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Statement by:

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The rule of law at the national and international levels

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Mr. Chairman,

Israel welcomes the opportunity to engage in a meaningful and professional exchange of views on the important issue of the rule of law at the national and international levels. This agenda item is continuously debated in various UN fora, yet it remains an area with much to discuss. In this respect, we take note of the Secretary-General's two reports concerning the rule of law, of March and August this year. They provide a useful basis for our current discussion.

Mr. Chairman,

Israel is committed to the rule of law at the national and international levels. Pluralism and democracy are the cornerstones of our system of government. This is clearly expressed in Israel's Declaration of Independence, which held up the precepts of liberty, justice and peace as well as the principles of the UN Charter as the pillars of our state.

The rule of law is the bedrock of any democracy. Good governance and a robust, independent and impartial judiciary are indispensable for properly maintaining the rule of law.

The protection of the professional independence of Israel's courts, headed by our Supreme Court, is enshrined in Israel's Basic Law. This lays the foundation for a judiciary that has become internationally renowned for its groundbreaking judgments on various issues relating to the rule of law.

Our Supreme Court rulings have continued to entrench and expand the rights of criminal suspects and defendants, enhancing due process guarantees. Notable decisions in recent years disqualified evidence obtained in an unlawful search, declared confessions made under duress as inadmissible, and abolished provisions restricting the right of persons suspected of security-related offences to meet with their legal counsel. In this regard, the importance of legal aid and assistance services cannot be understated. Almost twenty years ago Israel established the Public Defender's Office, by a statute ensuring its full professional discretion and stipulating the types of criminal proceedings for which free representation is provided.

The protection and promotion of civil liberties and constitutional rights is another field on which our Supreme Court weighs heavily, including freedom of the press, privatization of prisons and social security.

Mr. Chairman,

Israel recognizes that upholding true rule of law in a democracy presents significant challenges, in particular when confronting terrorism. The Israel Supreme Court regularly adjudicates on matters of national security even at the height of hostilities and active warfare. These are the most difficult cases for a judge in a democracy, as articulated by a former President of the Supreme Court, Professor Aharon Barak, in a famous judgment proscribing certain interrogation methods of suspected terrorists (and I quote):

“This is the fate of democracy, as not all means are acceptable to it, and not all methods employed by its enemies are open to it. Sometimes, a democracy must fight with one hand tied behind its back. Nonetheless, it has the upper hand. Preserving the rule of law and recognition of individual liberties constitute an important component of its understanding of security. At the end of the day, they strengthen its spirit and strength and allow it to overcome its difficulties.” (end of quote.)

Furthermore, our Court continually conducts careful, but rigorous scrutiny and review of parliamentary legislation, executive policy and administrative action. In doing so it enjoys the highest degree of confidence by the Israeli public.

The broad rules of standing before our Supreme Court allow citizens and non-citizens alike, as well as Israel’s civil society organizations to petition the Court. Clearly, a culture of pluralism, a vibrant civil society and civic education of basic democratic values are all critical for promoting the rule of law.

Another serious challenge to the rule of law is the struggle against corruption. In recent years corruption charges brought prominent public figures in Israel to stand trial, some of whom were consequently convicted. These cases exemplified that all are equal before the law. Such cases also serve to remind us that ensuring the integrity of the law enforcement system, as well as having an independent State prosecution, are essential for the rule of law.

Mr. Chairman,

On the international level, maintaining the rule of law requires an effective multilateral system, founded on international law. In this regard, we support the continuous work of the International Law Commission and the UN Committee on International Trade Law in the development of international law.

Israel is a party to the core human rights treaties, and recently ratified the Convention on the Rights of People with Disabilities. We value the work of the UN treaty bodies and professionally engage with them

on a regular basis. To that effect, Israel established a joint inter-ministerial team headed by a Deputy Attorney General in order to consider means to implement relevant recommendations of the various treaty bodies.

With respect to the valuable contribution of international tribunals to the rule of law, we join other delegations in emphasizing the importance of complementarity and stressing that it is the primary responsibility of States to investigate and prosecute violations of international law. We also support the ongoing UN activities and initiatives for capacity building and technical assistance as detailed in the Secretary-General's report, as well as the individual contribution of states to this effort. Israel has been engaged in technical assistance and capacity building efforts in Africa and elsewhere.

Mr. Chairman,

The high-level meeting on the rule of law held last September was an important development in the UN's recognition of the rule of law. At the same time, we believe that much more work remains to be done.

In this respect, we regret that in the course of the informal consultations on the outcome document of the high-level meeting, the UN membership was unable to reach consensus on the paragraphs containing the so-called "building blocks" of the rule of law. Among other things, we regret the failure to reach common understanding of what constitutes the rule of law. Our understanding is that this notion cannot be reduced to merely formalistic and institutional features, as it contains critical substantive and normative content.

In closing, I would like to reiterate Israel's commitment to the rule of law on the national and international levels.

Thank you.