

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

Statement by Deputy Secretary-General Migiro

Thank you, Mr. President, for convening this debate. The Secretariat welcomes the opportunity to review progress in strengthening the rule of law in the maintenance of peace and security.

Mexico has been a steadfast friend of the rule of law here in the Security Council and in the General Assembly. Its leadership, in cooperation with Liechtenstein, has been instrumental in establishing the near-system-wide arrangements for the rule of law, which I chair.

The rule of law is a broad and complex concept imbedded in the history of all cultures and nations, as well as in the longstanding efforts of States to create an international community based on law.

Accordingly, the United Nations has a broad and ambitious agenda in this area, which is not easily realized and is often underestimated. A look back at the debates of 2004 and 2006 makes it clear that the Council and the Organization as a whole have been moving in the right direction.

It is significant that this debate has expanded, from a focus on the rule of law in war-torn societies, to include strengthening the rule of law at the international level. This evolution reflects the Council's special responsibility to maintain international peace and security in conformity with the principles of justice and international law under the United Nations Charter. It also recognizes that the mutually reinforcing links between the rule of law at the national and international levels are substantial and multifaceted. And it is rooted in the fundamental principle that the Organization must act in accordance with fundamental standards of human rights in its own activities, operations and practices. Adherence to the rule of law begins at home. As the world faces new and evolving threats to international peace and security such as transnational organized crime, terrorism and piracy, the Security Council should place the rule of law at the centre of its response.

Strengthening national laws, security and justice systems in a sustainable and nationally owned manner is vital. Action at the international, regional and domestic levels must be aligned and grounded in international norms and standards. The principle that all individuals and entities, including States, are accountable to the law lies at the heart of the rule of law at both the national and international levels. All mechanisms — judicial and non-judicial — that secure compliance with or enforce international law require strengthening.

The International Court of Justice has a special role to play in the peaceful settlement of disputes before intractable conflict and post-conflict situations arise. Strengthening the relationship between the Council and the Court will fortify the rule of law. When prevention fails, we need to help fill the rule-of-law vacuum that often ensues. The Council has developed new ways to promote compliance with international humanitarian law and to better protect civilians, particularly children and **women** caught up in armed conflict. By establishing ad hoc and hybrid tribunals, the Council has been at the forefront of the campaign for individual accountability for crimes under international law.

This month we witnessed a historic agreement on the definition of aggression, by States parties to the Rome Statute. The Council has a unique role in furthering the fight against impunity. In that realm, the link between international and national rule of law is clear. As a prevention tool, the United Nations should prioritize security, access to justice and legal protection for all in order to make it more likely that disputes within society are resolved through legal, rather than violent, means. Assisting the host countries of peacekeeping operations to strengthen their justice and security institutions in accordance with these standards is central to sustainable peace.

In response to international crimes, the United Nations must redouble its efforts to build national capacities to hold alleged perpetrators accountable. One promising initiative is the effort to create a deployable team of rule-of-law experts to assist national authorities in addressing **sexual violence in armed conflict**, as mandated in **resolution 1888 (2009)**. Rule-of-law activities have also been bolstered by the Peacebuilding Commission and Fund. Still,

more strategic focus is needed, as the rule of law is both a desired end state and a fundamental and coherent approach to that end.

The objective is to enhance the delivery of safety and security, legal protection, access to justice for all and the peaceful settlement of disputes as means to avoid the risk of relapse into conflict. Gaps persist in the response to rule-of-law challenges, including with respect to informal justice systems and economic and social justice. Responses to housing, land and property disputes for returning refugees, displaced persons and vulnerable groups remain ad hoc. Failure to uphold the law in response to organized crime and illicit trafficking can fuel violence and increase regional instability. Combating corruption is essential to maintain and restore public confidence in the State.

Sustained attention by the Council to the rule of law and transitional justice has helped the Organization coalesce around a common language and guiding principles for this work, such as the importance of national ownership. Since 2006, the United Nations system has enhanced its capacities. The Office of Rule of Law and Security Institutions was established in the Department of Peacekeeping Operations, bringing together police, justice, corrections, disarmament, demobilization and reintegration, security sector reform and mine action capacities. A rapidly deployable standing police capacity will soon be augmented by the standing justice and corrections capacity. The United Nations Development Programme's Bureau for Crisis Prevention and Recovery is currently delivering rule-of-law assistance worth \$202 million in more than 20 conflict and postconflict settings, supported by a global programme. The deployable mediation team of the Department of Political Affairs provides advice on rule-of-law issues such as constitution-making.

United Nations actors are increasingly integrating their country programming, as in Haiti and the Sudan. Joint United Nations action should be strongly encouraged as the way forward, as was recently mandated in resolution 1925 (2010), concerning the Democratic Republic of the Congo.

In late 2006, the Secretary-General informed the Council of the establishment of a division of labour in the area of the rule of law, and of the creation of the Rule of Law Coordination and Resource Group. Under my leadership, the Group brings together the nine United Nations departments and agencies most engaged in rule of law activities, supported by the Rule of Law Unit in my Office. The Group is the systemwide focal point for coordination, coherence and quality control of United Nations engagement in this field.

Still, the Organization faces major challenges and constraints. First, we need to recruit, train and retain high-quality personnel and deploy them in a rapid, consistent and predictable manner.

Secondly, the financial resources allocated for strengthening the rule of law in fragile conflict and post-conflict settings have not matched the rhetoric in importance.

Thirdly, the external environment, including that of donors and providers of bilateral assistance, remains fragmented. This crowded field spans the legal, development, security and political disciplines, yet no global forum exists for dialogue among stakeholders.

Fourthly, we need more consistent and comprehensive needs and threat assessment if we are to ensure early and strategic responses. Better, ongoing monitoring is also required to evaluate the impact of our efforts.

Fifthly, we must be sure to take a strategic, system-wide approach that includes security sector reform and equal attention to all components of the justice system, including prisons.

Sixthly, the political nature of the exercise must be recognized. The rule of law is linked to sovereignty, control over the use of force and resources and other sensitive matters. We need to do more to address the political and institutional aspects of rule of law development, and to bring national and international leadership on board.

The rule of law will continue to be central in meeting the challenges of our time. The Council's continued engagement is essential. Together we can support sustained, coherent and well-resourced efforts to strengthen the rule of law at both the national and international levels, and to ensure that it can play its rightful role in building a better world for all.