.

Joseph Deiss

**Débat thématique interactif sur l'Etat de droit
et les défis globaux**

Discours d'ouverture

New York, le 11 avril 2011

M. le Secrétaire-général,
Excellences,
Mesdames et Messieurs,

C'est un plaisir de vous souhaiter la *bienvenue* à ce débat thématique. Je remercie particulièrement ceux et celles d'entre vous qui avez fait un long voyage pour être avec nous aujourd'hui.

Ce débat a lieu à un *moment crucial*, où l'actualité internationale est marquée par les *aspirations* dans de nombreux pays du monde arabe pour davantage de liberté et de justice. Ce sont des milliers

d'hommes et de femmes qui font entendre leur voix pour le renforcement de l'Etat de droit.

En 2005, lors de l'adoption du document final du *Sommet mondial*, les chefs d'Etat et de gouvernement ont *réaffirmé leur engagement* pour les principes et les valeurs de la Charte des Nations Unies et pour un droit international et un ordre international basés sur l'Etat de droit. Ceci est d'importance. L'Etat de droit, en effet, est un principe de gouvernance qui est au cœur de la mission des Nations Unies. C'est un but en soi mais c'est aussi un *moyen essentiel* d'atteindre les objectifs fondamentaux de la Charte en matière de paix et de sécurité, de droits de l'homme et de développement durable.

Notre débat thématique d'aujourd'hui se veut une contribution à la préparation de la *Réunion de haut niveau sur l'Etat de droit* que tiendra l'Assemblée générale lors de sa 67ème session. Je tiens à souligner cependant qu'un débat thématique ne

saurait préjuger de l'orientation et du contenu d'une Réunion de haut niveau. En outre, l'Assemblée générale, et en particulier sa Sixième commission, va continuer de mener ses travaux sur la notion de l'état de droit tout au long de sa prochaine session.

Aujourd'hui, dans un *premier temps*, nous allons nous concentrer sur *l'importance de l'Etat de droit dans les situations de conflit* et essayer de mieux comprendre comment celui-ci peut contribuer à la consolidation de la paix après un conflit. Il s'agit notamment de réfléchir sur les moyens de mieux rendre compte, de renforcer le fonctionnement du système judiciaire et de permettre la réconciliation sans retomber dans des situations conflictuelles.

La *deuxième table ronde* soulignera le rôle de l'Etat de droit pour le développement. C'est un thème particulièrement pertinent alors que nous sommes à cinq ans de l'échéance de 2015 pour atteindre les Objectifs du millénaire pour le développement. La *qualité et le respect des institutions*, ainsi que

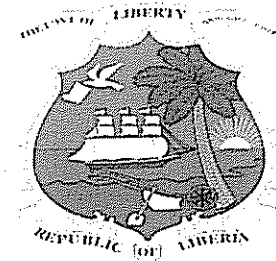
l'équilibre entre celles-ci, l'Etat de droit et la protection des droits sont indispensables pour stimuler les investissements, accroître la mobilisation des ressources domestiques et réduire durablement la pauvreté. L'Etat de droit est à la base du bon fonctionnement de toute économie de marché. L'accès à la justice pour tous et le principe d'égalité dans l'application du droit sont essentiels pour permettre aux plus pauvres de participer à la vie publique et de faire respecter leurs droits.

Je suis confiant que la qualité et la diversité des intervenants que nous avons la chance d'avoir avec nous aujourd'hui vont stimuler une riche discussion. Je souhaite que nous apportions ainsi des éléments de réponses utiles sur toutes ces questions, notamment sur les moyens de renforcer la coordination, la cohérence et la prévisibilité du soutien fourni par la communauté internationale au renforcement de l'Etat de droit. A cet égard, nos deux orateurs principaux, ce matin, auront une expérience et des enseignements très importants à

nous faire partager : son Excellence Madame *Christiana Tah*, Ministre de la Justice du Liberia, en particulier sur l'importance de *mettre les perspectives nationales et l'appropriation nationale au cœur* de l'effort de renforcement de l'état de droit et son Excellence Monsieur *Michael Spindelegger*, Ministre des Affaires étrangères de l'Autriche, sur les progrès faits pour donner une plus grande priorité à ce thème dans l'agenda des Nations Unies.

A l'issue cette journée, je formulerai un certain nombre de conclusions, qui seront disponibles sur le site internet de la Présidence et serviront de *document de référence*.

CHECK AGAINST DELIVERY



STATEMENT

BY

**HONOURABLE CHRISTIANA TAH
MINISTER OF JUSTICE AND ATTORNEY
GENERAL OF THE REPUBLIC OF LIBERIA**

AT THE

**INTERACTIVE THEMATIC DEBATE OF THE
UNITED NATIONS GENERAL ASSEMBLY
ON
“THE RULE OF LAW AND GLOBAL CHALLENGES”**

**HEADQUARTERS OF THE UNITED NATIONS
NEW YORK,
MONDAY, 11 APRIL 2011**

**Mr. President of the General Assembly,
Mr. Secretary General,
Honorable Minister of Foreign Affairs of Austria,
Excellencies,
Distinguished Ladies and Gentlemen,**

I. Introduction

This occasion is for me a special honor to represent my President, Her Excellency Madam Ellen Johnson-Sirleaf, who could not be here personally due to pressing sub-regional issues. My participation in the debate before this august body affords us an opportunity for the voice of Liberia to be heard with respect to the challenges of re-establishing the rule of law in a post-conflict environment.

To be reflective, with the signing the Comprehensive Peace Agreement in 2003, Liberia emerged from 14 years of civil war which had devastated its social fabric and public sector. Weaknesses in Liberia's rule of law sector are widely recognized as having played a strategic part in the civil war, with feeble governance and limited access to justice assessed as major contributors. The war compounded these deficiencies, eroding social institutions and leaving the Liberian justice sector with its infrastructure in ruins, its equipment looted, and its human capacity drained as professionals fled the fighting. Owing to this debility, public confidence in the justice system has floundered, contributing to a breakdown in law and order and an increased crime rate. Minor disputes frequently escalate into larger security incidents, and communities resort to vigilantism and mob justice rather than to the criminal justice system. Together, these shortcomings and their symptoms have contributed to serious overcrowding of detention facilities and prolonged detention without trial. Human rights suffer; while corruption and the scourge of impunity all too often succeed.

These critical lessons have crystallized the fact that a functioning, credible, transparent, inclusive and reliable rule of law system is an indispensable component of sustained peace and development. Succinctly, we cannot overstate the fact that building such a system in any environment is not easy, and Liberia's myriad requirements in the sector, ranging from strategy development, to operational support, to capacity strengthening, to logistics and infrastructural requirements, can make it an enormous undertaking. Yet, when our current administration took

office nearly six years ago, following the 2005 free and fair elections, it highlighted weaknesses in the rule of law sector in its Poverty Reduction Strategy as one of the critical challenges facing Liberia. Consequently, in 2008 when the Government announced its three-year Poverty Reduction Strategy (PRS), re-establishing and maintaining the rule of law was identified as one of the critical challenges facing Liberia and prioritized initiatives aimed at rehabilitating the rule of law. Accordingly, this sector has been prioritized along with security, good governance, economic development, and infrastructural development. Through the PRS, the Liberian Government has demonstrated strong ownership of the process, requiring regular meetings with partners to review progress on various programs and projects and ensure alignment with national plans. The Government is pleased that its international partners have alligned their work with the Government's Poverty Reduction Strategy. This cooperation has cemented local ownership as a cornerstone of the process, and has been a key factor in enhancing coordination and aid effectiveness.

II. Re-Establishing the Rule of Law in Liberia

Guided by the Poverty Reduction Strategy and the strategic plans of the respective justice and security agencies, and supported by national and international partners, Liberia has made steady progress in re-establishing the rule of law, and has achieved a number of foundational successes, institutionalizing capacity gains via institutional and legislative reform as well as human capacity development and devising new channels for enhancing collaboration and productivity.

- We have worked hard to integrate our security sector reform and rule of law initiatives in a synergistic fashion;
- we have developed new institutions, such as the Law Reform Commission, the Anti-Corruption Commission, and the Independent National Commission on Human Rights;
- we have built and continue to build human capacity through recruitment and extensive cross-sectoral training;
- we have improved gender representation throughout the security sector reform process, and aim to achieve a goal of no less than 20% female representation in all justice and security agencies;

- we have shown an unwavering commitment to address and combat sexual gender-based violence (SGBV) through law reform and the establishment of a specialized SGBV Court along with the SGBV Crimes Unit, which combines investigative and prosecutorial responses with victim support services, and the Women and Children Protective Services Unit of the Liberia National Police (LNP);
- we have, consistent with the Government’s emphasis on decentralization, focused on increasing access to justice in rural areas, by both enhancing justice and security institution deployment in the counties and by engaging in a national dialogue on harmonizing our formal and customary justice systems to ensure that law reform is inclusive, informed, and reflective of Liberia as a whole;
- we have established a multi-sectoral Pre-Trial Detention Taskforce to analyze and focus attention on systemic weaknesses. The Taskforce has been a key factor in supporting the work of the successful fast-track “Magistrates Sitting Program” and has provided important input in support of the Ministry of Justice’s launch of its probation program which was introduced as an alternative to incarceration and which contributes to a reduction in the number of individuals in pre-trial detention status;
- and, as a final example, we have completed and continue to engage in extensive law reform seeking to rationalize and modernize the justice and security sectors while implementing domestically those international conventions and agreements to which Liberia has made itself party.

III. Challenges and Pitfalls

While we are proud of our work, we recognize that much more remains to be accomplished and, notwithstanding our achievements, we are all too aware of the significant challenges that have hindered and continue to hinder our efforts.

Holistic and Integrated Approach Preferred: The task of ensuring a holistic approach is critical to successful rule of law programming. An effective police service achieves little without complementary advances in prosecution and corrections, and it has been the case that imbalanced rule of law programming has actually itself produced counterproductive efforts,

including bottlenecks in the justice system, prolonged pretrial detention and overcrowded prisons. We have pushed hard to take a more holistic approach to funding and development of the justice and security sectors. Rather than acquiescing to support based on donor interests without due regard for national priorities, the Ministry of Justice has become more aware of its areas of needs and, through this self-assessment, has been able to define its funding priorities endogenously and take ownership over the process.

Donor Coordination Woes: Donor coordination problems are common in post-conflict peace-building, but I would be remiss not to note that the lack of donor coordination continues to be a major concern for us as well. Donor projects can be very effective, but when limited resources are instead spent on projects that are duplicative, or that lack complementarity, it is counterproductive and wasteful.

Funding and Sustainability A Must: Indeed, one of the key challenges facing the rule of law sector in Liberia is the challenge of sustainability, as the modest national budget struggles to support the reformed, expanded and modernized justice and security sectors, with reforms moving at a pace much faster than the budget. The justice and security institutions are sensitizing other members of Government to view security and justice as the priority of our national priorities when it comes to funding.

Disintegration of Social Institutions: Insufficient attention has been given to the need to address the disintegration of social institutions and the attending adverse affects on social values brought about by the war, as well as the lasting trauma endured by the population. Reforms in public institutions can only bring about limited progress when the population remains fundamentally unable or unwilling to ascribe to prevailing social, moral and legal norms upon which such institutions rely. Thus, we believe addressing this trauma and inculcating these values in the population to be pre-requisite to meaningful development and reform. Security, the rule of law, and the level of productivity in the Country all depend on how well we address the psycho-social problems of the society and restore to the nation the value system that was so badly damaged during the war, disabusing citizens of mixed messages about the difference between right and wrong.

Sustained Partnership, Predictable Funding, and Extrinsic Shocks: Finally, the importance of sustained and predictable partnership and funding is critical to allowing the Government to rationally plan and implement rule of law programming. Too often, extrinsic shocks and changes in circumstances distract focus and funding from long-term institution building and in so doing undermine, or at least postpone, the lasting establishment and maintenance of the rule of law. For example, world economic crises can alter donor commitments and as a result leave programming plans without budgetary foundation. A more immediate example is the spillover effect of the Ivorian crisis on development gains, stability and security in Liberia. In a short period of time, Liberia has witnessed the influx of over 150,000 displaced persons, including both civilian refugees and combatants. This new and urgent security threat is a massive extra-budgetary expense that has forced the Government and donors alike to re-allocate resources from daily operations and longer-term rule of law strategic plans to short-term emergency response.

IV. Recent Developments and the Way Forward

Liberia now stands at a critical point in its recovery. Not only are we struggling to cope with the myriad challenges raised by the situation in Cote D'Ivoire, but the upcoming 2011 general elections also present a major test for Liberia's security and justice institutions. Furthermore, for Liberia to continue in its successful trajectory it will be essential for us to develop capacity to address more sophisticated and insidious criminality, such as drug and human trafficking, which has contributed to undermining security and justice in other countries in the sub region.

In order to respond to these evolving challenges while continuing to implement sustainable rule of law reform and ensure access to justice in all of Liberia's 15 counties, Liberia recognizes that it needs to work with international and domestic civil society partners to promote peace-building alongside the justice and security sectors. Towards this end, Liberia eagerly welcomes the commencement of the two new funding and coordination mechanisms which will guide work in the sectors: namely, the Justice and Security Trust Fund, and the engagement of the Peace-building Commission.

The Justice and Security Trust Fund (JSTF), which grew out of a UN Partners' Forum convened in New York in September 2009, was activated in February 2011, and its first Board meeting recently took place in March. The JSTF modality allows for the pooling of donor contributions to support the implementation of justice and security sector priorities in a coordinated and coherent fashion. At the same time, the donor community has itself constituted a Donor Group on Justice and Security with the aim of harmonizing partners' initiatives and bridging Security Sector and Rule of Law reform activities. Originally designed as a funding mechanism for police, immigration and corrections services, through consultation between the Government and donors to the Fund, the scope of the Trust Fund has been expanded to include prosecution and the judiciary to ensure that all justice and sectors are strengthened simultaneously.

Liberia's engagement with the Peace-building Commission also looks to link justice and security sector reform in an integrated and coherent fashion, and adds to this with a complementary focus on reconciliation and peace-building. The Country Specific Configuration for Liberia was created in September 2010 at the request of the Government 2010 and is chaired by Prince Zeid, the Permanent Representative of Jordan, who happens to chair one of today's panels. Prince Zeid has already visited Liberia twice since his appointment, and I would like to take this opportunity to thank him for his exemplary commitment to, and work on behalf of, the Liberian people. Pursuant to the adoption of the Statement of Mutual Commitments in November 2010, the Ministry of Justice and the Judiciary convened a retreat to define the priorities of the Government priorities to be set forth in the Peacebuilding Program. The Liberia Peace-building Program, currently subject to ongoing consultation between Liberian government members, is intended to be inclusive, creating a common vision and addressing the activities and support provided by all actors in the justice, security and reconciliation sectors- Government, civil society, UN, international NGOs, partners, donors, etc. – and ensuring coordination and collaboration. It also looks to broaden the scope of Government service delivery, augmenting the justice and security presence and the maintenance of law and order in the leeward counties through support for the establishment of regional justice and security “hubs.” The need for this expanded presence is critical: by way of example, right now in Nimba Country, with a population of over 400,000 people and a lengthy border with Guinea and Cote D'Ivoire, Nimba County is home to less than 200 police officers, 170 immigration officers, one prosecutor, and

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including bottlenecks in the justice system, prolonged pretrial detention and overcrowded prisons. We have pushed hard to take a more holistic approach to funding and development of the justice and security sectors. Rather than acquiescing to support based on donor interests without due regard for national priorities, the Ministry of Justice has become more aware of its areas of needs and, through this self-assessment, has been able to define its funding priorities endogenously and take ownership over the process.

Donor Coordination Woes: Donor coordination problems are common in post-conflict peace-building, but I would be remiss not to note that the lack of donor coordination continues to be a major concern for us as well. Donor projects can be very effective, but when limited resources are instead spent on projects that are duplicative, or that lack complementarity, it is counterproductive and wasteful.

Funding and Sustainability A Must: Indeed, one of the key challenges facing the rule of law sector in Liberia is the challenge of sustainability, as the modest national budget struggles to support the reformed, expanded and modernized justice and security sectors, with reforms moving at a pace much faster than the budget. The justice and security institutions are sensitizing other members of Government to view security and justice as the priority of our national priorities when it comes to funding.

Disintegration of Social Institutions: Insufficient attention has been given to the need to address the disintegration of social institutions and the attending adverse affects on social values brought about by the war, as well as the lasting trauma endured by the population. Reforms in public institutions can only bring about limited progress when the population remains fundamentally unable or unwilling to ascribe to prevailing social, moral and legal norms upon which such institutions rely. Thus, we believe addressing this trauma and inculcating these values in the population to be pre-requisite to meaningful development and reform. Security, the rule of law, and the level of productivity in the Country all depend on how well we address the psycho-social problems of the society and restore to the nation the value system that was so badly damaged during the war, disabusing citizens of mixed messages about the difference between right and wrong.

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one public defender. The Government is currently working with the UN team on the "pilot" hub in Gbarnga to develop and transform the hub concept into a reality that will be economical, realistic and responsive to Liberia's plan to decentralize justice and security so as to provide, *inter alia*, greater access to all our people. In this fashion, the hubs will contribute to upholding the rule of law and strengthen governance at the local community level across Liberia.

In tandem with the foregoing frameworks, Liberia is engaged in a "national visioning process" which aims to provide an updated and longer-term Poverty Reduction Strategy. This "PRS II" will consolidate justice and security initiatives and strategy and will directly build upon the work and focus of the Justice and Security Joint Programme. Together, the planning, coordination and funding mechanisms that have been mentioned will significantly enhance our ability to sustain peace and security and uphold the rule of law and in so doing facilitate our transition to a more stable, prosperous and self-reliant society in the future.

V. Closing

In closing, I would like to register my thanks to all of our partners who have provided, and who continue to provide, inestimable support to Liberia, particularly in light of competing demands for assistance around the globe. The presence of UNMIL, the UN Country Team, and the engagement of UNHQ and the Peacebuilding Commission have all proven absolutely critical to assisting the Government of Liberia in upholding the rule of law and maintaining peace and stability. We commend the President of the General Assembly for convening this thematic debate on the rule of law today, in recognition of the fundamental and indispensable role that the rule of law plays in the maintenance of peace and security, without which our aspirations for economic development and poverty reduction cannot be achieved.

I wish for our world peace and security. Thank you.

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Keynote Address

by

H.E. Dr. Michael Spindelegger

**Federal Minister for Foreign Affairs
of the Republic of Austria**

at the

General Assembly Interactive Thematic Debate

on

“The Rule of Law and Global Challenges”

New York, 11 April 2011



Mr. President,

Mr. Secretary-General,

Minister Tah,

Excellencies,

Ladies and Gentlemen,

At the outset, let me congratulate you, Mr. President, for organizing today's thematic debate at a very timely moment in world history as the events in Northern Africa and the Middle East are unfolding. I would also like to express my gratitude to Secretary-General Ban Ki-moon and Deputy Secretary-General Asha-Rose Migiro for their participation in this event. Your presence today is evidence of your leadership and personal commitment to the rule of law. On behalf of all "Friends of the Rule of Law" we welcome this debate, which shows the importance which Member States and the United Nations attach to this topic. This meeting is an important stepping stone in preparation of the high-level meeting on the rule of law, which will take place at the beginning of the 67th session of the General Assembly.

Mr. President,

After the very interesting address by Minister Christiana Tah of Liberia about the national perspective and experiences of her country, I would now like to invite you to approach the topic from an international perspective.

As I have said before, today's debate comes at a critical point in time. In recent weeks the international community has witnessed unprecedented events: Starting in Tunisia and Egypt, thousands of people in various countries have taken to the streets to protest against their governments. I have just come back from a journey to the Middle East where I could witness people's yearning for freedom and dignity. Dignity that comes through democratic participation, respect for human rights, access to justice, equality before the law and accountability. In essence, people cry out for reforms that enhance the rule of law. It is necessary that the leaders act responsibly, listen to the voices of their peoples and take leadership in implementing the necessary reforms. However, such reforms cannot be done over night and many countries will require assistance from the international community.

While several countries have arranged for a peaceful transition, we regret that the Libyan regime has decided to wage war against its own people. The Gaddafi regime must stop all attacks against civilians. All parties to the conflict must abide by their obligations under international humanitarian law. The Security Council took decisive action and reiterated explicitly the responsibility of the international community to uphold the rule of law by referring the situation to the ICC, establishing a no-fly zone and by authorizing members to take all necessary means to protect civilians. Also the General Assembly sent a clear signal by suspending Libya's membership in the Human Rights Council.

Mr. President,

At the 2005 World Summit, we all recognized the need for universal adherence to and implementation of the rule of law at both the national and international levels. We reaffirmed

our commitment to an international order based on the rule of law and international law, which is essential for peaceful coexistence and cooperation among States. We also supported the idea of establishing a rule of law unit within the Secretariat. Furthermore, we encouraged States that have not yet done so to consider becoming parties to treaties relating to the protection of civilians as well as to consider accepting the jurisdiction of the International Court of Justice.

Today, several years later, we must take stock and critically assess where we stand. We must ask ourselves: Have we achieved our goals? Have we fulfilled our promises? Have we remained true to our commitments?

As the Secretary-General has stated today, we have come a long way since the 2005 World Summit. In the interest of time I will not reiterate the various important activities and achievements of the UN system over the past five years. I would only like to add that, with the support of many friends, the promotion of the rule of law has also become a fixed star of the work and discussions of Member States. In 2006, at the initiative of Liechtenstein and Mexico, the General Assembly included a new item on "The rule of law at the national and international level" on its agenda. Since then, annual reports on the rule of law are prepared by the Secretary-General and discussed in the Sixth Committee.

Also the Security Council has given growing attention to the rule of law. The Council held two open debates and adopted two Presidential Statements on the rule of law in 2006 and 2010, respectively. During Austria's membership on the Security Council, together with like-minded countries, we consistently worked to mainstream the promotion of the rule of law in the daily work of the Council and its subsidiary bodies as well as to enhance the Council's working methods. The Council adopted important resolutions in various rule of law areas, including on the protection of civilians, children in armed conflict, women, peace and security. Further examples for this include the resolutions on the establishment of the Ombudsperson of the Security Council's 1267 Committee – also known as the Al-Qaida and Taliban Sanctions Committee – and the residual mechanism for the UN ad-hoc tribunals, as well as various resolutions mandating UN missions.

Despite this important progress, serious gaps and challenges remain. I would like to give a few examples where I believe we can and must do more:

First, Member States should reinforce their efforts to promote an international order based on the rule of law and international law, with the United Nations at its core. This includes ratification and implementation of relevant international agreements and the settlement of disputes by peaceful means. While in the past years several States have brought their disputes before the International Court of Justice, since the World Summit in 2005 only three new States have accepted the compulsory jurisdiction of the Court, bringing the total number to 66 States. This is only about a third of the UN membership. Similarly, the 1948 Genocide Convention has attracted only four new States and has now 141 parties. We therefore encourage the United Nations to continue its efforts to organize treaty events and assist Member States in the ratification and implementation of international instruments.

Second, our efforts to promote the rule of law should focus more on prevention. As the Secretary-General put it in his 2004 report: "In matters of justice and the rule of law, an ounce of prevention is worth significantly more than a pound of cure." Recent years have seen

remarkable efforts on the rule of law, transitional justice and peace-building in conflict and post-conflict situations. Great progress has been made in combating impunity in the aftermath of conflict through the establishment of the ICC, ad hoc and mixed tribunals, as well as specialized chambers in national courts. These are important achievements which contribute significantly to the prevention of conflict. In addition, we also need to learn the lessons from the most recent events and be better prepared to assist States in their reform efforts already prior to the outbreak of conflict.

Third, in all our rule of law activities we must enhance local perspectives and national ownership. While the rules-based international system is universal, there is no one-size-fits-all formula for rule of law assistance. Support for the rule of law must be based on national assessments, national needs and aspirations while ensuring the consideration of women's needs and their full and equal participation in all efforts. Effective strategies in this area have to seek to support both technical capacity and political will for reform. The fight against corruption is a crucial element in this regard. In this context, I would like to announce that the agreement establishing the International Anti-Corruption Academy, which was an Austrian initiative in cooperation with UNODC and INTERPOL, entered into force on 8 March this year. I would like to thank the Secretary-General for his personal support for this project and invite all Member States to join the Academy.

Fourth, we must improve coordination and coherence of our rule of law activities, both among the relevant entities of the UN system and among Member States. What we need is cooperation, not competition. We need to develop a global "team spirit" for promoting the rule of law. We must consolidate the fragmented approach of multilateral and bilateral rule of law assistance to avoid duplication and waste of resources. In my view, this would not require rewriting the existing rule of law architecture of the UN system as set up by the Secretary-General in his 2006 report. Rather, it would require a collective commitment to ensure that it is effectively implemented by all actors, both at headquarters and in the field. In this context, I should like to stress the importance that the Rule of Law Unit be provided with the necessary staff and non-staff resources from the regular budget in order to be able to carry out its important mandate in an effective and sustainable manner.

As regards improving coordination among Member States, we share the view expressed by the Secretary-General that we should think creatively about developing a global forum for dialogue among all stakeholders. We would thus welcome the idea of launching a new dialogue forum on the rule of law. This forum under the auspices of the United Nations could convene Member States, including donor and recipient States, international and regional organizations, and other actors to address current challenges in the rule of law area, including coordination and coherence of rule of law assistance at the national and international levels.

Mr. President,

In conclusion, I would like to stress that our efforts to promote the rule of law at the national and international levels do not serve an abstract goal, but the protection of the rights and interests of individuals. Given the importance of this objective, I am confident that the United Nations and the international community will continue to give priority to this subject.

Thank you for your attention!





High Commissioner for Human Rights

Opening Remarks

General Assembly Interactive Thematic Debate

on

The Rule of Law and Global Challenges

New York, 11 April 2011



Mr. President,
Distinguished Panelists,
Excellencies,
Dear Colleagues,
Ladies and Gentlemen,

I welcome this important and timely thematic debate held at the initiative of the General Assembly and its President. The General Assembly, as the main forum for setting the global agenda, has a specific role to play in encouraging all States, institutions and entities to apply the frameworks necessary to ensure respect for the rule of law. The rule of law is the bedrock for the legal protection of human rights. And, it is where the rule of law has collapsed that brutal conflict often arises - mass killings, disappearances, torture, arbitrary detention, destruction, rape, displacement, fear, hunger, and trauma follow.

As the situations in Côte d'Ivoire and Libya show, when the will of the people is not respected as a basis of government, anger and disenchantment will emerge and human rights violations become a daily occurrence. Insisting on respect for international human rights law, international humanitarian law, international refugee law and international criminal law is thus a cornerstone of our collective response. Supporting the victims' quest for dignity, equity, and justice requires us to send a strong collective message that impunity will not be tolerated.

And it is chronic impunity that will undermine our considerable efforts to assist Member States in strengthening respect for legal institutions, legal actors and the legal framework. Judicial training workshops, co-mentoring judges and lawyers and assisting in the reform of the criminal procedure code will only make a difference when the State takes seriously its legal obligations to meaningfully investigate and punish past and ongoing crimes and atrocities.

And justice is not only about prosecution of perpetrators it is also about reparations for victims. Everyone is aware of the tremendous physical, psychological and material price victims of armed conflict pay. However, victims have often unintentionally become the neglected part of the equation in the efforts to fight impunity. The Rome Statute establishing the International Criminal Court incorporates the rights of victims.

Mr. Chair,
Excellencies,

Let me now turn to the operational framework in which we work to protect these rights.

How can Member States and the UN contribute to assist national stakeholders in ensuring that rule of law contributes to lasting peace? One template cannot be applied to address the specific circumstances of each experience. Nevertheless, we know that a comprehensive strategy is required. It involves working with governments and civil society. I would like to address three core challenges in this area, namely knowledge, capacity, and commitment.

I. Knowledge

Knowledge of human rights norms and available options for their realization as well as knowledge about violations that have occurred in the past contributes to conflict prevention. There will be different options for addressing many human rights problems. Relevant authorities may need a well-informed appreciation of the options available as well as an analysis of which combination of law, regulation and policy is best suited to address the specific problems. Even when a way forward seems clear, decision makers will benefit from being informed about comparative experiences and lessons learned elsewhere. There is a good deal of knowledge available, including United Nations material, to assist Governments and other actors at the national level.

It is particularly crucial that government authorities fully understand the extent of violations so that they can swiftly put an end to abuse. The UN human rights system is

equipped to bolster this knowledge through the work of the Special Procedures of the Human Rights Council, Commissions of Inquiry into particular situations, as well as the UN Treaty Bodies, and, of course, information provided by my own Office and our United Nations human rights field presences. Domestic and international non-governmental organizations also play an important role in bringing key human rights challenges to the attention of States.

Rule of law and institutional reform has to be built on cumulative knowledge and cannot start with a 'clean slate'. Understanding the patterns of past human rights violations and ensuring accountability for violations leads to a successful transformative process particularly in the law enforcement and justice sectors.

In some situations, such as that of the Democratic Republic of Congo (DRC), we have taken exceptional measures by mapping out the most serious human rights and humanitarian law violations that have occurred in the country between March 1993 and June 2003. My hope is that by understanding the depth of the problem, effective solutions can be found to address them.

It is essential that such solutions involve a participatory process. This is particularly important in the area of transitional justice. People who have been affected by human rights violations or conflict must be empowered to make informed decisions about how they can exercise their rights and obtain redress. For instance, the preparatory activities for the Truth and Reconciliation Commission in South Africa occurred over a period of 18 months following democratic elections in 1994. This time allowed for a comprehensive discussion in Parliament and within communities of the Commission's complex powers and added to the Commission's legitimacy.

OHCHR, as well as human rights components of peacekeeping missions, can and routinely do provide expert and material support to national consultations carried out by Governments, parties to peace agreements, national human rights institutions and civil society. We have supported consultations in several countries, most recently, in Togo, and Burundi. In the course of the past three years, we have developed 10 transitional

justice policy tools addressing issues related to prosecution, truth-telling, vetting, mapping and monitoring the justice system, reparations programs, and human rights archives.

II. Capacity

Implementing rights requires a depth of expertise of trained personnel, with the relevant legal, cultural and language backgrounds. But conflict often drains the country of its human, financial or other resources. My Office can assist Governments to identify their capacity needs, and through our technical cooperation programs, help to build capacity to address human rights problems. We are doing this on a daily basis in the 54 countries where there are UN human rights presences.

An important development in this regard is the UN review of civilian capacity in the aftermath of conflict following the Independent Report of the Senior Advisory Group, which was prepared under the leadership of Mr. Jean-Marie Guéhenno, who joins me on this panel along with Mr. Michael von der Schulenberg, who was also a member of the Advisory Group. I agree with their conclusions that sustainable peace is not possible in the absence of stronger civilian capacity; that almost every conflict-affected country, however devastated, has some of the needed capacities for peace, which need to be protected and nurtured; that the international response to conflict is often supply-driven, with international actors focusing on what they can provide, rather than listening to the real needs of those they serve; and most importantly, that the United Nations needs to be “more responsive, more flexible, and more cost-effective”

OHCHR is committed to contributing to this critical process and advising on how post-conflict capacities in the area of human rights can be strengthened. An additional tool developed by OHCHR and DPKO is the UN Rule of Law Indicators Project to measure the progress of institutions of criminal justice in post-conflict States.

It is fundamentally important that States develop or refine their own capacity to investigate and prosecute gross violations of human rights and international humanitarian law. National commissions of inquiry are often triggered as extraordinary domestic accountability mechanisms responding to serious violations of human rights. My Office has carried out a best-practices study on these commissions. We have concluded that genuine accountability can be achieved only if national inquiry mechanisms are credible, independent, impartial, and transparent. They must have access to all relevant information and adequate resources, and they must also be able to make their findings public.

Central to any effective investigation and prosecution process is a successful witness protection program. In situations where the State is unable to discharge this responsibility, the international community needs to consider assisting in the provision of protection measures.

III. Commitment

In addition to knowledge and capacity, the commitment of Governments is necessary to reform or to redress a pattern of abuse in their own or in other countries. Particularly worrying in this regard are the rule of law deficits and the human rights protection gaps in states where there is protracted conflict as well as post-conflict states. These deficits are characterized by disputed laws, limited access to effective legal remedies, and lack of independent international human rights monitoring.

Commitment gaps also arise at the international level. I would like to first acknowledge Prince Zeid's leadership in the formulation of a comprehensive UN strategy to eliminate sexual exploitation and abuse in UN peacekeeping operations, which addressed an important gap in this area. Another important discussion currently relates to the support given by the United Nations peace keeping forces to non-UN security forces. It is clear that such support must be based on respect for human rights and international humanitarian law to avoid complicity in violations. An articulation of a clear policy in

this regard would be very helpful. A third area concerns the issue of listing and delisting of individuals in the context of individualized sanctions imposed for the purpose of peace and security. The need for an effective, clear and fair procedure is essential.

We also have a responsibility to remind Governments of their obligations. The intergovernmental system, including the Human Rights Council and its Special Procedures, as well as expert monitoring bodies established under human rights treaties, have a clear role in this regard. As the High Commissioner for Human Rights, I am also tasked with entering into dialogue with Governments and suggesting ways of overcoming obstacles to the realization of human rights.

Membership in inter-governmental human rights bodies carries with it responsibilities. It is essential that States which are candidates for membership of bodies like the Human Rights Council demonstrate in concrete terms through their practices at home that they are committed to human rights. Cooperation with the Special Procedures of the Human Rights Council as well as the implementation of the recommendations of the treaty bodies is essential to demonstrating commitment.

States, as well as parties to the conflict, must be committed to stopping violations and must take concrete measures in this regard. When they fail, the international community must step in. For over a decade, my Office has been actively supporting international commissions of inquiry which have become an essential tool in the fight against impunity. Among the latest examples, the Human Rights Council established an International Commission of Inquiry to investigate all alleged violations of international human rights law in Libya, to identify those responsible, and to make recommendations, in particular, on accountability measures. Another Commission was established by the Human Rights Council to investigate the facts and circumstances surrounding the allegations of serious abuses and violations of human rights committed in Côte d'Ivoire following the presidential elections. The breakdown of the rule of law in these two countries shows why a strong response is necessary to protect the human rights of civilians.

Finally, we must demonstrate our commitment to the victims. In March, my Office launched the Report of the Panel on Remedies and Reparations for Victims of Sexual Violence in the Democratic Republic of Congo, which is mainly based on the testimonies of over 60 survivors and focuses on their perceptions of remedies available to them. The lack of reparations for victims causes irreparable damage to the fabric of societies and, in turn, poses serious threats to the prospects of reconciliation and sustainable rule of law, peace and development. In this regard, I welcome the Government of the DRC's willingness to work with us to examine how to progressively implement the very useful recommendations made by the High Level Panel on Victims of Sexual Violence. We are already working closely with colleagues at UN Women to see how the UN can support these efforts.

Let me conclude by saying that the Peacebuilding Commission and Peacebuilding Fund were created to help the UN strengthen national capacities and lay the foundation for sustainable development. OHCHR is exploring how we can build effective partnership with these two bodies to concretely contribute to enhancing justice delivery in conflict and post conflict settings. We are excited about the opportunity to work with these institutions to fill knowledge and capacity gaps and enhance commitment to tackle impunity. This is crucial for establishing the rule of law.

Thank you for your kind attention.

**GENERAL ASSEMBLY INTERACTIVE THEMATIC DEBATE ON
THE RULE OF LAW AND GLOBAL CHALLENGES**

PANEL 1: “RULE OF LAW AND CONFLICT SITUATIONS”

Speaking notes

Jean-Marie Guéhenno

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I would like to address the topic of this panel as a former peacekeeper, and also as the chair of a senior advisory group which recently issued a report on the civilian capacities needed in the aftermath of conflict.

Why is the rule of law so important to peace? One sometimes hears that there is a trade-off between peace and justice, and the rule of law, in that perspective is seen as a luxury that will come once security has been fully restored. I beg to differ: the rule of law is not the end-result of security; it is a foundation of security, and as such a key component of any peace-building strategy.

I will make three points:

- first, I will argue that the rule of law is at the core of a peace-building strategy
- second, based on my peacekeeping experience, I will argue that we can indeed do better
- third, based on the conclusions of the report on civilian capacities, I will make the case for a stronger partnership between the UN and its member states to address rule-of-law issues;

The rule of law and peacebuilding

A peaceful society is a predictable society, in which we rely on the existence of enforced and public norms that are a continuous reassurance. We do not feel threatened by a man with a gun when he or she is a lawful representative of a state, who will act according to norms that we know and that we accept; we are actually re-assured by his/her presence, because we know that if we have a grievance, we will be able to file a complaint, and through the judiciary system to gain redress, and the enforcement capacity of the state means that the judiciary decision will actually be enforced. These simple expectations define a society at peace. They are what needs to be re-established after a conflict; they are what needs to be nurtured to prevent the emergence of conflict.

We take them for granted, and we are wrong. Let me illustrate the point with a few examples: in Haiti, there was a time when it was safer to seek the protection of a gang than the protection of the police; in Eastern Congo, uniformed units nominally under the command of the state have challenged its authority, and they have been perceived by large swaths of the population as aligned with ethnic groups rather than guardians of the rule of law. The sight of militia leaders guilty of well-publicized crimes walking free, and

in some cases taking positions of responsibility, sends a chilling message to their victims that they should be prepared for the next round of violence, and that they may be better off seeking the protection of a powerful militia over a weak state.

As a state moves from conflict to stability, the focus shifts from threats originating in groups - which require the use of military forces - to threats from individuals, dealt with by the police and the judiciary. If the judiciary is incapable to step up its role, there is a danger that collective responsibility will continue to trump individual accountability, and for as long as this is the case, the vicious cycle of violence will not be broken: in the absence of individual accountability, the political dynamics remain dominated by protection from and revenge against groups rather than justice meted out to individuals. People do not seek the protection of the law, they seek the protection of the most powerful guns. In a society without rule of law, the people do not trust the police and the army, and the state itself will not trust its own forces.

A vicious circle will be perpetuated, which will undermine the legitimacy of the state. With a weak capacity to enforce, the state will not be in a position to collect taxes, and will therefore be unable to provide services, including security, as poorly paid police officers are unlikely to uphold the rule of law... It will thus have a weak legitimacy, which will be tested, as the respect of the citizens for the security forces will depend on the perception of their power rather than any respect for the institutions of the state. That is a dangerous state of affairs, because in the end, the authority of the law is the most potent force-multiplier and a state that relies on arbitrary power can never be assured of lasting peace: peace is consolidated only when citizens refrain from violence not because they fear guns but because they trust laws.

Better strategy

Security sector reform is closely linked to the rule of law: as noted earlier, there cannot be a credible and professional force composed of war criminals, especially at senior levels. The selection of the higher echelons of the police and the army is the most critical factor for the success of a reform of the security sector. In Bosnia, the systematic vetting of the police force helped build a credible institution. I personally believe that vetting is an area where a close interaction between the Office of the High Commissioner for Human Rights and the UN secretariat is necessary and could be further developed.

But the reform of the Security Sector should be part of a broader effort that addresses the judiciary and the corrections and post-conflict strategies should put the rule of law at the center of a peace-building strategy. Without a judiciary capacity, the state cannot follow up on enforcement operations, and it cannot exercise effective control over security forces; their lack of accountability undermines their credibility, and destroys the goodwill and respect of the people so necessary to successfully perform their daunting task of ensuring law and order. A reform of the security sector that is not accompanied by an equally intensive effort to put in place the building blocks of an effective criminal justice system - including military justice to ensure accountability within the military- as well as civilian prosecutors, tribunals and corrections, will operate in a vacuum. The repercussions of not doing so were felt in Haiti in the 1990s where pre-MINUSTAH missions had no mandate for the judiciary. Gangs might be temporarily put out of

business but their leaders would either languish indefinitely in preventive detention, or buy their way out of jail. Still today jails are overrun, compromising justice and the credibility of international and national reform efforts.

The active engagement of the Bureau for Conflict Prevention and Recovery of the UNDP in rule-of-law strategies, the creation of the Office of Rule of Law and Security Institutions in DPKO and its contribution to emergency institution-building in the wake of conflict, are recognition of the need for a comprehensive approach. Actions with immediate impact need to be taken: many aspects of law need to be quickly addressed, from criminal law to property rights on land (often an important post-conflict issue). But the longer-term perspective should never be forgotten. The future of a country is largely shaped by the way it defines the rule of law. Too often, justice, and especially transitional justice are understood narrowly, as if they were instruments to deal with the past, rather than foundations of the future. This leads to a focus on retributive justice, rather than a broader approach that includes reparations, vetting and the consolidation of a national vision of the law. It may also produce an imbalance between the support to international courts like the ICC, a support that is welcome and helpful, as it underlines the principle of accountability, and support to national systems, which is generally neglected and often receives but a fraction of the support given to international criminal justice. Justice and the rule of law are not about “bringing closure” to a tragic past, they are about building trust in the future, by creating confidence that agreed norms can prevail. In that sense, a rule of law strategy, more than any other component of a peace-building strategy, needs to be nationally-driven and owned, if it is to be successful.

A stronger partnership between the United Nations and its member States

Prioritizing a comprehensive approach to rule-of-law that recognizes its centrality in a peace-building strategy will require the UN to build a much stronger partnership with its member states. Indeed, the UN does not have, within its own system, all the resources needed. While it must develop some core capacities to help shape and implement rule-of-law strategies, including a capacity for rapid deployment, of which the standing police capacity of DPKO is a first illustration, it needs to draw on the capacities of its member states to fill a range of niche requirements, which are not limited to police officers, judges or corrections officers. To stand up a functioning rule-of-law apparatus requires dedicated specialists who understand the legal history of the country they are expected to help, as well as its administrative traditions and will support, not undermine, national ownership. The report that I have had the honor to submit to the Secretary General offers some practical recommendations for member states and the UN to work together in close partnership.

For that partnership to be successful adaptations are required in the UN secretariat, but also in its member states, which will have to organize themselves accordingly. Traditionally, countries have provided peacekeeping troops to bolster peace and security, and that valuable contribution is still very much needed. But it needs to be expanded to new categories of personnel. In recent years, police numbers have increased quickly; but, beyond former police units - which account for the bulk of the increase, the UN is struggling to find the experienced police officers who can transfer valuable knowledge

and effectively support national efforts. And the difficulty is even greater when it comes to other categories of non-uniformed personnel: the importance of the rule-of-law in peace strategies is simply not yet fully recognized, although it is encouraging to note that the UN can now count on a diverse group of countries to provide such resources.

The foundation of the United Nations is the rule of law. When the charter was drafted in 1945, the focus was on a rule-based international system that could regulate relations between states. Today, we recognize that the absence of rule of law within a country may not only cause untold suffering to its people, but can become a threat to international peace and security; that is why there is no more pressing priority than building a common understanding of the basic elements of the rule of law, and providing the resources to implement that vision.

Check against delivery

11 April 1:30pm

**Remarks for Helen Clark, UNDP Administrator on the
occasion of the General Assembly Interactive Thematic
Debate on the Rule of Law and Global Challenges**

Panel on the Rule of Law and Development

UN General Assembly, New York

11 April 2011, 3-5pm

Length: 1760 words (approx 14 mins)

Let me begin by acknowledging the contributions and keynote speeches of the Honorable Christina Tah, Minister of Justice and close partner of UNDP from Liberia, and the Foreign Minister from Austria, Michael Spindelegger.

I thank Deputy Minister Gomez-Robledo for chairing this Panel and for the important role Mexico plays in advancing the rule of law agenda at the UN. I understand that Mexico co-sponsors the rule of law agenda, together with Liechtenstein, through the General Assembly's Sixth

Committee, and has recently presided over an open debate on the rule of law in the Security Council.

I am pleased to be on this distinguished panel focusing on the important topic of rule of law and development.

Rule of law critical to development

Working to establish and support the rule of law is central to UNDP's mandate. In keeping with the Secretary General's official definition, we view the rule of law, from our perspective as practitioners, as a series of ends to be pursued simultaneously, in line with international human rights norms and standards. Those ends include achieving:

- governments bound by law
- equality before the law
- law and order, and

- **fair and accessible judicial systems and legal protections.**

Strengthening the rule of law is a goal for both developing and developed countries. Under the rule of law, the rights and obligations of all – including the poor and marginalized - are defined and enforced. That enables people to live their lives in environments which are rules-based, and for the authorities to be able to tackle those predatory networks which exploit people where there is no recourse to the law.

Establishing the rule of law is both an important objective in its own right, and it is critical to broader development progress.

For example, bringing informal businesses into the formal sector where they can benefit from the rule of the law enables them to protect their earnings better, access markets, and

expand opportunities for more sustainable livelihoods. Formal businesses can also be brought into tax systems, thereby increasing the potential for domestic resource mobilisation.

Under the rule of law, a country is more likely to be able to share the progress of its growth and development more equitably. That helps establish the social cohesion and stability which gives development momentum, helps ensure dignity, and builds social trust. That in turn gives people a stake in the reduction of crime in their community and contributes to a more peaceful social order and functioning institutions.

The World Bank is about to launch its 2010 World Development Report. It shows how political and criminal violence is affecting growing numbers of people worldwide, and produces instability and limits economic growth

wherever it occurs. The Report finds that criminal and political violence is also increasingly undermining the rule of law and governance at the sub-national level in a number of middle income countries.

Recognizing the connection between the rule of law and development

Both UN advocacy and the initiatives of a number of Member States have broadened and deepened understanding of the importance of the rule of law for advancing development goals. The need to integrate rule of law programming in development efforts is also becoming better understood.

At last year's MDG Summit, Member States reaffirmed that "good governance and the rule of law at national and international levels are essential for sustained, inclusive and

equitable economic growth, sustainable development and the eradication of poverty and hunger.”

Today’s debate is a good opportunity to discuss how we can take that objective forward, make the rule of law even more central to development agendas, and ensure that we can respond to the increasing demand for country support in this area. The ideas discussed at today’s session can be taken forward in the policy dialogue leading up to the General Assembly’s High Level Segment on rule of law in the 67th Session in September 2012.

Taking forward the rule of law for development: the work of UNDP

At UNDP, we believe that strengthening the rule of law requires strong and capable institutions which operate on the basis of laws and rules set up to serve the people. Ineffective,

poorly functioning institutions cause the most harm to the least affluent and most marginalized people in our communities.

Empowered citizens, who know their rights and have confidence that institutions and processes will deliver legal redress when they need it, help drive development forward.

UNDP supports countries to develop their capacity to apply the rule of law in a fair and inclusive manner, and to empower their citizens to make the most effective use of the protection offered by the law. This work is undertaken in response to the requests of Member States under the democratic governance and crisis prevention and recovery pillars of our mandate.

Growing numbers of countries are now requesting UNDP support to strengthen those institutions, formal and informal,

which provide security, justice, and legal protection, and to help build the legal empowerment which enables all people to access justice, claim legal protection, and use peaceful means to settle disputes.

In Indonesia and Laos, for example, UNDP has supported the development of national justice strategies with a particular emphasis on expanding access for women and minorities.

In Georgia, Sri Lanka, and Mozambique, among others, UNDP supports national efforts to expand legal assistance, including by raising citizens' awareness of their legal rights.

In Nicaragua, UNDP is assisting the national police to expand community security and address violence against women by working with volunteers and mobile community units.

UNDP has substantially scaled-up its rule of law programming in 22 of the 34 states which are the most far

away from achieving the MDGs. All 22 are in – or are emerging from - armed conflicts. We work through joint programmes in those countries with UN missions to deliver broad-based justice and security services. In the DRC, for example, UNDP is supporting training for police investigators. That programme recently produced 68 new graduates, who are now qualified to undertake criminal investigations, and thereby quadrupled the pool of police criminal investigators.

UNDP also supported the establishment of mobile courts in Somaliland. That had the remarkable effect of increasing the number of cases adjudicated in a single year by 28 per cent.

With partners, including UNICEF and UN Women, we are supporting research on rule of law programming, particularly for women's empowerment. The outcome of a major study on

informal justice systems covering eighteen countries is expected to provide a solid evidence base for expanding our work.

UNDP's added value in rule of law work lies in our emphasis on capacity development and national ownership in security, justice, and legal protection. We base our assistance on the local needs and realities within countries, using analysis which is context-specific, and the experience we have gained from our long-standing presence, to help countries develop their own national strategies and plans for establishing and improving the rule of law.

Developing UN priorities in lead up to the High Level Segment

Ahead of the High Level Segment on the rule of law next year, it is important to focus on what the UN development system can do at the country and regional levels in support of states

and their peoples. UNDP offers here some thoughts which could be taken up in discussion and carried through the policy dialogue leading up to the High Level Event.

1. The international community could do more to support and invest in national and local efforts to improve the administration of justice and legal protection. Significant investments have been made in peace and security and international justice. More resources should now be dedicated to developing national capacities to address not only international crimes, but also justice and security in general as central to advancing sustainable human development.

In this work, legal empowerment and community-based approaches should be a priority. In this respect, UNDP welcomes last year's UN General Assembly resolution on the legal empowerment of the poor, and the resolutions on

the rule of law at the national and international levels.

- 2. Understanding needs to be built of what actually works to advance the rule of law, and stakeholders need to co-ordinate closely to make progress possible.**

UNDP takes its responsibility to lead the co-ordination of the UN development system seriously. The contributions of UN Country Team members need to be aligned, based on their respective strengths. In justice and security work, well co-ordinated approaches are increasingly being used, including in challenging environments.

The UN Development Group's funds, programmes, and agencies, the development banks, bilateral actors, and government partners must also work together to ensure that justice, security, and legal empowerment approaches are central to development policy and programming, and

better co-ordinated, particularly for those countries facing crises, transition, or other rule of law-related challenges to their development.

UNDP brings to this task its global architecture of knowledge, policy development, and rule of law programming. We can and do facilitate South-South co-operation and knowledge-sharing within and across regions on security, justice, and legal empowerment. In one initiative, we enabled officials from The Gambia to learn about Ghana's good practice in legal aid and alternative dispute resolution. With support from partners, this kind of work can be stepped up.

3. Establishing the rule of law needs to be seen as an integral part of overall development strategies designed to build resilience, improve governance, and advance inclusive growth, and not as something to be initiated only in

response to national or local crises.

4. Strengthening national justice and security systems and institutions, establishing peaceful dispute resolution systems, and advancing legal empowerment can help countries advance their national development agenda.

I understand that there may be some interest among Member States in exploring setting targets for strengthening national security and justice systems, in line with national development strategies. Such targets could help make rule of law programming more coherent by directing capacity development assistance where it would be most effective.

5. Ways to harmonize the rule of law between national, regional, and global levels could be explored. Stronger and more harmonized rule of law can help countries implement

international law and respond to regional and global economic integration. Such connections, including through trade, investment, and customs arrangements, can be conducive to growth and development.

Conclusion

It is a priority for UNDP to support its national partners to strengthen the rule of law and expand access to justice. We would like to see stronger support for this work more consistently built into development programming.

UNDP looks forward to working with Member States to take this agenda forward, so that around the globe the rule of law can give greater protection to all peoples and momentum to sustainable human development.

Executive Director, UN Women

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REMARKS AT
THE INTERACTIVE THEMATIC DEBATE OF THE GENERAL
ASSEMBLY ON
"THE RULE OF LAW AND GLOBAL CHALLENGES"

"RULE OF LAW AND DEVELOPMENT"

New York, 11 April 2011

Excellencies,

Distinguished Delegates

Ladies and Gentlemen,

First let me express my appreciation to His Excellency Mr. Joseph Deiss, President of the General Assembly, for the invitation to participate in this important discussion.

The linkages between the rule of law and development are multiple and gender-sensitive rule of law reforms are critical building blocks to furthering development.

Predictable, fair, and properly enforced laws in societies can create an enabling environment for long term investment returns, as well as ensure equitable distribution of rights and resources that underpin development efforts. More than this, the law itself can strengthen development efforts and ensure resources reach intended beneficiaries.

The role of legal institutions in mediating access to resources is critical for women and the families they support. The powerful link between focusing development resources on women and achieving poverty reduction targets are by now well established. USAID estimates that when 10% more girls go to school, a country's GDP increases on average 3%. Where women have access to the same amount of land as men, there is a more than 10% increase in crop yields. We know that targeting women and girls for education, employment, and health care can have a transformative impact-

a so-called 'multiplier effect' on the well-being and productivity of families, communities and societies in general.

But if these investments are not protected by a commitment to women's rights and justice, these gains will be short-lived. Securing equal access to justice for women and men must begin with ensuring that the laws themselves treat women and men equally and fairly. And that means three things.

- first, that the legal concerns that women face are addressed in the legal framework. For instance, issues like domestic work or violence against women have been viewed as private issues and have, until recently, been absent from the legal framework.
- Secondly, it means ensuring that there are robust mechanisms to implement laws in a gender equitable way. We have learned that it is not enough to legislate that women and men have equal access to land and property. Without legal aid, without titling strategies that encourage joint titles, we have seen how good efforts of governments to support greater equality through legal reform have had disappointing outcomes.
- And, thirdly, we have to be mindful about the impact of the law on gender equality and women's rights. Sometimes laws that attempt to provide greater protection can at times make women more vulnerable. Laws that criminalize transmission of HIV and AIDS, for instance, might end up penalizing a woman who was unknowingly infected by a partner, who cannot afford to be tested, and who unknowingly transmits the virus to another person

We need to acknowledge that across the world there has been laudable progress in this area. 186 countries have ratified CEDAW. 139 constitutions guarantee gender equality, and two-thirds of countries criminalize domestic violence. Clearly laws themselves are insufficient to deliver justice for women. But we cannot underestimate the contribution of strong foundations. Laws that are properly implemented and enforced catalyze a change in attitudes and practices. Research shows that in countries where there are no laws against domestic violence, almost one in three citizens believe violence against women is acceptable. In countries *with* legislation, this falls to approximately one in five.

But even with strong laws in place, women face obstacles. A woman may fear retribution for standing up to male family members or officials. She may not be able to reach the courts because of the distances involved or because the costs are too high, or because she cannot leave her children unattended. Even if a good judgement is obtained, it may not be enforced, putting her in a worse position than before.

Women and girls are half of the human capital available to reduce poverty and achieve development. But they are unable to be full participants in these goals so long as they are crippled by fear of violence, mass discrimination and deprivation of property and inheritance rights. Justice for women is a development imperative, as well as a basic human right.

Obstacles to justice are common and may seem overwhelming. However there are real gains being made. We are seeing an increasing number of

partnerships that address the gender dimensions of rule of law, and – in this regard – I want to commend the strong partnership that UN Women and UNDP have had in several countries in this area.

UN Women's flagship report this year – Progress of the World's Women – is dedicated to the issue of women's access to justice and highlights concrete innovations. I'd like to share a few of these examples with you.

The first and truly effective means to improve women's access to justice is to increase women's visible presence and leadership across the justice system. When women are the police, court officials, prosecutors, investigators, judges, and legal aid providers, it not only creates more representative and credible institutions, it has a *profound* impact on outcomes. For example, more women officers in police stations has been shown to result in a higher rate of citizens reporting sexual assault. In Liberia, the all-women Indian formed police unit that has been part of the peacekeeping operation there since 2007 has generated increased reporting of violence and has also boosted local recruitment of young women into the police force.

The second key means of improving women's access to justice are institutional innovations designed to overcome the specific obstacles women face. One important example is the creation of 'one stop shops'. These are centers that gather all the necessary services of the judicial process in one place. The Thuthuzela Care Centres (TCC) in South Africa is a successful example of this approach. These centres are located in

public hospitals and provide emergency medical care, counseling and court preparation in an integrated and survivor-friendly manner. Conviction rates for rape cases dealt with by one such centre in Soweto reached up to 89 percent, compared to a national average of 7 percent. The Thuthuzela model has already been replicated in other countries.

Another example of gender-responsive justice service provision is the use of mobile courts. These courts have been used in a number of contexts - in Indonesia and Haiti in the aftermath of humanitarian disasters, and in India and China to access remote rural areas. They can deliver justice rapidly and with limited resources. Last month, in the Democratic Republic of Congo, a mobile court supported by the Open Society Institute and the American Bar Association secured the first conviction for crimes against humanity through such a court. The case was the mass rape of more than 40 women and girls on New Year's Day in Fizi Eastern Congo this year. Just six weeks later this mobile court convicted nine soldiers of these heinous crimes, meeting standards of due process and delivering justice with unprecedented speed.

These and other innovative reform measures are vital. But they cannot stand alone. Even if every effort we make to strengthen and reform formal justice systems are successful, we will still not achieve our goal of establishing equal access to justice for the majority of women. No efforts towards this goal can succeed if we do not engage with sites of informal justice. For the vast majority of citizens in developing countries, and for

women in particular, customary systems remain the only site for conflict resolution available.

They are often, however, deeply gender biased. They may exclude women from decision making processes and reinforce cultural or traditional norms of gender inequality.

Transforming informal justice systems is therefore of vital importance. 'Tradition' and 'custom' is not static – it changes to meet new challenges and needs. In Nepal, UN Women in partnership with UNDP has set up committees of women paralegals in remote communities to provide alternatives to traditional systems. Women paralegals have been trained on human rights and provide conflict resolution services for their communities. On a recent visit by UN staff, the women in one community were asked if paralegals were making any real difference. The women, some of whom had walked 2 hours each way for this meeting, reported enthusiastically that the traditional leaders were "closing down business" as community members brought more and more cases to the women paralegals. These paralegal groups had established trust through their fair judgments and were changing perceptions of justice in their communities.

Their message was clear - When given the knowledge, resources and opportunities, women can offer alternatives to the structures of injustice from the inside.

The last subject I will address is the one discussed in the panel held earlier today - that is, the issue of the rule of law in post-conflict societies. In the wake of a conflict, states face the daunting task of dealing with crimes committed during the conflict. In addition they often face a rise in social unrest and violence. In both conflict and post-conflict contexts, women are particular targets for violence. And it is during this period that securing justice for crimes against women is urgent, because impunity for crimes against women makes a mockery of the rule of law and hinders recovery.

For some years, there has been a debate between rule of law and development practitioners in conflict-affected societies. This is a tension between peace and justice, with some saying that the search for justice can slow down the establishment of peace. I must emphasize here - *from the point of view of women, there can be no peace in the long term without justice*. Without justice, the perpetrators of conflict and their violence shifts back to homes and communities. And it is here where women pay the price. High levels of insecurity post-conflict undermines development and obstructs women's participation in economic, social and political recovery. In other words, **spoilers for peace are spoilers for development**. Justice processes can serve the function of removing spoilers and creating the necessary conditions for recovery.

In this regard, the International Criminal Court has made many gains, not the least of which is that we today have architecture for international justice that recognizes sexual violence crimes as war crimes, crimes against humanity and possibly genocide.

However even at their most effective, international justice mechanisms will only ever be able to prosecute a handful of perpetrators. The vast majority must be dealt with within countries themselves through transitional justice mechanisms such as truth commissions, national prosecutions and community accountability structures.

Perhaps the most important transitional justice mechanism for women is their right to *reparations*.

In practice, efforts to provide reparations have been uneven and underfunded. They have also tended to marginalize women.

I emphasize reparations not because women's lives can be repaired through legal processes alone. But reparations, paradoxically, are the mechanisms that most concretely bridge the rule of law and development divide. They are a mechanism for public acknowledgement and justice whilst equally providing a vehicle to deliver the resources needed for recovery.

Because of the central importance of these programmes, UN Women is working with the Office of the High Commission for Human Rights to establish a fund for redress for victims of sexual violence in the DRC. We are also working together to identify, on the basis of practice around the world, how reparations programmes can be designed best to provide redress to women.

To conclude, I have discussed the key aspects of justice system reform that enable the rule of law to respect and promote gender equality. These include greater participation of women in the justice sector, innovative

institutional reforms, an engagement with informal justice, and a focus on establishing women's rights to justice during the post-conflict period through transitional justice mechanisms. In our deliberations on the key challenges for the establishment of the rule of law today, I ask you to keep in mind this one fact - justice for women is not only a basic human right, but is a critical imperative for the United Nations and its Member States to achieve the shared goals of peace and development.

Remarks

By

Anne-Marie Leroy

Senior Vice President and Group General Counsel

1. **[Thank you note to H.E. Mr. Joseph Deiss, President of the 65th Session of the General Assembly, H.E. Ban Ki-moon, UN Secretary-General, the Rule of Law Coordination and Resource Group and the Rule of Law Unit for organizing this debate. Also, thank you note to H.E. Mr. Juan Manuel Gómez-Robledo, Chair of this Panel].**

[I fully subscribe what it has been said so far...]

The Rule of law is central to the work of the World Bank. President Zoellick has stated that “*The most fundamental prerequisite for sustainable development is an effective rule of law¹.*”

The World Bank has engaged with the rule of law as part of its development agenda for many decades. It has explicitly engaged with justice sector development for the last two decades. In particular, the Bank’s “Governance and Anti Corruption” (GAC) strategy, which was finalized in 2007, highlights justice

¹ From GAC II Presentation

institutions for their role in checking executive authority and in punishing corruption, and commits to scaling up Bank support for justice reform².

I would therefore like to take this opportunity to give an overview of the current thinking on rule of law and development in the World Bank and its interplay with both justice sector development and also more broadly with our development projects.

2. THE RULE OF LAW UNDERLIES THE DEVELOPMENT PROCESS

It is perhaps now trite to simply state that the rule of law is important to overall development and also to the attainment of each of the Millennium Development Goals. Sometimes, however, we do need reminding that getting the basics right is always a pre-requisite to any successful development project. Perhaps the key to understanding the role of the rule of law in development is to better communicate that rule of law systems are never immutable or reach a fixed end-state. Instead they can be seen as in a permanent state of innovation, governing and adapting to societal change. Arguably, one of the positive features of most developed country systems is their ability to continually, incrementally, and peacefully change – rather than being subject to periods of stasis followed by violent rupture.

Legitimate justice institutions are integral to achieving this more positive feature. Law and justice development should therefore not be seen as forging some perfect institutional form; rather it is more accurately conceived of as a process of

²World Bank, Strengthening World Bank Group Engagement on Governance and Anti-Corruption 2007, p. 18, ¶ 31

encouraging more equitable, evolving processes whereby different interests and aspirations can be reconciled.

As a development problem, building the rule of law and promoting justice requires inputs from technical specialists and its implementation also requires numerous diligent professionals. But at its heart the content and legitimacy of any rules system – including those that eventually become codified as a formal ‘rule of law’ system – are forged through local processes of participation, negotiation, and sometimes contestation.

Whilst international norms are important for guiding outcomes, ultimately sustainable justice systems and improvements in the rule of law must be driven locally. One size does not fit all and furthermore the nature of something as ‘just’ is linked to the fact of it having been arrived at by way of legitimate process, which invariably means including and responding to the people to which it will apply.

Indeed, the crisis engulfing the Middle East and North Africa shows that greater citizen participation and better governance are crucial for economic development and the World Bank will do more to emphasize both.

In his speech at the Peterson Institute for International Economics on April 6, President Zoellick said: “We will encourage governments to publish information, enact Freedom of Information Acts, open up their budget and procurement processes, build independent audit functions, and sponsor reforms of justice systems.”

3. HOW DOES THE RULE OF LAW CONTRIBUTE TO ECONOMIC GROWTH?

Reform of Justice Systems

Though the precise channels of causation are complex and contested, there is broad consensus that an equitable, well-functioning justice system³ is an important factor in fostering development and reducing poverty.⁴ A country's justice system shapes whether firms can rely on their contracts, whether citizens have recourse from breaches in policy or failures in service delivery, whether corruption and other crimes are punished, and whether the power of the executive has limits.

For many years, through a variety of its institutions, the World Bank has supported the creation of robust investment climates, underpinned by a sound rule of law, in order to encourage investment, productivity and wealth creation as part of its main approach to combating poverty. All the institutions of the Bank, from IBRD and IDA to the International Finance Corporation, the Multi-lateral Guarantee Agency and the International Center for the Settlement of Investment Disputes play key roles in developing and supporting the rule of law for our clients.

3 A World Bank handbook defines 'justice system' as comprising "[t]he institutions that are central to resolving conflicts arising over alleged violations or different interpretations of the rules that societies create to govern members' behavior, and that, as a consequence, are central to strengthening the normative framework (laws and rules) that shapes public and private actions." Dory Reiling, Linn Hammergren, and Adrian Di Giovanni, *Justice Sector Assessments: A Handbook*, World Bank Legal Vice Presidency, 2007. These institutions include, among others, the courts, the police, prosecutors' offices, public defenders, legal aid providers, administrative law mechanisms, customary law institutions, anti-corruption commissions, and property and commercial registries.

4 See, for example, Douglass North, *Institutions, Institutional Change, and Economic Performance*, 1990, p. 54, claiming that the absence of a low-cost means of enforcing contracts is 'the most important source of both historical stagnation and contemporary underdevelopment in the Third World'; Dani Rodrik, Arvind Subramanian, and Francesco Trebbi, 'Institutions Rule: The Primacy of Institutions Over Geography and Integration in Economic Development', in 9 *Journal of Economic Growth*, no. 2 (2004), p. 131-65, which argues that the quality of institutions is a greater determinant of income level than either trade or geography; Riek Messick (WB PREM), 'Judicial Reform and Economic Development: A Survey of the Issues', in 14 *World Bank Research Observer*, no. 1 (1999), p. 124-26, which concludes that 'although the specifics of causality are unclear, history and comparative analysis support the view that a better judicial system fosters economic growth'.

The World Bank takes investing in rule of law and justice sector development seriously. Since 1994, the Bank has invested over US\$850 million in 36 stand alone projects solely dedicated to strengthening the justice sector. This includes work to improve case management systems, to train judges, to provide legal aid and legal outreach, to develop mechanisms for alternative dispute resolution, and to build and rehabilitate judicial infrastructure.

Taking “stand alone” and component operations as part of the Bank’s wider work together, Bank lending from 2005 to 2010 to support the rule of law, averaged \$335 million per year⁵. These projects are as varied as the work of the Bank itself. A private sector development project in Guinea-Bissau included a component focused on improving access to justice for firms, for example; a Poverty Reduction Support Credit in Benin supported establishment of a Legal and Judicial Information Center; a land project in Peru improved the mechanism for resolving land disputes.

These lending activities are complemented by a plethora of grants and research activities, which support and/or study among other things anti- corruption agencies, ombudsman offices, rights education, legal pluralism, legal aid and legal empowerment, and data gathering on the protection of basic rights.

Interventions have produced positive results. Mobile courts initiated under a World Bank project in the Philippines, for example, allow judges to travel to prisons and underserved communities to adjudicate⁶. A World Bank supported

⁵ This mean is derived from figures presented in World Bank Annual Reports from 2005-2010.

⁶ Jay Rempillo, “SC Procures Three More E-Juice Buses,” Court News Flash, 4 January 2010.

reform project in Venezuela reduced case processing times between 20% and 70%⁷. A community paralegal program in Sierra Leone was found to empower clients and communities to claim their rights and to achieve redress for grievances that had otherwise stagnated⁸.

But, we must not stop here.

Transparency (as an element of The Rule of Law)

It is vital that a modernized multilateralism is open to new ideas. Today, the World Bank is the only multilateral institution with a wide-ranging Access to Information policy; we have thrown open the doors on our research and released over 7,000 data sets.

Freedom of Information and Transparency also reflects on the quality of governance. In his speech last week, President Zoellick said that “[the Bank] will not lend directly to finance budgets in countries that do not publish their budgets or, in exceptional cases, at least commit to publish their budgets within twelve months”.

7 Rogelio Pérez Perdomo, “Una Evaluación de la Reforma Judicial en Venezuela,” in *Judicial Reform in Latin America: An Assessment for Policymakers*, Center for Strategic and International Studies and Centro de Estudios de Justicia de las Américas (2006)

8 The program is called *Limap for Justice*. A World Bank evaluation of the program, in which researchers selected 42 cases from Limap’s docket and interviewed all parties involved, reported that respondents were “overwhelmingly positive” about their experiences with Limap. Respondents “praised Limap’s effectiveness in resolving disputes, particularly those that confront institutions or power relationships.” The report found “strong evidence that

Limap’s interventions were indeed empowering their clients, the paralegals themselves, and the community as a whole to claim their rights and pursue cases that had previously stagnated.” Pamela Dale, *Delivering Justice to Sierra Leone’s Poor: An Analysis of the Work of Limap for Justice*, World Bank, 2009, p. iv, 33

The Bank has now worked with 41 countries around the world on improving the transparency, competitiveness, and efficiency of government procurement. It has also worked with 34 countries on improved citizen access to public information. And our International Finance Corporation is currently working on Corporate Governance in 64 countries.

Civil Society Participation

However, good governance will not happen without the active participation of citizens –and clear communication between society and government-. Institutions, however reformed, need citizens to keep them accountable. An important role here should be played by civil society and the World Bank, just as it had moved over the past six decades to supporting the private sector from originally financing just governments, is considering how to provide more support for civil society by introducing new facilities or capabilities to help strengthen the capacity of civil society organizations working on accountability and transparency in service delivery.

Crime and Corruption and the Impact on Growth and Development

Twenty years ago, the World Bank did not talk about corruption. Today, fighting corruption is a key part of the Bank projects and programs. Our shareholders know corruption is a drag on economies, taxes the poor, and strangles opportunities. Indeed, one estimate suggests that developing countries lose an estimated US\$20 to US\$40 billion per year to bribery⁹, embezzlement and other corrupt practices.

⁹ STAR initiative website http://www1.worldbank.org/publicsector/star_site/ accessed 3/28/2011

As such, within the parameters of our mandate, the Bank has sought to address these areas where it can. Anti-corruption analyses and efforts are now streamlined into all Bank investment projects through “Governance and Accountability Action Plans”. Our financial management, procurement and social safeguard requirements for lending seek to ensure that funds are spent appropriately in order to meet the development objectives of the project.

Recently, this struggle took a significant step forward when the heads of five leading multilateral development banks (MDBs)—the African Development Bank Group (AfDB),¹⁰ Asian Development Bank (AsDB), European Bank for Reconstruction and Development (EBRD), Inter-American Development Bank Group (IDB)¹¹ and World Bank Group (WBG)¹²—signed the Agreement for Mutual Enforcement of Debarment Decisions. The agreement stipulates that entities debarred by one MDB will be sanctioned for the same conduct by the other signatories.

The Bank has also partnered with a number of other organizations to address specific areas of concern. The Bank is a member of the “International Consortium on Combating Wildlife Crime” along with Interpol, CITES Secretariat, the World Customs Organization and the UNODC, which is intended to bring coordinated support to the national wildlife law enforcement agencies and sub-regional networks that, on a daily basis, act in defense of the world’s natural resources.

¹⁰ The African Development Bank Group consists of the African Development Bank, the African Development Fund and the Nigeria Trust Fund

¹¹ The Inter-American Bank Group consists of the Inter-American Development Bank, the Inter-American Investment Corporation and the Multilateral Investment Fund

¹² In this article, we use the term “World Bank Group” or “WBG” to mean, collectively, the International Bank for Research and Development (IBRD), the International Development Associations (IDA), the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). The term “World Bank” refers to IBRD and IDA alone

Additionally, the Bank, together with the UNODC and with funding from several donors¹³, is home to the “Stolen Asset Recovery Agency” or “StAR” initiative which supports international efforts to end safe havens for corrupt funds. StAR works with developing countries and financial centers to prevent the laundering of the proceeds of corruption and to facilitate more systematic and timely return of stolen assets. StAR’s work is built around four pillars: empowerment; partnerships; innovation; and advocacy.

On the domestic law enforcement front, the Bank has received an increasing number of enquiries from its clients to work with domestic criminal justice institutions, including financing for police, prosecutors, public defenders and prisons. Several studies have already pointed to the economic impact and costs associated with high levels of crime and violence¹⁴. “Crime” as a developmental concern is increasingly on many of our clients’ agenda. The Bank is currently reviewing its mandate to determine the boundaries of any future potential engagement in this sector.

4. INTEGRATING THE RULE OF LAW AND DEVELOPMENT

This is an important moment in the development of the Bank’s thinking about and action in, justice system reform.

¹³ StAR was launched by the World Bank and United Nations Office on Drugs and Crime in September 2007 with UN Secretary General Ban Ki-Moon. StAR is financed by the World Bank Group, UNODC and a trust fund financed by Norway, Sweden, Switzerland, Australia and France.

¹⁴ See A. Heinemann and D. Verner, *Crime and Violence in Development: A Literature Review of Latin America and the Caribbean*, World Bank Policy Research Working Paper, October 2006. This study estimated that the cost associated with high levels of crime and violence reaches 14.2% of the regional GDP. In Colombia the cumulative effect of ‘lost growth’ as a result of crime and violence is such that the per capita income of today would be approximately 32% higher than at present. Another study in El Salvador estimated the total national cost of violence at 11.5% of GDP. See United Nations Office on Drugs and Crime, *Crime and Development in Central America* (May 2007), p.18.

The Bank has just completed a consultation period to determine its next strategic phase of rule of law and justice sector interventions. Internal and external consultations have been held which have permitted experts, governments and citizens from all over the world to comment on the Bank's approach to justice reform. The consultations have been supported by a variety of portfolio review work. The results of this work will be made available shortly. This will result in an approach piece that will define our engagement in this area for the medium term.

One of the conclusions emerging from those consultations is that the World Bank, as an institution focused on development, has a unique role in integrating justice into its development projects across the board.

Nearly every undertaking the World Bank supports invokes questions of law and justice. Building a new road involves compensating land owners, which in turn often requires navigating plural, overlapping land tenure regimes. Supporting expansion of a health service creates new entitlements, which in turn poses the question of how citizens can seek redress in the event of a breach. The Bank has recently piloted a program, called Justice for the Poor, which provides Bank project teams and client countries with support in addressing these sorts of justice issues in development projects, particularly in the context of plural legal systems.

There are ample opportunities for integrating justice into development. Social accountability measures like community scorecards and social audits, for example, have tended to focus exclusively on the nexus between community and service provider, or between community and local government. Those efforts could be linked to legal aid and legal empowerment efforts that seek redress from the wider

network of state authority in the event that local pressure fails¹⁵. On the supply side, project-specific complaints handling mechanisms could be better integrated into countries' justice systems, including administrative law mechanisms, ombudsman offices, and the courts¹⁶.

The Bank was often told in the past that insisting to clients to integrate issues of citizen accountability, participation, transparency and redress into development projects, would be overstepping our mandate. That it was too political.

President Zoellick has recently reaffirmed, however, that addressing these issues is simply good economics¹⁷. It is good for fighting corruption and it is good for ensuring inclusive and sustainable development.

5. RULE OF LAW, CONFLICT AND DEVELOPMENT

The previous panel addressed “rule of law and conflict”. And while this panel is on “rule of law and development”, I want to say a few words about the nexus between these two issues. As many of you may be aware, the World Bank’s flagship “World Development Report 2011” focuses on “Conflict, Security and Development”. The research conducted as part of the report shows that conflict and fragility impede development, and that the development of effective and legitimate institutions that can deliver justice, security and jobs are essential to breaking cycles of violence and paving the path out of fragility.

¹⁵ This argument is laid out in detail in Vivek Maru, “Allies Unknown: Social Accountability and Legal Empowerment,” *Harvard Journal of Health and Human Rights*, vol 12 no. 1, 2010.

¹⁶ The empirical work of Varun Gauri and colleagues on courts in South Africa, Nigeria, Brazil, Indonesia, and India shows that courts have a substantial role in shaping health and education services. Varun Gauri and David Brinks (eds), *Courting social justice: Judicial Enforcement of Social and Economic Rights in the Developing World 2008*, at p. 30–32.

¹⁷ Speech delivered by Robert Zoellick at the Peterson Institute for International Economics April 6 2011

This emphasis on the critical role of justice has triggered a renewed focus on how the Bank might more effectively bring to bear its comparative advantage in this field. To that end, the Bank is seeking to build its engagement on justice in fragile and conflict-affected states in the following ways:

- (i) Partnership: This complex task cannot fall to any one agency. Mindful of our relative strengths, for example, in public finance management, the Bank will deepen partnerships with other actors – especially the United Nations – to enhance these aspects of justice and security sector reform.
- (ii) Thought leadership: as a “knowledge Bank”, we will build a strong base of conceptual, analytic and empirical work to underpin efforts to build effective and legitimate justice institutions in fragile and conflict-affected states.
- (iii) Strategy and coordination: in partnership with other key actors, we will leverage the Bank’s political neutrality, its long-term commitment and its technical expertise to support states in developing their emerging justice strategies and donor coordination around these priorities.
- (iv) Operations: We are reviewing internal Bank processes and policies to improve our ability to respond to the particular needs of fragile and conflict affected states, including to provide reliable streams of funding, and enhance and leverage staff expertise.

The Bank, urged on by President Zoellick, is also rethinking its approach to security sector reform. While much of the work in this area is outside both the institution's mandate and comparative advantage, we are and remain committed to supporting the work of the UN and other actors in their efforts to ensure security and the fruits of development for all.

6. GOING FORWARD AND CONCLUSIONS

In closing I will highlight two more areas worthy of heightened attention from the international community:

- **Demand** – We need to continue to listen to what the demand for our services are from our clients and to ensure that we each respond appropriately within our areas of comparative advantage. Recognizing that those most disenfranchised oftentimes have the hardest time make their voice heard, as a community, we need to ensure that the demands of the most vulnerable are heeded and to ensure that our interventions support their rights and provide an appropriate outlet for any grievances.
- **Research and Evaluation** – The Bank is working hard to strengthen its knowledge management and monitoring and evaluation frameworks in the area of rule of law and justice sector development. We hope that this work will allow us to better understand the impact that the development or support for both new and existing legal rules and supportive institutions has on our clients. In the post financial crisis world where resources are increasingly

constrained, we hope that this work will allow policy makers to make better informed decisions. Importantly, we have learned that it is important to look beyond assumptions of generalized impact to consider the specific justice needs of poor people. Such work is, however, both resource and time intensive and as such we would suggest that a coordinated approach, leveraging the comparative advantages of all interested parties would greatly increase the efficacy of this work.

The Bank is also working on an initiative called the “Law, Justice and Development Global Knowledge Platform”. This is intended to act both as a south-south and north-south collaboration mechanism for law and development issues. The platform will function as an e-portal and will provide access to and exchange and dissemination of knowledge products on a range of issues. This initiative has responded to a long standing demand of developing countries for a global forum to share innovative ideas and will be the first legal knowledge platform of its kind in the Bank.

Partnership is at the centre of implementing this platform and we are working with a number of institutions to develop knowledge on a number of the thematic areas the portal will cover such as justice reform, insolvency systems, public private partnerships and the environment. However, we welcome further partnerships and collaboration with the United Nations and other institutions working on the rule of law and development in order to drive this initiative forward.

Together, I firmly believe that we can continue to work towards success in the area of rule of law and development. Thank you for your time and I look forward to your questions.





Address to UN General Assembly Interactive Thematic Debate on the Rule of Law and Global Challenges

David Tolbert, President, International Center for Transitional Justice

April 11, 2011

On behalf of the International Center for Transitional Justice I commend His Excellency Mr Deiss for convening this thematic debate on issues that are at the core of the United Nations' mission.

As several distinguished speakers have noted this morning, mechanisms that seek to provide justice for serious human rights violations are now widely accepted by the international community as an integral piece of complex responses to building peaceful and just societies. The UN Security Council has repeatedly affirmed that “ending impunity is essential if a society recovering from conflict is to come to terms with past abuses committed against civilians affected by armed conflict and to prevent future such abuses.”¹

Truth Commissions and other transitional justice mechanisms and approaches can help expose the root causes of conflict (including pre-existing patterns of violations), the institutions and individuals that contributed to these, and recommend steps for reform of these bodies. For example, in Sierra Leone the criminalizing of gender-based violence and the establishment of a national anti-corruption body are direct results of the Truth and Reconciliation Commission's recommendations. Another core recommendation was the establishment of a reparations program for the most vulnerable victims of the conflict, which receives support from the UN Peacebuilding Fund.

Similarly, vetting human rights abusers from state institutions spares victims and their families from the indignity of having to deal with their former abusers still in positions of power. In general, demonstrating that national justice institutions can function to address victims' claims – including by prosecuting those most responsible for the most serious crimes - are key steps to establishing general public trust in the state after the damage wrought by protracted conflict.

¹ S/PRST/2009/23

In a discussion like this one today, we all do well to remember that justice is essential to victims but also to society as a whole. Massive and systematic human rights violations, especially if not redressed, have profound ‘spill over effects’ that relate directly to questions of security, development, and the rule of law. Unchecked impunity raises questions about the force of norms that protect *all*. And while the cost of ‘buying’ security privately is not equal to all –the poor paying an especially heavy price—no one is spared some of these costs, not the least because as the WDR research reports, human rights abuses increase significantly the probability of the resumption of generalized conflict. Unredressed human rights violations make it more difficult for security services to achieve their goals, since they will have given citizens no reason to gain their trust, on which their effectiveness ultimately depend; similarly, in the absence of certainty about either security or the relevance of general norms, the willingness of citizens to engage in activities in the public sphere, including markets, predictably suffers, as the social capital and development literature had shown years ago.

Finally, it is clear that any state in which there is massive and systematic violation of *fundamental rights*, can hardly be thought of as a state which has achieved sustainable peace, meaningful development, or a secure rule of law.

ICTJ’S work in over 30 countries has yielded three key lessons relevant to today’s discussion:

1. By providing accountability for mass atrocities, national authorities demonstrate their commitment to the rule of law by fulfilling their own international legal obligations, such as to provide effective remedies for victims whose rights have been violated.
2. Transitional justice efforts have never been shown to increase the risk of relapse into conflict, and early research is showing the opposite. On the other hand we know that unredressed human rights violations are a catalyst of conflict, as the historic cycles of violence in the former Yugoslavia, the Great Lakes region of Africa and elsewhere have shown.
3. The relationship between securing sustainable peace, justice and development – the topic of the following session – is increasingly unavoidable. The effects of massive human rights abuse, both on direct victims and the community at large, can be as debilitating as long-term poverty. Restoring rights to individuals and institutions that can protect these, is essential at the earliest opportunity. Donors could make more efficient use of their development resources by including attention to measures to combat impunity within existing rule of law initiatives (such as building national capacity to prosecute international crimes), rather than leaving these to separate initiatives. But this requires whole of government approaches to providing justice for mass atrocity, protection of human rights, rule of law assistance, security policy and development aid. With such approaches, we will see more national jurisdictions able to take primary responsibility for

providing justice, which is at the heart of the Rome Statute system and what the concept of complementarity is ultimately about.

The ICTJ encourages member states to take this important discussion forward both in the wake of the forthcoming report to the Security Council of the Secretary General on the Rule of Law and Transitional Justice, and as the Sixth Committee considers Rule of Law and Transitional Justice during its 66th Session.

Thank you Excellencies, for the opportunity to offer these comments.



BOSNIA AND HERZEGOVINA

STATEMENT

by

H.E. Mr. Ivan Barbalić
Permanent Representative
of Bosnia and Herzegovina

General Assembly Meeting

Interactive thematic debate on “The rule of law and global challenges”

Check against delivery

New York
April 11th, 2011

General Assembly

Interactive Thematic Debate on the Rule of Law and Global Challenges

Mr. President,

Allow me at the outset to congratulate you on your initiative in addressing such an important issue, as well as on a timely organization of this key meeting. Significance of the present topic is unquestionable, evident in our constant effort to ensure its universal implementation and strengthening, among others by addressing the issue in numerous occasions. Therefore, we find the continuation of these efforts extremely important, as they further reflect our dedication and support for the promoting the rule of law. I am pleased to extend the support of Bosnia and Herzegovina to your initiative in bringing this important topic for further elaborate discussion.

Mr. President,

In your Concept Paper you have raised several key questions. In responding to those questions, we believe that promoting justice and the rule of law means enabling a fragile post-conflict society to avoid further damage from the conflict and to reconstruct its society and build sustainable peace. Peace-building activities in post-conflict societies must be integrated, coordinated and based on a comprehensive approach for the establishment of good governance, rule of law and promotion of human rights, institution building, security sector reform, economic reconstruction and development. The right to return and the reintegration of refugees and internally displaced persons should be an integral part of peace-building strategies.

Transitional justice and restoring the capacities and legitimacy of national institutions should continue to be at the very heart of United Nations rule of law action aiming at establishing lasting peace in post-conflict countries. Coming to terms with a legacy of gross violations of human rights and international humanitarian law and ensuring accountability is of crucial importance for stabilization, reconciliation and overall reinforcement of the peace process.

Strengthening the rule of law must be accompanied by efforts to ensure sufficient capacity and bring the perpetrators of the most serious crimes to justice. We firmly believe that addressing impunity is of the utmost importance. Therefore, the establishment and support of independent national judicial institutions that will be given the task of dealing with the domestic processing of gross human rights violations is of the vital significance for addressing the legacy of the past. Also, in order to ensure the effectiveness of these institutions, other segments of the judiciary system, such as humane prison services, victim protection and reparations measures, juvenile justice systems or institutions in charge of civil claims, should be simultaneously developed.

Mr. President,

It is crucial to emphasize the central role of the United Nations in the strengthening of international justice and the importance it gives to promoting the peaceful settlement of disputes. We recall that one of the main purposes of this Organization, one which is firmly embedded in its main document, is to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.

Following on this, allow me to touch upon the judicial institution that, as the principal organ of the UN and as set out in Chapter XIV of the Charter, has a fundamental role in determining the law, establishing facts and defining legal situations. The judgments and the increased number of advisory opinions of the International Court of Justice have made a valuable contribution to the cause of peace and the building of an international order based on law, through the unified interpretation and clarification of the key points of international law. Having in mind the fundamental principle of the international legal system for States to settle their international differences through peaceful means, we can only agree with the Outcome Document of the 2005 World Summit and recognize once again the important role of the Court in those peaceful settlements.

In addition to that, it is of great importance to underline that States today have many different means of settling their disputes, through a vast range of highly specialized forums and tribunals. We believe that every effort towards a peaceful resolution further promotes the culture of dialogue and contributes to respect for the principles of international law. Therefore we strongly encourage the further strengthening of existing international dispute settlement mechanisms and the use of alternative mechanisms and informal systems for peaceful dispute resolution.

Mr. President,

For number of years now *ad hoc* tribunals are an essential part in promoting and strengthening the rule of law and international justice. It is necessary to emphasize the significant contribution of the *ad hoc* tribunals to international criminal law, as they have brought and continue to bring justice to countries deeply wounded by mass atrocities and serious violations of international humanitarian law. Their role in fighting impunity, restoration of peace and rule of law is indisputable and their legacy honored with the creation of the International Criminal Court. We hope that this Court will draw its strength from the vast experience of not only *ad hoc* tribunals, but also from the experience of the mixed tribunals and truth and reconciliation commissions, as they proved on numerous occasions to be a valuable tool in the quest for justice. In that context, we should consider measures to further support and strengthen the ICC's important role in the international judicial system.

Finally, Mr. President, I would like to reiterate the importance that Bosnia and Herzegovina attaches to justice and the rule of law in rebuilding post conflict societies, as parts of a comprehensive approach to peace building strategies aimed at achieving reconciliation, stability and lasting, irreversible peace.

Comentarios de la Misión de Chile en el Dialogo Interactivo de 11 de abril de 2011, organizado por el Presidente de la Asamblea General sobre el estado de derecho, Panel 1.

Panel 1.

Estado de derecho y situaciones de conflicto.

Formas de contribuir a la creación de la paz en el post conflicto?

En las situaciones de post conflicto es esencial que se restituyan las relaciones de confianza en la sociedad. Para ello el estado de derecho se debe manifestar a través del funcionamiento normal de sus instituciones en forma pronta. Se debe aspirar al normal ejercicio del sistema estatal. Los órganos ejecutivo, legislativo y judicial como pilares esenciales del estado de derecho, si dejaron de funcionar deben ser objeto de un pronto reestablecimiento, de manera de proceder a generar la estabilidad necesaria para la reorganización de la sociedad.

A la comunidad internacional le corresponde un rol y un deber de colaboración en la reconstrucción de la sociedad en conflicto, reconociendo siempre que la obligación y responsabilidad central corresponde al Estado concernido, esto el principio de apropiación nacional. Las Naciones Unidas pueden asistir en esta función y colaborar en el post conflicto ayudando en el reforzamiento de las instituciones que componen el estado de derecho. Las normas contenidas en la Carta de las Naciones Unidas, sin que ciertamente se afecte el principio de soberanía de los Estados, generan el suficiente espacio para que ésta pueda colaborar con la sociedad afectada y conforman una aplicación de la contribución que el estado de derecho en el plano internacional puede efectuar en situaciones de conflicto. Entendemos que las operaciones de mantenimiento de la paz se enmarcan en esta función. Nuestro país ha participado de esas operaciones y ha reafirmado su compromiso con las mismas.

En el proceso de la reconstitución del nuevo Estado de derecho la participación de la mujer es considerada esencial, ya que se ha demostrado que su actuación asegura una participación integral, la que ha permitido a la vez que se disminuyan las probabilidades de recaer en el conflicto.

Una forma específica de asistencia en que las Naciones Unidas pueden contribuir en la estructura de transición y de colaboración en el restablecimiento de las instituciones del derecho, es mediante el envío de juristas experimentados que ayuden en el desarrollo de los procesos cívicos pertinentes, para que se retomen las funciones de gobierno y administración de justicia. Los países que han padecido situaciones de esta naturaleza tienen una especial responsabilidad de cooperar con su experiencia. En este sentido tienen particular importancia las resoluciones de las Naciones Unidas que crean la Comisión de consolidación de la paz. (A/RES/60/180, CS 1645(2005) Párrafo Operativo 7,b)

De particular importancia es el hecho que se restauren los mecanismos de administración de justicia, que ciertamente son de aquellos órganos que más pueden contribuir a la formación de la paz en una sociedad post conflicto. Se debe propiciar en estos casos una adecuada justicia transicional, a través del aseguramiento de principios tales como acceso a la justicia, el debido proceso, y en último termino otorgar seguridades a la sociedad de que no se producirán situaciones de impunidad.

En el componente judicial, consideramos esencial que en el caso de las violaciones a los derechos humanos se otorguen seguridades y garantías de reparación, a través de la generación de principios y directrices que permitan a la sociedad post conflicto el derecho a interponer recursos y obtener reparaciones, en sus diversas formas: restitución, indemnización, rehabilitación, satisfacción y garantías de no repetición. Finalmente, en una etapa mas avanzada de la reconstrucción de la sociedad es importante que el Estado post conflicto genere mecanismos específicos para la promoción y protección de los derechos humanos.

Nuestro país está dispuesto a contribuir con su experiencia en materia de justicia transicional, llevada a cabo de manera gradual mediante comisiones de establecimiento de la verdad, (Comisión Nacional de Verdad y Reconciliación, Comisión Rettig), la Comisión sobre Prisión Política y Tortura (Comisión Valech) Corporaciones de Reparación y Reconciliación, legislación específica sobre exonerados y más integralmente el Programas de Derechos Humanos del año 1997.

Mensaje del Embajador Eduardo Ulibarri

Representante Permanente de Costa Rica ante las Naciones Unidas

En ocasión del intercambio temático sobre

Estado de Derecho y Asuntos Globales

11 de abril de 2001

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Señor Presidente

Le agradezco la convocatoria a este importante debate temático informal sobre el Estado de Derecho, una de las columnas vertebrales de las Naciones Unidas y del sistema internacional.

Desde su preámbulo, la Carta de la Organización destaca como uno de los objetivos de la ONU establecer las condiciones para asegurar la justicia y el respeto a las obligaciones derivadas de los tratados y otras fuentes de Derecho Internacional.

Además, en forma creciente, diversas instancias de la Organización, en particular su Secretario General, el Grupo de Coordinación y Recursos, y la Unidad de Estado de Derecho, han promovido las dimensiones internacional y nacional del Estado de Derecho. Costa Rica está convencida de que ambas dimensiones son cruciales para avanzar hacia la paz, la estabilidad, la democracia, el respeto a los derechos humanos y el desarrollo, tema específico de este panel de discusión.

La aspiración de alcanzar algún día el estado de “paz perpetua” que visionariamente proclamó Kant a finales del siglo XVIII, depende de la consolidación del Estado de derecho dentro de los países y en las relaciones entre ellos.

Para avanzar hacia ese objetivo, es necesario hacer cada vez más eficaz, legítimo y representativo un sistema multilateral robusto, con las Naciones Unidas a la cabeza, que sea capaz de atender viejos y nuevos desafíos, así como de potenciar oportunidades.

En este sentido, Costa Rica comparte con otros estados la aspiración a reformas que den mayor coherencia, eficacia y legitimidad al sistema de las Naciones Unidas, incluidas reformas a la Asamblea General y al Consejo de Seguridad; también, aspiramos a una mejor coordinación entre las distintas agencias del sistema.

Otros objetivos de particular interés para nuestro país son la universalización del Estatuto de Roma y, por ende, de la Corte Penal Internacional; la mayor aceptación de la jurisdicción obligatoria de la Corte Internacional de Justicia, y mayores avances en procedimientos claros y justos para aplicar las sanciones selectivas del Consejo de Seguridad.

Todo lo anterior debe ir acompañado por una acción aún más decidida de la ONU en el desarrollo de capacidades nacionales para facilitar la vigencia y consolidación del Estado de Derecho.

Señor Presidente:

Deseo referirme ahora a la vinculación entre Estado de Derecho y desarrollo.

Por nuestra experiencia nacional y por la evidencia internacional, Costa Rica está convencida de que, en igualdad de condiciones sobre otros factores, los países donde impera el Estado de derecho generan mejores condiciones de vida para sus ciudadanos.

Allí donde existen poderes legislativos representativos y eficaces, normas legales justas y de aplicación general, tribunales independientes y legítimos, acceso equitativo a la justicia, tolerancia hacia la diversidad, pero intolerancia hacia la corrupción y la impunidad, el desarrollo se acelera y enraíza con mayor vigor. Allí, también, se podrán potenciar más las dimensiones sociales y culturales del desarrollo.

Un Estado de Derecho moderno, legítimo y eficaz es la mejor vía para la participación de los ciudadanos en las decisiones que los afectan.

Aunque el fortalecimiento del Estado de Derecho no es uno de los Objetivos de Desarrollo del Milenio, el logro de esos objetivos sí depende, en buena medida, de normas, instituciones, prioridades nacionales y prácticas adecuadas en cada país.

Algunos ámbitos específicos en que se puede estimular el desarrollo desde los sistemas legales y judiciales nacionales, son los siguientes:

- Rigurosa práctica de la igualdad ante la ley.
- Sistemas que garanticen los derechos de propiedad, material e intelectual, y registros confiables para protegerlos.
- Adecuada regulación del sistema bancario y financiero, para estimular su solidez y proteger a los ahorrantes e inversionistas.
- Promoción de mercados financieros y de valores que permitan canalizar recursos hacia iniciativas de los emprendedores.
- Legislación laboral moderna y garantista.
- Sistemas tributarios progresistas, que estimulen las inversiones productivas y canalicen adecuados recursos al Estado.
- Trámites ágiles y transparentes para establecer nuevos negocios o liquidar los que fracasen.

Costa Rica celebra y respalda el activo papel asumido por el Programa de las Naciones Unidas para el Desarrollo en proveer asistencia y guía para avanzar en iniciativas como las mencionadas; también, en promover la buena gobernanza en el marco del Estado de Derecho. También consideramos de particular relevancia la labor de ONU-Mujer en empoderar y brindar mayores herramientas de acción a la mitad de la humanidad que, hasta ahora, ha estado más marginada de los procesos de desarrollo y participación política.

El camino al desarrollo pasa, además, por un orden internacional asentado en normas que faciliten el comercio y las inversiones. Costa Rica está activamente comprometida en que concluya la ronda de Doha en el seno de la Organización Mundial de Comercio, con acuerdos que abran aún más el intercambio global de bienes, servicios e inversiones, clave para el desarrollo.

También promovemos mejores normas, nacionales e internacionales que fortalezcan los sistemas financieros y regulen los flujos de capitales, no para entorpecer su necesario, positivo e inevitable dinamismo, sino para reducir la volatilidad producto de especulaciones irresponsables.

Los líderes de los países más ricos del mundo, por sí mismos o como miembros del G20, tienen la enorme responsabilidad de comprometerse con objetivos como los señalados, de evitar pugnas cambiarias que distorsionen los flujos comerciales, y de cumplir con su compromiso de dedicar el 0,7 por ciento de su Producto Interno Bruto a asistencia internacional. Desdeñar este compromiso es incumplir normas voluntariamente aceptadas.

Los líderes de los países menos desarrollados comparten con ellos, sobre todo, la responsabilidad de trabajar por sistemas normativos e institucionales que estimulen el desarrollo en constante interacción con

los ciudadanos. Aquellos que se cierran a sus aspiraciones, entorpecerán el progreso y generarán inestabilidad.

Señor Presidente,

Hoy es más necesario que nunca que los Estados Miembros y las Naciones Unidas trabajemos estrechamente en pro del fortalecimiento del estado de derecho. El clamor no solo surge en las salas de conferencias, sino en las plazas y calles de muchos países.

Costa Rica reitera su compromiso con ese objetivo, no solo en relación con el desarrollo, sino en todos los planos. Es un reto que está en la base y en la esencia del sistema de las Naciones Unidas.

Muchas gracias.

Statement

by

H.E. Mr. Ranko Vilošić

Permanent Representative of the Republic of Croatia to the United Nations

at the

thematic debate of the General Assembly on “The rule of law and global challenges”

United Nations, New York

11 April 2011

Mr. President of the General Assembly, Mr. Secretary General, excellencies, distinguished colleagues,

First of all, let me thank you, Mr. President, for organizing this important thematic debate on the rule of law and global challenges, in particular - the rule of law and conflict, as well as to the key note speakers for their enlightening and thought-provoking addresses. Obviously, this wide-ranging subject, bring us immediately to the hart of the ongoing discussions on some of today's most pressing and complex issues, including peacekeeping, peacebuilding and long-term development.

In the same vein, I would like to thank the Secretary General for the attention he has devoted to the important issue of the rule of law and his efforts to improve the coordination, coherence and effectiveness of rule of law activities within the UN.

Finally, let me use this opportunity to thank the United Nations Deputy Secretary-General Ms. Asha-Rose Migiro and the Rule of Law Coordination and Resource Group, as well as the Rule of Law Unit, for their contribution to today's event, but also for their persistent efforts aimed at deepening of the UN rule of law work and ensuring more effective coordination within the UN and with outside actors in this important field.

Mr. President,

In our view, the rule of law is the cornerstone on which the whole UN mission, aimed at achieving more just and secure world, is ultimately based. Precisely the rule of law forms the inner texture by which the existing global order is imbued and to which we all thank our security, social development and economic expansion. This definite assessment of the importance of rule of law at the international level is equally, if not more readily, applicable on the national level: without rule of law, as we have unfortunately witnessed time and again, society will plunge into violence, economic collapse and civil strife. No doubt - sustainable peace and security, development, as well as protection of human rights and fundamental freedoms, are only possible in societies established on the rule of law and adequate functioning of its accompanying institutions.

Having this in mind, it is not surprising that the mandates of more than 120,000 military, police, and civilian peacekeepers, now deployed in 14 operations around the world, usually, *inter alia*, incorporate the task of security and justice reform and re-establishment of rule of law and its institutions. Rebuilding security and justice mechanisms, in particular judicial, legal and corrections services, as well as providing access to justice for all, stands as a basic precondition for successful restauration of any society and its transition towards sustainable democracy.

It bears repeating, Mr. President, that the aforementioned process needs to be owned by the national authorities. The experience has clearly shown that no program could be successful if imposed from the outside or without continuous dialogue between relevant national authorities and international community, or - as the Secretary General himself summarized the subject: "The role of the UN and the international community should be solidarity and not substitution".

However, in order for national authorities, who have to cope with poor infrastructure, shortages of qualified personnel and financial difficulties, to be able to conduct such a dialogue, decisive efforts have to be undertaken aimed at their empowerment through adequate assistance, equipping and training. This should enable them to undertake proper leadership role, adequately participate in decision making processes and assume responsibility for their actions.

Equally so, all available national capacity should be harnessed in order to achieve tangible results. Here we primarily think of significant input that should come from the

greater participation of women in the process, as well as proper inclusion of young people, which should bring in a new enthusiasm and fresh ideas.

Finally, as witnessed in all of fragile countries in which intensive peacebuilding, including reestablishment of the rule of law and its institutions, is taking place, national leadership also substantially determines the level of local stakeholder's commitment and their readiness to participate in the reforms and actively contribute to the ultimate success of the whole process.

Mr. President,

No doubt that the reestablishment of rule of law and full introduction of its institutions and procedures in countries emerging from conflict requires long term vision and commitment, national and international alike, and will take considerable time. In that context, predictable and sustainable support from the international community, as well as adequate monitoring and evaluation of assistance provided, is of particular relevance. At the same time, it is crucially important that the international community is well organized, coordinated and coherent in this effort, which, as we can see almost on the daily basis, still represents quite a challenge. Donors are encouraged to take part in a holistic sector wide approach which allows for even development of various components and not to stubbornly follow its own national considerations.

Mr. President,

The work of the UN in the field of international justice can not be overemphasized. The range of international and mixed tribunals set up by the UN, starting with the establishment in the mid 1990s of the International Criminal Tribunals for the former Yugoslavia and for Rwanda, and followed by the Extraordinary Chambers for Cambodia, the Special Court for Sierra Leone and the Special Tribunal for Lebanon is amazing. For almost two decades now, international criminal tribunals have studiously contributed to the gradual reduction of impunity and their real impact is yet to be properly assessed. At the same time, we note with particular appreciation the role of the UN as regards the international agreements and related arrangements, as well as the fact that the Secretary-General is the depository of over 500 multilateral treaties and that the UN has up to date registered over 50,000 of them, covering all different types of human activities.

Finally, let me conclude by expressing our support for the emerging view that the UN, notwithstanding the existing forums such as UNDP, the Sixth Committee or the Rule of Law Coordination and Resource Group, which all have their limited specific functions and responsibilities, is still lacking a place for comprehensive discussion on the issue of rule of law and its adequate implementation, including assistance. Such a forum would allow for a comprehensive exchange of perspectives and ideas on this important issue and would also prepare a ground for more suitable solutions. Furthermore, clear definition and delimitation of the notion "rule of law", which currently includes concepts as different as - promotion of democracy, human rights, women rights, sustainable development, peaceful co-existence and cooperation, combating organized crime and terrorism, containing corruption - to mention but a few - would significantly contribute to our quest for determined and efficient action in this important field.

Thank you Mr. President



PERMANENT MISSION OF THE REPUBLIC OF CUBA TO THE UNITED NATIONS
315 Lexington Avenue □ New York □ N.Y. 10016 □ (212) 689-7215 □ FAX (212) 689-9073

STATEMENT BY THE CUBAN DELEGATION AT THE GENERAL ASSEMBLY THEMATIC DEBATE ON THE RULE OF LAW AND GLOBAL CHALLENGES. New York, 11 April 2011.

Mr. President,

Cuba associates itself with the statement by the distinguished delegation of Iran on behalf of the Non-Aligned Movement. Likewise, we share the concerns on this debate expressed by the Movement to the President of the General Assembly in the letter dated 5 April.

Our delegation thanks the panelists for their presentations and has always supported the convening by the President of the General Assembly of debates on the most pressing matters on the international agenda. Also, we are concerned about the procedure on this occasion.

Cuba considers this meeting is not part of the preparatory process of the 2010 High-level Meeting on the Rule of Law. The modalities, topics, and proposals to be taken to said Meeting must be discussed and decided upon by Member States, as agreed in resolution A/RES/65/32.

The non-paper attached to the invitation to this debate does not provide a comprehensive view on the Rule of Law, and it can project a misguided image that the discussions on this topic must be focused on problems of developing countries.

The need to promote the Rule of Law at all levels must not be assumed as the legal advice provided by the UN and some countries, generally developed countries, for third parties that have requested so.

The promotion of the Rule of Law at the national and international levels implies, above all, the strict respect for the Charter of the United Nations and the rules of International Law.

For the Rule of Law to actually contribute to tackling global challenges, several priority issues should be considered, such as:

- On fighting climate change: We should analyze the reasons why many developed countries refuse to assume binding commitments, both at the national and international levels, when they are responsible for 76% of the cumulative emissions in our atmosphere. Allow me to mention some international instruments, the accession to which, beyond political speech, would imply a true commitment to the promotion of the Rule of Law in order to effectively face global challenges: the Kyoto Protocol, the Establishment of a Legal Framework and Effective Regulations, the Convention on the Law of the Sea, the Convention on Biological Diversity, and the United Nations Framework Convention on Climate Change. Also, it should be studied and discussed the attitude of those who do not promote the principles enshrined in important document such as: the 1992 Earth Summit, the Rio Declaration on Environment and Development, and the Agenda 21.
- On fighting underdevelopment, it should be discussed the almost general failure of developed countries to comply with the commitment undertaken under Resolution 25/2626, establishing the allocation of a minimum of 0.7 percent of their GDP to the Official Development Assistance.
- The deep changes urgently required to the obsolete international financial system established by the Bretton Woods Agreements must be discussed and agreed upon.
- An effective measure to promote development and the Rule of Law would be to cancel the Foreign Debt, which has been paid several times, constitutes a serious obstacle for developing countries to invest their resources with stability, social peace and strengthening of public institutions.
- Strategies to strengthen the Rule of Law in developing countries should include the promotion of measures targeted at modifying production and consumption patterns, not only because they are unsustainable and plunge the rest of the world into poverty, but also because they entail the medium-term destruction of the human species.

- Concerning the fight against international terrorism, an analysis should be conducted on the legal measures taken by countries to implement the Global Counter-Terrorism Strategy, in particular the implementation of its pillars 1 and 4, referring to the need to tackle the conditions conducive to terrorism and the way to face this scourge, where little progress has been made.
- A General Convention on International Terrorism containing a comprehensive definition of terrorism and its condemnation in all its forms and manifestations, including State terrorism, should be adopted by consensus. It should state a clear differentiation between this scourge and the right of Peoples to fight for their independence, against colonialism and foreign intervention.
- On Human Rights promotion, all human rights should be respected and comprehensively implemented as a whole, without distinction of any kind, and should not be used as a tool for political pressure discrediting its true objectives.
- On the promotion of the Rule of Law, the principle of national responsibility should prevail. No assistance in this regard can be used as a pretext to interfere in the internal affairs of States, or as a means for the imposition of political, institutional, legal, and cultural models that are alien to the country in question.
- In the strategies to assist countries concerning the Rule of Law, national authorities must play a key role by strengthening their performance. Every program of assistance must be in keeping with the priorities and needs established by the requesting country.
- The United Nations should serve as an example in strengthening the Rule of Law. To do so, we must work with the objective of strengthening the Organization and ensuring the adoption of decisions in accordance with the minimum standards of transparency, inclusiveness and democratic participation of all. In this context, the urgent and deep reform required by the Security Council cannot continue to be postponed and delayed.

We will not continue with the list due to lack of time. The abovementioned is enough to understand, Mr. President, the need for a broad and comprehensive approach to address the Rule of Law and global challenges.

Cuba reiterates its commitment to working actively for the promotion of the Rule of Law; and so it will, together with Member States, in the preparation of High-level Meeting on this matter in 2012.

Thank you

Statement by the H.E. Ambassador Dr. Peter Wittig, Permanent Representative of Germany to the UN, in the General Assembly Thematic Debate on the Rule of Law and Global Challenges

Panel 1 – Rule of Law and Conflict Situations

- Thank you for organizing this important thematic debate.
- I would like to focus my remarks on “transitional justice”.
- Any debate about transitional justice is a debate about how a society that emerges from sometimes years of conflict can come to terms with a legacy of past large-scale abuses and crimes while at the same time trying to get back to peace. This “coming to terms” is needed if a society wants to get back to peace. To get there, three core elements of any effort of transitional justice need to be addressed: ensuring accountability, serving justice, achieving reconciliation and rebuilding of trust.
- Dealing with the past is essential to a society’s present and future. While there is simply no standard or fixed model for doing this, practice in recent years has revealed a number of proven measures that can assist a society in this endeavour.
- In 2007, Germany, the Kingdom of Jordan and Finland organized the Nuremberg Conference on Peace and Justice. The participants in this Conference agreed that peace and justice, if properly pursued, promote and sustain one another. The question can never be *whether* to pursue justice, but only *when and how*.
- The most serious crimes of concern of the international community must not go unpunished. The emergence of this principle as a norm under international law has changed the parameters for the pursuit of peace.
- As a minimal application of this principle, amnesties must not be granted to those bearing the greatest responsibility for genocide, crimes against humanity and serious violations of international humanitarian law; amnesties for others may be permissible.
- Transitional justice strategies should integrate criminal justice, truth seeking, reparations and institutional reforms.

- Traditional and community justice mechanisms can – and we have seen impressive examples in the past – play an important role. But they must operate within the bounds of international human rights standards.
- The inclusion of the victims of past abuses is essential to peace building.
- While demands for public security and governance are critical in the immediate post-conflict period, the consolidation of peace, if it is to succeed, needs to be bolstered by a sense that past grievances are being redressed through accountability.
- Reconciliation after conflict will only be possible where trust in equitable public institutions and respect for equal rights is being restored.
- Outreach and consultation – as for example the work of the Special Tribunal for Sierra Leone has proven so successfully - are crucial elements of the legitimacy and ownership of transitional justice measures.
- Both plain common sense and SC resolution 1325 tell us that women need to be fully and actively involved in any transitional justice strategy.

Islamic Republic of

I R A N

Permanent Mission to the United Nations

Statement

On behalf of the Non-Aligned Movement

By

Delegation of the Islamic Republic of Iran

Before the General Assembly

Interactive Thematic Debate on "The rule of law and global challenges"

11 April 2011



Mr. President,

I have the honour to make this intervention on behalf of the Non-Aligned Movement.

Mr. President,

As you are well aware, "The rule of law at the national and international levels" has been in the agenda of the Sixth Committee for the past 5 years and the Member Countries of the Non-Aligned Movement have been following this item with high interest. The Movement continues to attach high importance to this subject and believes that respect for the rule of law is essential to maintain international peace and security and achieve socioeconomic development.

Mr. President,

On 6 December 2010, the General Assembly adopted resolution A/Res/65/32 in which it decided, *inter alia*, "to convene a high-level meeting of the General Assembly on the rule of law at the national and international levels during the high-level segment of its sixty-seventh session". The General Assembly made it clear in the same paragraph that the modalities of the high-level meeting will be decided during its 66th session. This decision was made as the result of extensive discussions held in the Sixth Committee under this agenda item. There was no discussion or agreement on possible preparatory events for the meeting. We note, however, that your background paper on the Thematic Debate specifically states that the debate is a "key step in the process leading to the high-level meeting of the GA", and that it is meant to "draw out common ground" and "foster agreement on the modalities" of the meeting.

In the light of the above, and while the Movement fully recognizes the critical importance of the rule of law at the national and international levels and supports United Nations contributions to meet this end, I would like to express the Movement's discomfort over the fact that the Movement was not consulted on the scheduling of the event, both procedural and substantive. Given that, the Movement would like to stress that the Interactive Thematic Debate should not be associated with the deliberations held in the Sixth Committee, and, therefore, the event and/or its outcome should not prejudice or direct the deliberations to be held during the 66th Session of the General Assembly to finalize the modalities of the high-level meeting of the General Assembly on the rule of law at the national and international levels.

The Movement urges you to conduct necessary consultations in similar cases in future in order in accordance with practices established by the Ad Hoc Working Group on Revitalization of the General Assembly to ensure the fair reflection of the views and concerns of interested groupings and States in debates.

This being said, the Non-Aligned Movement would like to reiterate its position that the purposes and principles of the United Nations Charter and the principles of

international law are paramount to peace and security, rule of law, economic development and social progress and human rights for all.

The General Assembly should play a leading role in promoting and coordinating the efforts towards this purpose. However, the international community must not replace the national authorities in the task of establishing or strengthening the rule of law, but only to provide them with the necessary support at their request.

The Movement underlines the importance of strengthening national capacities of Member States in the domestic implementation of their respective international obligations, including through enhanced technical assistance and capacity-building. The Movement reiterates the need for those activities to be undertaken at the request of interested recipient Governments, strictly within the respective mandates of the United Nations funds and programmes, and having regard for the fundamental principles of the Charter. It is also necessary to take into account the customs and the national political and socioeconomic realities to prevent imposition of pre-established models upon Member States that would hinder the resolution of existing problems in each country.

The Non-Aligned Movement reiterates its position that it is indispensable to maintain the balance in developing the national and international dimensions of the rule of law. We continue to believe that the rule of law from the international dimension needs greater attention by the Organization. The Charter of the United Nations and the principles enshrined therein provide normative guidance as to the basis of the rule of law at the international levels. In this context the Non-Aligned Movement believes that the following elements are essential in fostering international relations based on the rule of law:

- The principle of sovereign equality of States entails that all States have equal opportunity to participate in law making processes at the international levels;
- All States should equally respect and comply with their obligations under treaty as well as customary international law. Also, selective application of international law must be avoided;
- The legitimate and legal rights of States under international law must be respected;
- The principle of the prohibition of the threat or use of force in international relations of States and peaceful settlement of disputes should constitute the cornerstone of the rule of law at the international level.

I thank you, Mr. President.

STATEMENT BY H.E. MR. TSUNEO NISHIDA
PERMANENT REPRESENTATIVE OF JAPAN
TO THE UNITED NATIONS
AT THE GENERAL ASSEMBLY INTERACTIVE THEMATIC
DEBATE ON THE RULE OF LAW AND
GLOBAL CHALLENGES

11 APRIL 2011

Mr. Chairman,

At the outset, I would like to express my sincere appreciation to Her Excellency Ms. Christiana Tah, Minister of Justice of Liberia, and His Excellency Dr. Michael Spindelegger, Minister of Foreign Affairs of Austria, as well as the distinguished panelists for their thoughtful and enlightening statements.

Mr. Chairman,

The rule of law is one of the most important norms for the peaceful coexistence of human beings. The rule of law, which provides a basis for the peaceful settlement of disputes, is essential for preventing further conflicts. Without the rule of law, sustainable peacebuilding cannot be achieved.

To establish the rule of law, first, the development of a legal system is necessary, as key soft infrastructure, similar to physical and hard infrastructure such as roads, electricity and other networks for socio-economic development. Second, capacity-building is also required, including the human resources development of practitioners who interpret and implement laws, rules and regulations. Once created, however, law is neither complete nor does it function autonomously, any more than other types of infrastructure. It is the responsibility of all of us to constantly re-examine how the law may best be disseminated among and understood and utilized by people. Furthermore, the *raison d'être* of law lies in its implementation and in the

achievement of compliance. In addition to dissemination and education, the will and the ability of both people and administrators to comply with the law are indispensable.

Mr. Chairman,

The rule of law is one of the top priorities of Japan's foreign policy. Japan has been actively providing assistance to countries around the world toward the establishment of the rule of law. In Afghanistan, for instance, we have been extending assistance to enhance the country's capability to maintain security through, among other means, police training in Japan and the UNDP Law and Order Trust Fund for Afghanistan, which amounts to date to approximately 560 million dollars. We have also been implementing various types of projects to help countries, primarily in Asia, to establish and strengthen their legal systems.

Whether it is at the national or the international level, the promotion and strengthening of the rule of law is a global challenge we all are facing. To address this common challenge, we need to bridge any gaps and avoid any duplication in our efforts as well as to utilize the limited resources available effectively and efficiently. In this regard, Japan highly values the establishment of the Rule of Law Coordination and Resource Group and its secretariat, the Rule of Law Unit, under the strong initiative by Secretary-General Ban Ki-moon as well as the Group's coordinating efforts under the distinguished leadership by Deputy Secretary-General Dr. Asha-Rose Migiro, so as to generate greater synergy effects in the assistances implemented by UN agencies.

Mr. Chairman,

In any discussion of the rule of law and conflict situations, "Peace and Justice" is an issue which cannot be sidestepped. Peace and justice are not antinomic, but rather are complementary in the manner of the wheels of a vehicle. On the

one hand, without movement towards peace, it is difficult for legal decisions that are necessary in order to realize justice to be made. On the other hand, without the realization of justice, reconciliation cannot be attained, and hence it is difficult for real peace to be achieved. From that point of view, the role of the International Criminal Court, as well as the role of States, based upon the principle of complementarity, to prosecute and punish crimes under the ICC Rome Statute is especially important. As the largest contributor to the ICC, Japan will continue to actively participate in the discussion on the issue of "Peace and Justice", and support the Court and its fight against impunity.

Mr. Chairman,

Law is the creation of human beings. We can change it when we agree to do so. At the same time, we have committed ourselves to be bound by the law we created, that is to say, we have the responsibility to be ruled by law. Taking this opportunity of discussing the rule of law, we should recall once more that the rule of law is one of the most essential norms for the peaceful coexistence of human beings, and continue to be mindful of its importance every day and in every moment. My delegation wishes that today's discussion will contribute to the further facilitation of our efforts for the promotion and strengthening of the rule of law, conflict prevention and peacebuilding.

I thank you, Mr. Chairman.



Statement

By

H.E. Herman Schaper

Ambassador & Permanent Representative of the Netherlands to the United Nations

**General Assembly Thematic Debate on
“The Rule of Law and Global Challenges”**

United Nations, New York

11 April 2011

(Check against delivery)

Panel 1: The Rule of Law and Conflict Situations

I would like to thank the President of the General Assembly, the Secretary General, the keynote speakers and the panellists for their insightful contributions to this debate. Also, I would like to thank you, Mr. Chairman for presiding over this debate and the important contributions of your country to this crucial topic.

In addition to the points made in the EU statement, I would like to make a few remarks.

The promotion of the Rule of Law forms a central element of the foreign policy of my country. The Netherlands has always strongly supported the rule of international law to prevent or resolve conflicts between states, and to uphold the basic principles of human rights. As we see it, a strong international legal order is a precondition for a more equitable, peaceful and prosperous world. A world that safeguards freedom, equality, democracy and human dignity. I would also add that a strong, international legal order is also an indispensable prerequisite for national security, for economic development, including private sector development, and trade.

International judicial institutions are important tools in conflict prevention, conflict resolution and the strengthening of the international legal order, and the Netherlands is proud to host many international courts and tribunals.

I once again wish to express my country's strong support for the International Court of Justice and call on all States that have not yet done so to accept the compulsory jurisdiction of the Court.

Let me also underline the important role the International Criminal Court plays in our efforts to come to a just and peaceful international order, in which there is no place for impunity. It is our firm conviction that sustainable peace cannot be achieved if perpetrators of the most serious crimes are not brought to justice. Peace and justice are complementary and mutually reinforcing.

At the national level, it should be acknowledged that a clear separation of powers is needed for an independent judiciary. In many countries there is no such separation, and the judiciary is often politically compromised. What we indeed often see is the 'façade of the rule of law', in the words of the Secretary General. Therefore, we should not forget to take into account the political context and include political dialogue in our rule of law programmes. In some cases political reform may be a precondition for judicial reform.

Finally, regarding the Rule of Law in conflict situations we strongly support more cooperation and exchange between the UN and member states, but also between the UN and other international organizations. In particular with the World Bank, which is about to launch its World Development Report on Conflict, Security and Development today. The WDR clearly recognizes the need for justice reform and access to justice in order to break the cycles of conflict and violence.

Panel 2: The Rule of Law and Development

We welcome the recognition of the importance of the Rule of Law for development and economic growth.

A strong governance and rule of law is in our view indispensable for a positive business climate, private sector development and investment opportunities. All very important to attain sustainable economic growth in countries and foster international trade between countries.

On the national level, rule of law assistance is an important tool to address social and economic injustices. This will not only improve equality within countries, but will also directly address likely grievances that can feed into conflict.

We would like to stress the importance of promoting national ownership and leadership in Rule of Law programming. This would, in our view, strengthen the effectiveness and sustainability of Rule of Law assistance. National ownership not only promotes the accountability to enact the necessary reforms, but also provides a more enabling environment and gives greater legitimacy to implement the necessary reforms. Empowerment of national stakeholders, in particular of youth and women, should be an underlining principle in all these efforts.

At the same time, as providers of Rule of Law assistance, donors should strengthen their efforts to coordinate assistance, in order to make it more aligned with national priorities and prevent overlap and duplication. Particular in the case of providing Rule of Law assistance to fragile and post-conflict countries, this means that we should be flexible in our approach and that we should stand ready to engage in long-term sustained commitments.

Regarding donor coordination, the UN can play a central role. To be able to do so, it is important that the different stakeholders in the UN-System implement the recommendations of the SGs report on “Peace Building in the Immediate Aftermath of Conflict”, to develop a clear division of roles and responsibilities, based on practical arrangements and existing capacities in the field.

We should commit ourselves to increase learning and exchange of experiences, so as to make our assistance more effective. Hereby, I would like to reiterate the point made by my colleague from the EU-delegation that there’s a need for close coordination and dialogue among all relevant stakeholders. We are therefore willing to explore ideas with a view to enhancing coherence and coordination of the international community’s efforts in that regard. We should, however, keep in mind the ultimate goal of improving our delivery on the ground.

Statement by Pakistan Mission in the Second Panel on the Rule of Law and Development on 11 April 2011

Panel 2- Rule of Law and Development

Mr. Chairman,

The Pakistan delegation aligns itself with the statement made by the distinguished representative of Iran on behalf of the Non-aligned Movement.

We believe that rule of law brings predictability to implementation of commercial contracts and helps build stronger economic and development partnerships.

Establishing rule of law requires an integrated and comprehensive approach with firm long-term political and financial commitments including through capacity building as well as technical and financial assistance. The multiple crises, besetting the world of today, threaten to exacerbate perils to rule of law and developmental aspirations of developing countries.

Development is adversely affected by corruption promoted by international players through bribes and the provision of safe havens for plundered wealth of developing countries. International community should strengthen and improve cooperative mechanisms to ensure that looted money, or other assets acquired through corruption and other unlawful means are returned to their countries of origin.

Mr. Chairman,

Rule of law can play an important role in addressing problems of underdevelopment and poverty if other major barriers to development, like lack of basic infrastructure, and limited financial support as well as access to global knowledge and technology are removed as well. The string of current crises of finance, food, and climate has exacerbated the rule of law vulnerabilities, causing rise in extreme poverty and reversal of MDG gains.

We all have an abiding interest in promoting a well-functioning, rules-based, open, equitable and non-discriminatory multilateral trading system and an inclusive and participatory negotiation process to promote development.

The breakdown in the Doha Round of Trade Negotiations, unfortunately, deprives us of the opportunity to use rules-based trade as a vehicle for stimulating consumption, production and promoting employment - the essentials for development. In addition, there are growing signs of protectionism either due to the ongoing economic and financial turmoil or under the guise of addressing climate change. Such unilateral measures would negatively impact upon rule of law at the international level and growth prospects of the developing countries.

Mr. Chairman,

Today, more than ever, we need to unlock the potential of rule-based fair trade as a powerful engine of economic growth and development. The continuing impasse in negotiations for the development of rules in the fields of trade and environment at the international level further stymies the developmental aspirations of UN Member States. Lack of unfettered technology transfer, also, is a complicating factor.

We hope that today's debate will enhance the international community's common understanding of the international and domestic dimensions of the development-rule of law linkage. Such discussions can help all stakeholders understand that a one-size-fits-all approach will be unhelpful given the varying developmental constraints of Member States. You can count on our wholehearted commitment and support to such deliberations.

I thank you Mr. Chairman



SRI LANKA

Statement

By

H.E. Dr. Palitha T.B. Kohona

Ambassador & Permanent Representative of Sri Lanka to the United Nations

General Assembly Thematic Debate on
“The Rule of Law and Global Challenges”

United Nations, New York.

11th April 2011

(Please check against delivery)



Thank you Mr. Chair,

My delegation is pleased to align itself with the statement made on behalf of the Non-Aligned Movement by the delegation of Iran. My delegation also warmly welcomes the convening of this thematic debate by you, Mr. President, and congratulate you on this timely initiative on the implementation of the rule of law at national and international levels.

Having recently emerged from a world where might prevailed and the weak suffered, the rule of law serves as a critical bulwark for mediating and facilitating between and among competing and often divisive interests between the powerful and the weak and between the rich and the poor, at the national and international levels. It acts as an invisible ameliorating force to underwrite stability, peace and coherence, to enhance and improve the quality of international coexistence and of human life itself. It is also the invisible protective shield that safeguards the weak, the meek and the poor. As has been rightly recognized, equitable solutions to many of our global challenges, whether it be the promotion of democracy, human rights, women's rights, sustainable development, combating organized transnational crime and terrorism, all hinge on the advancement and consolidation of the rule of law at the national and international levels. The United Nations has recognized this and we need to make every effort to further its efforts.

For us, Member States of the Organization, the Charter is the bedrock of the international rule of law. Much of what we cherish as States and peoples emanates from this instrument. The Charter is further strengthened by over 500 multilateral treaties concluded under the auspices of the United Nations and deposited with the Secretary General covering almost all aspects of human interaction. These are the products of patient balancing of interests and meticulous negotiations. Rules of conduct developed over the centuries and reflected in accepted custom add further substance to the international rule of law. Judgments of International Tribunals and views of eminent jurists further nourish this concept. However, when we seek to implement this vast body of rules and standards often vague, we also need prior agreement on its details – the content. Many aspects of the international rule of law remain vague and need further elaboration, and the United Nations can and must provide the forum to further clarify this. It is also an often repeated error to expect the poor, the weak and the under-resourced to immediately be in unmistakable compliance with standards that may have taken hundreds of years to develop by their champions.

Much as we may subscribe to the international rule of law, it is also important to recognize the local circumstances when we seek to advance it at national level. The resources, the familiarity, established practices, history and a host of other factors need to be taken into account. At this stage of human development, it is unrealistic to expect all norms of behaviour to be implemented domestically in the different countries equally. Given their vague origins, there are bound to be differences in their implementation. Countries emerging from conflict, for example, often find that their domestic institutions, including democracy, have been strained and in most instances laid threadbare. In such trying circumstances, insensitive prescriptions of instantaneous solutions based on preconceptions, often by well meaning external entities, might cause more harm than good. One size does not fit all and foreign prescriptions never really help to address deep seated domestic ills. Surely, we need to have as our goal a perfect world but it is naïve to seek immediate entry to utopia.

In the case of my country, Sri Lanka, it was our very democracy that was under siege for over twenty seven years by a ruthless terrorist outfit. We must therefore, recognize the tensions and difficulties that emerge while we try to balance national security interests and the advancement of individual rights under these demanding local circumstances as we move forward. Some countries, owing to their strong legal foundations and resource bases, may have the resilience and the capacity to restore democratic institutions quickly. They may also rapidly create their own local mechanisms to consolidate peace, encourage reconciliation and, most importantly, strengthen democratic institutions. But not all countries are equally placed. There is, therefore, a need to give countries on the road to recovery, the much needed space to launch that restorative process to arrive at an even keel.

In post-conflict contexts, peace, stability and economic advancement are critical catalysts to ensuring progress towards a smooth reconstruction and rehabilitation process and sustainable peace and reconciliation in the long term. Sri Lanka has acknowledged that need. Democratically elected and responsible governments pay heed to these requirements, especially when they receive decisive mandates from their people.

Countries who have achieved appreciable progress on the key MDGs would seem to already have an "overall enabling environment" for achieving further economic and social progress. External prescriptions to our political and economic problems, including addressing issues related to human rights, must necessarily have local resonance and public acceptance. Legal outcomes alone to long standing political issues do not necessarily create a conducive atmosphere for enduring peace. Therefore, in such contexts, the United Nations must provide leadership in capacity building efforts to address the gaps while also factoring in local sensitivities. The United Nations also has to create an understanding background for the involvement of external actors. Further, UN assistance to develop national legal frameworks incorporating as appropriate, international norms and standards, must ensure coordination and cooperation between national institutions, different UN entities and Civil Society to avoid duplication of work and waste of resources to ensure best outcomes.

Promoting and consolidating the rule of law at national level does not happen in a vacuum or in a static environment. A clinical or surgical approach to promoting this concept without the accompanying tangible guarantees for improving the social, economic and cultural quality of life, would be less meaningful and less holistic. Neither do prescriptions or analyses derived from stark right and wrong perspectives and other country experiences serve as templates for highly complex situations. Therefore, our thematic discourses at the intergovernmental level must focus more on the practice of the rule of law.

The principle of sovereign equality enshrined in the UN Charter which is intrinsic to the international rule of law must be maintained as international rules are made and implemented. It is a principle that Member States must abide by and which protects all States, especially the small and the weak. Equally important, is the maintenance of the principle of non-interference in the internal affairs of Member States, especially in situations that do not pose a threat to international peace and security. Exceptionally, specific circumstances may call for involvement which should be based on the broad agreement of States. The right to implement the rule of law should not be the right of a handful nor should it be selective. Selective implementation would cast massive doubts on credibility.

We commend the work that is done by the Office of Legal Affairs and note with appreciation the various outreach, and training programmes conducted by the Office of Legal Affairs, in particular the Treaty Section. The annual treaty event is welcomed by all States. An important aspect of the rule of law at international level is the obligation of States to implement at national level, commitments undertaken by them under treaties and other international agreements. Compliance with treaty obligations is an area where the UN can play a meaningful role. Sri Lanka has indeed been proactive in adopting national mechanisms to comply with our commitments under the treaties to which it is a party.

Sri Lanka has always advocated the settlement of internal and international disputes by peaceful means. Even in our own case with the LTTE, a terrorist outfit that challenged the very existence of the state of Sri Lanka, we took early recourse to negotiations. It was only after these efforts were repeatedly rebuffed, and endless and bloody provocations followed, that Sri Lanka launched a limited humanitarian rescue operation. The Government of Sri Lanka is committed to protecting the rights of all its people and fulfilling their just needs to enable them to realize their aspirations. Our willingness to engage with the United Nations to promote the rule of law based on constructive, fair, non-selective and objective assessments remains undiminished.

Thank you, Mr. Chair



Remarques de l'Ambassadeur Paul Seger, Représentant permanent de la Suisse auprès de Nations Unies, lors du débat thématique informel de l'Assemblée générale du 11 avril 2011 « L'état de droit et les défis globaux »

L'importance du respect de l'état de droit est indéniable et les événements récents démontrent les conséquences graves de son non-respect.

L'état de droit est un état où le droit contrôle le pouvoir ou la force. Il consacre la prééminence de la force du droit sur le droit de la force.

L'état de droit doit avoir pour objectif principal de protéger l'individu et de lui donner la possibilité de vivre en sécurité, dignité et équité.

La promotion de l'état de droit passe par le renforcement des structures étatiques. Pour atteindre un monde qui respecte l'état de droit tant au niveau national qu'international, nous avons besoin d'Etats forts et stables. La force d'un Etat ne se mesure pas à son pouvoir militaire ou policier, comme les événements récents nous le démontrent. Un Etat est plus fort et plus stable s'il possède des institutions démocratiques et juridiques qui protègent ses citoyens et lui permettent d'exercer ses droits politiques et économiques.

Les expériences du passé nous démontrent que les Etats qui ne respectent pas l'état de droit ne constituent pas seulement un facteur déstabilisateur, mais peuvent aussi menacer la paix et la sécurité internationales. La promotion de l'état de droit peut donc permettre de prévenir des conflits.

Même si la question de l'état de droit concerne principalement les Etats souverains comme sujets principaux du droit international, il faut que les Nations Unies elles-mêmes respectent ce principe. A ce propos, je soutiens les propos de Mme Navi Pillay qui réclame le meilleur respect des droits de l'homme et des procédures équitables dans les processus de sanctions individuelles décrétées par le Conseil de Sécurité.

Pour revenir à la problématique de l'état de droit en situation de conflit, je suis d'accord avec l'analyse de M. Jean-Marie Guéhenno surtout en ce qui concerne son affirmation selon laquelle la règle du droit est le fondement de la paix.

Il est aussi vrai que l'établissement de l'état de droit dans des Etats sortant d'un conflit est particulièrement difficile et complexe. Assez souvent les règles et les institutions dans différentes branches du droit font défaut : le civil, le pénal, l'administratif, le constitutionnel. Reconstruire un Etat où les institutions fonctionnent est un défi considérable qui demande un effort aussi substantiel que durable. Un Etat sortant de conflit a donc besoin d'un soutien fort et soutenu de la part de la communauté internationale, comme la Ministre de la justice du Libéria l'a dit, à juste titre.

Vu l'ampleur et la complexité du défi de la reconstruction des institutions dans des pays en situation de post-conflit, je suis également d'accord avec M. Jean-Marie Guéhenno sur un autre point : il est important de commencer par des actions qui ont un impact positif immédiat sur la population. Par de telles mesures, il convient de rétablir la confiance des citoyens dans les institutions qui fait souvent défaut. Il faut leur donner le sentiment que la justice est rétablie dans les pays, comme M. Michael von der Schulenburg l'affirme. Des améliorations dans le secteur sécuritaire et la lutte efficace contre la corruption sont particulièrement nécessaires pour regagner cette confiance.

Finalement, le rétablissement de l'état de droit dans des pays en situation de conflit dépend également de la manière dont le conflit a été mené. Dans ce contexte, tant le comportement des acteurs étatiques que des acteurs non-étatiques est déterminant. Si les règles du droit international humanitaire (DIH) ont été respectées pendant le conflit armé, il sera plus facile réconcilier les opposants, de reconstruire les institutions et de retourner de la violence armée à la voie du droit que dans le cas contraire. C'est une des raisons pour lesquelles la Suisse insiste sur le respect du DIH et concentre ses efforts sur les mécanismes et institutions pour l'application et le respect de ce droit. Parmi les différentes initiatives que la Suisse a entreprises dans ce domaine, on pourra par exemple citer l'élaboration du *Document de Montreux* de 2008 qui contient une compilation des normes existantes applicables et des bonnes pratiques dans des situations où les Etats utilisent des compagnies privées militaires et de sécurité en situations de conflits. De plus, elle a lancé l'établissement d'un Code de conduite pour ces entreprises qui a été finalisé récemment.

INTERVENCIÓN DEL

Emb. JOSE LUIS CANCELA

Representante Permanente del Uruguay ante las Naciones Unidas

DEBATE TEMATICO INTERACTIVO :

El Estado de Derecho y los Desafíos Globales

ASAMBLEA GENERAL

Nueva York, 11 de Abril de 2011

Muchas gracias señor Presidente,

Permítame primeramente felicitarlo por la iniciativa de organizar este debate temático interactivo. Este encuentro constituye un excelente punto de partida del proceso preparatorio del segmento de alto nivel sobre el estado de derecho en los planos nacional e internacional, que tendrá lugar durante el 67 período de sesiones de la Asamblea General.

En la Cumbre Mundial de setiembre de 2005, los Estados Miembros reconocieron la necesidad del respeto y la aplicación universales del estado de derecho en los planos nacional e internacional, así como reafirmaron su compromiso con un orden internacional basado en el estado de derecho y el derecho internacional.

Paz, justicia y libertad se nos presentan como una trilogía indispensable para la convivencia armónica de los individuos en cualquier sociedad.

El fortalecimiento del Estado de Derecho adquiere una relevancia especial en aquellos países que se encuentran saliendo de un conflicto, a fin de poder dar sustentabilidad a los procesos de paz y reconstrucción, incluyendo el combate a la impunidad. Esto requiere de un gran esfuerzo del país en cuestión y del apoyo de la comunidad internacional para que las capacidades nacionales para promover y hacer respetar el

estado de derecho sean mejoradas y las instituciones fortalecidas.

Uruguay entiende que las Naciones Unidas a través de sus diversas herramientas, incluyendo a las Operaciones de Mantenimiento de la Paz y los esfuerzos de consolidación de la paz, pueden jugar un rol más que importante en este sentido, el cual debe ser iniciado de manera temprana y en estrecha coordinación entre los diferentes actores.

Un buen ejemplo de esto es lo que se está intentando hacer en Haití, donde las Naciones Unidas, a través de la MINUSTAH han hecho hincapié en la importancia de promover el estado de derecho como un elemento fundamental para una sociedad justa y próspera que debe enfrentar importantes retos de reconstrucción.

Tal como lo hemos venido diciendo y tal como lo expresa el informe independiente sobre capacidades civiles, existen en el hemisferio sur recursos humanos con amplia experiencia y destreza en este tema, que deberían ser aprovechados, basándose en los modelos exitosos del mantenimiento de la paz.

Muchas gracias.