

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. Moraes Cabral, Portugal to the United Nations

Let me thank South Africa for bringing forward this important matter under its presidency and for holding this debate open to the participation of the wider membership. The focus of this debate is on the rule of law in the context of conflict and post-conflict situations, which is clearly a crucial matter for the Council to consider and develop.

The rule of law is today an indispensable component of any successful strategy on United Nations peacekeeping and peacebuilding. The Council therefore has to deepen its reflection on the issue, in particular when drafting mission mandates, so as to respond more effectively to the needs on the ground. Naturally, Portugal fully supports the statement that later will be delivered by Ambassador Mayr-Harting on behalf of the European Union. I also thank the Secretary-General for his presentation here today as well as for his comprehensive report, which illustrates many important aspects that will help guide the Council's work on this topic in a more oriented way. The report covers a lot of ground but, due to time constraints, I will touch upon the following five issues that we would like to highlight in that context.

My first point is on international tribunals. One can never overemphasize the role that such tribunals play in ensuring and promoting the rule of law. First and foremost is the International Court of Justice, whose role is undisputable, be it in conflict resolution or prevention. That essential tool could be used more often to the advantage of the international community. It would therefore be important for more States to accept its compulsory jurisdiction. We therefore encourage States that have not yet done so to ponder accepting it. But in the recent history of the United Nations, other international tribunals have come into existence. Those have already established an impressive record in the fight against impunity for the most serious crimes. International tribunals, including ad hoc international tribunals, mixed tribunals and specialized chambers in national tribunals, have all played an important role in administering international justice. They have developed a set of international standards of justice that have strengthened their authority and consolidated an important area of international jurisprudence. Likewise, their influence is felt also in domestic jurisdictions. Indeed, the role of those tribunals in building and promoting the rule of law at the national level, including through the application of the principles of complementarity with national jurisdictions, merits being noted. Very soon, the Residual Mechanism, established by the Council over one year ago, will start its work absorbing an important functional legacy of the International Criminal Tribunal for Rwanda and International Tribunal for the Former Yugoslavia, which represents an important part of building international rule of law. The International Criminal Court (ICC) builds on those steps and now has a unique role to play, not only on behalf of the 150 States that are parties to the Rome Statute, but also of the international community as a whole. The situations in Darfur and in Libya, which the Council decided to refer to the ICC, are proof of that. Cooperation with the Court is therefore crucial to achieving the goals of justice and fighting impunity, which are part and parcel of sustainable peace.

My second point relates to the rule of law as a crucial component in the mandates established by the Council. The rule of law is fundamental to sustainable peace and development. The Council should address those needs when drafting mandates and planning missions, as well as at an early stage of the transition from peacekeeping to peacebuilding. We should also make sure that the necessary means are made available in due time, which requires careful United Nations planning. Furthermore, there should be an evaluation of the results of the work undertaken by the United Nations on the rule of law in the field. Bearing in mind the importance of the rule of law in the prevention of conflicts and in ensuring sustainable peace and development, the Council should follow that work closely and support initiatives to further strengthen and coordinate relevant United Nations activities, such as the development of indicators.

My third point relates to transnational organized crime. This is a matter with undeniable relevance to the topic we are addressing today. Conflict and post-conflict situations provide fertile ground for organized crime, which today, with international networks and the interlinkage of different criminal activities, represents a real threat to peace and security. Piracy off the coast of Somalia, with its impact, not only domestically on Somali society but also at the international level, provides some hard evidence of that link. Only through strong legal systems,

appropriate legislation, effective judicial machinery and international cooperation can those threats be fought. For countries debilitated by conflict, easily permeated by such criminal activities, the only viable option is the assistance of the international community. We welcome the Council's awareness of that by calling for longterm capacity-building efforts by the United Nations in affected countries, including through regional initiatives, and for a strengthened United Nations coordination.

My fourth point concerns the situation of those most vulnerable to the impact of conflict and postconflict situations. An effective response has to address the particular needs of those people, such as women and children, who are not only more vulnerable, but also so often targeted and used as soldiers or as instruments of war, as is the case with sexual and gender-based violence. Rule-of-law tools are also fundamental in that regard. The means to fight impunity for those crimes have to be strengthened, including in United Nations mandates through their components on protection of civilians. Moreover, legal systems have to be capable of addressing the special situation and needs of women and children, particularly in societies traumatized by conflict, including through special legislation and appropriate programmes of assistance and by abolishing laws and practices that discriminate against women and pose obstacles to their full and equal participation. My fifth point concerns a final word on amnesties. Our steadfast support to the ICC is firmly anchored in the belief that there can be no impunity for the perpetrators of the most serious crimes that concern us all. We therefore fully support the United Nations policy, reiterated in the Secretary-General's report, of rejecting any endorsement of amnesty for genocide, war crimes, crimes against humanity or gross violations of human rights.