

Security Council Open Debate on The promotion and strengthening of the rule of law in the maintenance of international peace and security
19th of January 2012, Security Council Chamber

Statement by Mr. Berger, Germany to the United Nations

At the outset, let me thank the Secretary-General for his presentation and for his comprehensive report of October 2011 on the rule of law and transitional justice. We are also pleased that today's open debate is taking place under the presidency of South Africa, a country that has set an historic example in the field of transitional justice through its own process of truth and reconciliation. Germany, which aligns itself with the statement to be delivered on behalf of the European Union, reaffirms its firm commitment to an international order based on international law and the rule of law with the United Nations at its core. Our own history has shown us the disastrous consequences of disregarding even the most basic rules without which societies are relegated to a state of lawlessness and moral destitution.

Today, strengthening the rule of law is a priority area within our international cooperation activities, and we are currently providing targeted rule of law assistance to partner countries worldwide. Both the United Nations Charter and the Universal Declaration of Human Rights recognize the relevance of the rule of law to lasting international peace and security. The issue cuts deeply through the entire spectrum of activities undertaken by the United Nations in general, and by the Council in particular. The presence or non-presence of the rule of law ultimately determines success or failure. This applies just as equally to the protection of civilians as it does to children in armed conflict, or to women, peace and security, to name but a few key areas. In this context, we welcome the establishment of and activities undertaken by the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General and supported by the Rule of Law Unit. However, we call upon all participating agencies in the Group to redouble their efforts to define and implement a unified and comprehensive approach to strengthening the rule of law worldwide, and to address relevant gaps in their programme activities. We note with satisfaction that the Security Council, in exercising its mandate, has been playing an increasingly crucial role in the promotion of the rule of law. This is most notable in the more than 160 references to rule of law and transitional justice made since 2004 in its thematic and country-specific resolutions. In the same period, the Council has included support for the rule of law in the mandates of at least 14 peacekeeping and special political missions worldwide. In this context, we appreciate the achievements of, inter alia, the United Nations Mission in Liberia and the United Nations Integrated Peacebuilding Office in Sierra Leone, as well as the fact that the United Nations Mission in the Republic of South Sudan has made the strengthening of the rule of law in South Sudan a key priority. The United Nations Peacebuilding Commission (PBC) also has a critical role to play in this regard.

The promotion of justice and the rule of law has become an integral part of peacebuilding strategies for countries on the PBC's agenda, such as Liberia and Sierra Leone. Furthermore, the Security Council has recently been further integrating the rule of law as a basis for its own work, as is evident from the establishment of the post of Ombudsperson under the Al-Qaida sanctions regime, through resolution 1989 (2011), and the ongoing discussions by the Council of its working methods. In that regard, we fully recognize the scope for expanding that basis as outlined in the Secretary-General's report. For example, more frequent use could indeed be made of Article 36 of the Charter, which allows the Council to recommend to States to refer legal aspects of international disputes to the International Court of Justice. Also, the acceptance by more States of the Court's jurisdiction as compulsory would greatly contribute to further anchoring the rule of law, both within the Security Council and in international relations. From among the current members of the Council, only five States have deposited such a declaration. We therefore call upon those Council members, as well as non-Council members, that have not yet done so to consider taking that important step. Given the importance of accountability to the rule of law, combating impunity becomes, by definition, an obligation. The Nuremberg Declaration on Peace and Justice of 2007 therefore correctly states that "The most serious crimes of concern to the international community, notably genocide, war crimes, and crimes against humanity, must not go unpunished and their effective prosecution must be ensured. "As a minimal application of this principle, amnesties must not be granted to those bearing the greatest responsibility for such crimes and violations of international humanitarian law."

Those objectives were recently further served by the Council when it established the International Residual Mechanism for Criminal Tribunals, through resolution 1966 (2010), and when it referred the situation in Libya

to the International Criminal Court (ICC), through resolution 1970 (2011). In that context, let me reiterate my country's continuing support for the ICC and its invaluable contribution to the strengthening of the rule of law. Germany recognizes the importance of transitional justice as an essential component of efforts to strengthen the rule of law and as a viable contribution to peace and security. We therefore fully support the call for a comprehensive transitional justice policy in countries emerging from conflict that involves criminal persecution, institutional reform, redress for victims and the establishment of truth and reconciliation commissions. In that context, the focus of the international community in the area of the rule of law should be on broadening and deepening civilian capacity within countries emerging from conflict. In the wake of the historic changes symbolized by the fall of the Berlin Wall, in 1989, many countries have undergone the transition to democracy, and in other cases new nations have emerged. Since last year, we have observed momentous change in the Middle East and North Africa, where the Arab Spring continues to unfold. While the hopes and specific challenges connected to those developments might differ in each and every case, the establishment of the rule of law remains a common benchmark for success at all levels — be it the realization of a people's political aspirations, the enhancement of prosperity or the creation of sustainable economic development. To strengthen the rule of law, whether at the national or international level and whether through conflict prevention or peacebuilding, is an investment that pays.