

Security Council Open Debate on Rule of Law
Tuesday, 29th June 2010, Security Council Chamber (GA-TSC-01)

Statement by Ambassador Mehdiyev, Delegation of the Azerbaijan to the United Nations

At the outset, I would like to thank you, Sir, for convening this very important open debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security and your submission of a concept note on the topic (S/2010/322). Azerbaijan reaffirms its commitment to an international order based on international law and the rule of law, and considers it essential to peaceful coexistence and cooperation among States.

Since the adoption of the 2005 World Summit Outcome (resolution 60/1) and the last open debate in the Security Council on the rule of law held in 2006 (see S/PV.5474), there have been important developments. A significant contribution has been made to the strengthening and promotion of an international order based on generally accepted legal norms and principles. In a number of situations, successful efforts have reduced tensions and ensured that peace processes moved forward.

At the same time, more should be done to address the major threats and challenges that continue to affect the basic elements of the international legal order, undermine the national unity, territorial integrity and stability of States, and regenerate disregard and contempt for human rights. The heightened vulnerability of civilian populations during wartime — in particular forcibly displaced persons, refugees, **women** and children — brings an element of urgency to the imperative of restoration of the rule of law.

The peaceful settlement of disputes is one of the basic principles of international law enshrined in paragraph 3 of Article 2 of the Charter of the United Nations. Indeed, the commitment to resolving disputes through peaceful means and in accordance with international law is one of the cornerstones of the notion of the rule of law at the international level. The true value of this principle is to commit States to respecting each other's territorial integrity and political independence, refraining in their international relations from the threat or use of force, and resolving their disputes in conformity with international law.

It should be made clear at the same time that the reference to the principle of peaceful settlement of disputes must in no way impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security.

In circumstances where the aggressor State has neglected its obligation to settle the international dispute by peaceful means and thereafter has illegally used force to acquire control over the territory of another State, insistence on the application of the principle of peaceful settlement of disputes will inevitably play into the hands of an aggressor, tend to entrench positions of control, reinforce perceptions of the centrality of military strength in international relations, and encourage impunity rather than contribute to the triumph of justice.

Undeniably, invasion or attack by the armed forces of a foreign State, military occupation and bombardment constitute armed attacks, triggering the right of self-defence in accordance with Article 51 of the Charter of the United Nations and customary international law. It is obvious that, in situations of protracted inter-State conflicts and long-continued unsuccessful negotiations, the victim of an armed attack, especially when it suffers from illegal occupation of its territory and consistent measures by the aggressor State to sustain the situation, is entitled to the right to self-defence and can resort to it as soon as it arrives at the firm conclusion that prolonging the negotiations is an exercise in futility and that political settlement is unattainable.

There should be better understanding that States acting in contravention of the Charter of the United Nation and international law, undermining the sovereignty and territorial integrity of States, violating international humanitarian law and human rights law and ignoring Security Council resolutions that explicitly condemn such behaviour, may forestall

enforcement countermeasures only by putting a prompt end to their illegal acts and negotiating in good faith the prospects for peace, stability and cooperation. The fact that illegal situations continue because of political circumstances does not mean that they are thereby rendered legal or can go on forever. Law and justice are more important than force.

As the concept note rightly points out, respect for international humanitarian law is an essential component of the rule of law in conflict situations and plays a crucial role in the maintenance of international peace and security. However, a defining feature of most, if not all, conflicts is the failure of the parties to respect and ensure respect for their legal obligations to protect civilians and spare them from the effects of hostilities. As a consequence, civilians continue to suffer from inadequate protection in situations of armed conflict. Therefore, further efforts in this regard, in particular through insistent measures aimed at ensuring strict compliance by parties to armed conflict with their obligations under international humanitarian, human rights and refugee law, remain crucial and must constitute an absolute priority.

Particular consideration must be given to implications for the protection of civilians in armed conflict aggravated by population displacements and foreign occupations. The impact of conflict on housing, land and property in such situations requires a more consistent approach in order to ensure the safe and dignified return of those forced to leave their homes. It is important that the recognition of the right to return, along with increased attention to its practical implementation and concrete measures aimed at overcoming obstacles preventing return, be applied by the international community with more systematic regularity. Ensuring the right to return constitutes a categorical rejection of the gains of ethnic cleansing and offers important measures of justice to those displaced from their homes and land, thereby removing a source of possible future tension and conflict.

Integral to the existing challenges is the need to ensure accountability for violations of international humanitarian law and human rights law, both for individual perpetrators and for parties to conflict. In recent years, important steps have been taken for the protection and vindication of rights and the prevention and punishment of wrongs. The punishment of crimes with an international dimension and scope has demonstrated how effective international justice can be when there is political will to support it.

It is important to emphasize in this regard that ending impunity is essential not only for the purposes of identifying individual criminal responsibility for serious crimes, but also for ensuring sustainable peace, truth, reconciliation, the rights and interests of victims and the well-being of society at large.

In conclusion, I would like to reiterate, that in order to achieve the goals of the rule of law, we should uphold fundamental principles, adhere to the uniform application of international law, and promote the democratization of international relations.