

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 Mr. Hardeep Singh Puri, India to the United Nations

I would like to thank the South African delegation for organizing today's open debate. I would also like to thank the Secretary-General for his comprehensive report on justice and the rule of law in conflict and post-conflict countries, as well as for his valuable statement.

As the world's largest democracy and, arguably, one of its most diverse countries, India firmly believes that the rule of law is a necessary precondition for sustainable peace and development in any society. Indeed, justice and the rule of law are preconditions for the maintenance of peace and security at the international level as well. In the World Summit Outcome (General Assembly resolution 60/1), which was adopted on 16 September 2005, our leaders acknowledged that good governance and the rule of law at the national and international levels were essential for sustained economic growth, sustainable development and the eradication of poverty and hunger. To achieve that objective at the national level, world leaders also recommitted themselves to actively protect and promote all human rights, the rule of law and democracy. They also recognized that those were not only interlinked and mutually reinforcing, but also belonged to the universal and indivisible core values and principles of the United Nations. To achieve that objective at the international level, the Outcome called upon all parts of the United Nations to promote human rights and fundamental freedoms in accordance with their respective mandates. Strengthening the rule of law at the national level necessitates that States fulfill their obligations to observe and protect human rights and fundamental freedoms for all in accordance with their domestic legislation, international law, the Charter of the United Nations, the Universal Declaration of Human Rights and other related instruments. It is also necessary to eliminate policies and practices that discriminate against women and to adopt laws and promote practices that protect the rights of women and other vulnerable sectors of society and promote gender equality.

Compliance with rule of law standards not only facilitates the resolution of conflicts and the achievement of peace, stability and development in post-conflict situations, it also helps underprivileged people and other vulnerable sectors of society to secure justice, dignity and empowerment. Accordingly, we also support activities of United Nations agencies in assisting countries in conflict and post-conflict situations to build their capacity to ensure justice and the rule of law for all sectors of their societies. We are happy to note that the Secretariat's Rule of Law Assistance Unit is actively engaged in strengthening United Nations activities in promoting the rule of law, including through technical assistance and capacity building for countries in conflict and post-conflict situations. Such assistance should be based on the fundamental principles of the United Nations Charter, namely, respect for national sovereignty, territorial integrity and non-interference. The objective should be to build national institutions that are capable of meeting the legitimate aspirations of the population and addressing their grievances. There is no one model to fit all conflict and post-conflict situations. United Nations assistance must therefore have flexibility to adapt assistance to specific situations. The value systems and sensibilities of the societies concerned should invariably be taken into account while planning for United Nations involvement and assistance.

The rule of law is a principle and does not necessarily mean precepts of one particular kind. It is important to ensure national ownership while assisting countries in capacity- and institution-building, including in the area of the rule of law. Adequate resources should be made available to United Nations missions, and there need be no hurry to withdraw them so long as national authorities request their continued presence. To ensure transparency, fairness and adherence to the rule of law in the United Nations system, it is necessary that the mandate of one organ of the United Nations should not be infringed upon or be duplicated by its other organs. It is also necessary to support and further encourage those institutional policies and processes that ensure a just and effective international order based on the rule of law. There are some basic principles accepted universally, but beyond that it is clear that there is no one single approach to the rule of law. In that context, it is important to note that, to address the diversity prevailing in rule of law approaches in different countries around the world, the Statute of the International Court of Justice emphasizes the representation of major civilizations and principal legal systems of the world when it comes to the composition of the Court.

In conflict and post-conflict situations, it is important that United Nations officials on the ground realize that their role is to assist the country concerned; it is not a matter of leadership. United Nations officials must also adhere to their mandates and not take unto themselves the task of propagating one or another line of thinking on what and how laws should be framed and implemented at the national level. That is a matter that is outside the United Nations domain and lies squarely with national authorities. It is necessary that the mandates for United Nations missions generated by the Council be focused and duly prioritized. There have been instances where Council mandates are interpreted in a broad manner and, at times, without consultations with the host Government. For the effective functioning of the United Nations missions, particularly given the limited resources they have, it is essential that those aspects be given due consideration at the time that mandates are generated, as well as during their implementation. The synergies across the board in the United Nations system are important and need to be reflected in the implementation of mandates. In that connection, the onus is essentially on the Council to ensure that it respects the mandates of other United Nations bodies, rather than encroaching on them. The Council should also resist the temptation to have recourse to its Chapter VII powers and, instead, promote justice and the rule of law in countries on its agenda through peaceful means under Chapter VI of the Charter. In conclusion, let me state that my delegation sees an urgent need to move towards approaches that are nationally driven and sustainable and that can garner the requisite political and popular support in conflict and post-conflict countries for United Nations assistance in justice and the rule-of-law fields to be fruitful and enduring. There is also a need for a more comprehensive and joint approach among United Nations entities to support the rule of law in line with national priorities and plans. At the same time, a reformed Security Council that conforms to the contemporary geopolitical realities is essential if efforts at global norm-making — in the case of justice and rule-of-law challenges in post-conflict situations — are to succeed.