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The rule of law at the national and international levels

Strengthening and coordinating United Nations rule of law activities

Report of the Secretary-General

Summary

The present report, submitted pursuant to General Assembly resolution 66/102, complements the proposals of the Secretary-General on possible outcomes for the high-level meeting of the Assembly, contained in his report entitled “Delivering justice: programme of action to strengthen the rule of law at the national and international levels” (A/66/749). It illustrates key achievements and challenges in strengthening the rule of law at the national and international levels over the past year, and highlights continuing progress and the next steps to be taken towards developing a more comprehensive and joint United Nations approach in support of national priorities.

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I. Introduction

1. The year 2012 is particularly important for the engagement of the United Nations in strengthening the rule of law at the national and international levels. Seven years after the World Summit, the General Assembly is convening for the first time a high-level meeting on the issue, which will open its sixty-seventh session. At the request of the Assembly, the Secretary-General has made proposals for consideration by the Assembly at the high-level meeting, contained in the report entitled “Delivering justice: programme of action to strengthen the rule of law at the national and international levels” (A/66/749).

2. As in previous years, the present report provides an opportunity to track the progress made towards strengthening the rule of law at the national and international levels, and to reflect on current challenges. It builds on the landmarks reached in the process so far.¹

3. The United Nations is providing rule of law assistance in close to 150 Member States spanning every region of the world. The activities take place in all contexts, including development, fragility, conflict and peacebuilding. Three or more United Nations entities are engaged in rule of law activities in at least 70 countries, and five or more in over 25 countries. The delivery of technical support in conflict and post-conflict settings, including 17 peace operations with rule of law mandates, is characterized by initiatives that are both comprehensive and increasingly undertaken jointly with others.

4. The Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General and supported by the Rule of Law Unit of the Executive Office of the Secretary-General, has continued to drive the Organization towards better coordinated and more effective rule of law assistance. Advances have been made in streamlining policy and guidance, expanding partnerships and supporting intergovernmental dialogue on the rule of law.

5. The present report is submitted pursuant to General Assembly resolution 66/102, in which the Assembly requested the Secretary-General to continue to submit to it an annual report on United Nations rule of law activities. Discussed in the report is the work of the Rule of Law Coordination and Resource Group and the Rule of Law Unit, and the efforts made in regard to improving the coordination, coherence and effectiveness of those activities. The annex to the report contains suggestions made by Member States on possible subtopics for future debates in the Sixth Committee of the General Assembly, provided to the Secretary-General in response to paragraph 20 of General Assembly resolution 66/102.

¹ The United Nations Millennium Declaration (General Assembly resolution 55/2); the reports of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616 and S/2011/634); the 2005 World Summit Outcome (General Assembly resolution 60/1); the report of the Secretary-General entitled “Uniting our strengths: enhancing United Nations support for the rule of law” (A/61/636-S/2006/980 and Corr.1); the report of the Secretary-General containing an inventory of United Nations rule of law activities (A/63/64); and the previous reports of the Secretary-General on strengthening and coordinating United Nations rule of law activities (A/63/226, A/64/298, A/65/318 and A/66/133).

II. Fostering the rule of law at the international level

6. At the international level, the rule of law accords predictability and legitimacy to the actions of States, strengthens their sovereign equality and underpins the responsibility of the State to all individuals within its territory and subject to its jurisdiction (see A/66/749). Full implementation of the obligations set forth in the Charter of the United Nations and in other international instruments, including the international human rights framework, is central to collective efforts to maintain international peace and security, effectively address emerging threats and ensure accountability for international crimes.

A. Codification, development, promotion and implementation of an international framework of norms and standards

7. The body of international norms and standards developed under the auspices of the United Nations remains one of the Organization's greatest achievements. Over the past year, the Organization has continued to assist Member States in the development and implementation of international norms and standards related to the rule of law.

8. Normative progress towards the full protection of children's rights was achieved through the adoption of the Optional Protocol to the Convention on the Rights of the Child on 19 December 2011, establishing a communications procedure which allows children to bring complaints to the Committee on the Rights of the Child. To date, the Optional Protocol has been signed by 23 countries.

9. The Commission on Crime Prevention and Criminal Justice endorsed the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,² which will be submitted to the General Assembly for adoption at its sixty-seventh session. The principles and guidelines establish that States should consider the provision of legal aid as their responsibility and put in place a comprehensive legal aid system that is effective and accessible to all, nationwide.

10. The United Nations Commission on International Trade Law (UNCITRAL) adopted the UNCITRAL Model Law on Public Procurement,³ revising the 1994 text, and the Guide to Enactment of the Model Law,⁴ to assist States with the establishment of modern public procurement systems that reflect best international practice and comply with international obligations. These texts provide a basis for the reform of public procurement law, including in the Commonwealth of Independent States and Mongolia through an initiative of UNCITRAL and the European Bank on Reconstruction and Development, undertaken with the support of the Organization for Security and Cooperation in Europe.

11. The current year marks the thirtieth anniversary of the adoption of the United Nations Convention on the Law of the Sea. States that have not yet done so should

² See *Official Records of the Economic and Social Council, 2012, Supplement No. 10* (E/2012/30), chap. I, sect. A.

³ *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17* (A/66/17), annex I.

⁴ The Guide will be available from www.uncitral.org/uncitral/uncitral_texts.html in the third quarter of 2012.

consider becoming parties to the Convention.⁵ 2011 marked the sixtieth anniversary of the 1951 Convention relating to the Status of Refugees and of the fiftieth anniversary of the 1961 Convention on the Reduction of Statelessness. A targeted, year-long campaign by the Office of the United Nations High Commissioner for Refugees (UNHCR) led 11 States to ratify or accede to both the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention, bringing the number of States parties to 71 and 42, respectively, at the end of 2011. At a ministerial meeting, the validity of the 1951 Convention as the basis for the international protection regime was confirmed and 33 States pledged to accede or consider acceding to one or both instruments on statelessness, resulting, since the beginning of 2012, in three additional ratifications of each Convention. Sixty-one States and one regional body made statelessness-related pledges. Forty-one States and one regional body made pledges in other fields. The year 2011 also marked the thirtieth anniversary of the entry into force of the Convention on the Elimination of All Forms of Discrimination against Women which provides the foundation for women's rights, including equal access to justice.

12. While international law-making is at times necessary, the challenge lies in ensuring implementation of and compliance with the existing legal framework. Most recently, at the United Nations Conference on Sustainable Development, held in Rio de Janeiro in June 2012, Member States underscored the link between the rule of law and sustainable development by emphasizing the importance of adhering to and implementation of the United Nations Convention on the Law of the Sea, the United Nations Framework Convention on Climate Change and the Kyoto Protocol, as well as the United Nations Convention against Corruption. Political will to ensure consistent compliance with existing international obligations remains weak, however, and the technical and financial capacities required to fulfil obligations are often limited. Treaty-based mechanisms which review the compliance of Member States can further implementation and highlight capacity gaps. Such mechanisms should be strengthened and their recommendations consistently implemented. Within the Organization, good practices should be shared across the various fields of normative activity and greater efforts made to bring the expertise of those providing support for normative activities to those carrying out operational activities in support of Member States.

B. International and hybrid courts and tribunals

13. One of the important features of the rule of law at the international level is the extent of the recourse that Member States have to international adjudicative mechanisms to settle their disputes peacefully. The International Court of Justice continues to play a critical role as the principal judicial organ of the United Nations, before which Member States can bring virtually any legal dispute concerning

⁵ See "Declaration on the thirtieth anniversary of the opening for signature of the 1982 United Nations Convention on the Law of the Sea" (SPLOS/249).

international law. Three judgments⁶ and an advisory opinion⁷ were delivered over the past year. The 12 contentious cases currently pending before the Court illustrate the continuing trust of Member States in its jurisdiction. Yet, its role could be strengthened if more Member States followed the 66 which have accepted the compulsory jurisdiction of the Court pursuant to Article 36, paragraph 2, of its Statute. Withdrawing reservations to treaties that provide for the resolution of disputes through the International Court of Justice would also help broaden the jurisdiction of the Court. To achieve universalization of the Court's jurisdiction, the Office of Legal Affairs continues to promote the role of the Court, including by convening annual seminars involving members of the Court and delegates in New York. Building on this, the Secretary-General will launch a campaign to increase the number of Member States which accept as compulsory the jurisdiction of the Court.

14. A welcome trend in the peaceful settlement of disputes is the greater utilization of the International Tribunal for the Law of the Sea, established by the United Nations Convention on the Law of the Sea, in which four cases were under consideration in 2011. A major highlight is the Judgment of 14 March 2012 in the Tribunal's first maritime delimitation case.⁸

15. One of the major milestones in international criminal justice was the conviction by the Special Court for Sierra Leone of the former President of Liberia, Charles Taylor, for planning, aiding and abetting war crimes and crimes against humanity. This first conviction of a former Head of State by an international criminal tribunal since Nuremburg sends a clear message that leaders can and will be held to account for serious international crimes and marks the beginning of the final phase of the Special Court for Sierra Leone, the first of the ad hoc international criminal tribunals to fulfil its mandate.

16. At the International Tribunal for the Former Yugoslavia no fugitives remain and all trials, except those of Ratko Mladić, Goran Hadžić and Radovan Karadžić, should be concluded during 2012. The International Criminal Tribunal for Rwanda has begun to refer cases of low-level accused, including fugitives, for trial in Rwanda, demonstrating the complementary role of national and international jurisdictions in ensuring accountability for serious international crimes and completion of all trials by the end of 2012. The Arusha branch of the International Residual Mechanism for Criminal Tribunals, which became operational as at 1 July 2012, will hear the appeals filed after that date. The preservation and dissemination of the legacy of the Tribunals remains a priority. One example is the publication of a manual on international criminal defence in the framework of the War Crimes Justice Project, undertaken jointly by the International Tribunal for the Former Yugoslavia, the Organization for Security and Cooperation in Europe and the United Nations Interregional Crime and Justice Research Institute, in cooperation with the

⁶ *Former Yugoslav Republic of Macedonia v. Greece*, regarding *Application of the Interim Accord of 13 September 1995*; *Germany v. Italy*, Greece intervening, on the *Jurisdictional Immunities of the State* (*Germany v. Italy*, Greece intervening); and *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, concerning the question of compensation.

⁷ The Court gave an advisory opinion at the request of the International Fund for Agricultural Development on Judgement No. 2867 of the Administrative Tribunal of the International Labour Organization.

⁸ Case No. 16, on the dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal.

Association of Defence Counsel Practising before the International Tribunal for the Former Yugoslavia.

17. The highlight at the Extraordinary Chambers in the Courts of Cambodia was the completion of the first case against Kaing Guek Eav, alias Duch, through the delivery by the Supreme Court Chamber of an appeal judgement extending the sentence from 35 years to life imprisonment in view of the gravity of the crimes. The trial in the second case and the investigation in the third and fourth cases are ongoing. The mandate of the Special Tribunal for Lebanon was extended for a further three years from 1 March 2012 to allow for the trial of the four indicted persons in the assassination of the former Prime Minister, Rafic Hariri, and 21 others. They will be tried in absentia as they have not been arrested. The finding of the International Court of Justice that Senegal must, without further delay, submit the case of the former President of Chad, Hissène Habré, to its competent authorities for prosecution, if it does not extradite him, is another highlight in the fight against impunity.⁹

18. There are now 121 States parties to the Rome Statute of the International Criminal Court, which is celebrating its tenth year of operation. The United Nations remains committed to the Court and continued to cooperate with it by providing logistical support for its field operations and submitting documents to the Prosecutor and Defence Counsel. The past year was marked by the election of 18 new judges and a new Prosecutor. A milestone was the issuance of the Court's first verdict, convicting Thomas Lubanga of war crimes related to the conscription and enlistment of children into armed groups, and using them in armed conflict in eastern Democratic Republic of the Congo; his conviction resulted in a 14-year prison sentence. The Court will now determine appropriate reparations for victims, a groundbreaking mandate for an international criminal jurisdiction. Other highlights include the issuance of an arrest warrant for the former President of Côte d'Ivoire, Laurent Gbagbo, on 23 November 2011, followed by his swift transfer to The Hague. In relation to the situation in Libya, referred to the Prosecutor of the International Criminal Court by the Security Council in its resolution 1970 (2011), the Libyan Government challenged the admissibility of the case against Saif Al-Islam Gaddafi. The recent request by the Government of Mali to the Prosecutor of the International Criminal Court to open a preliminary investigation into alleged war crimes committed by Islamist rebels in the north of the country underscores the continuing support of the Court by States parties. However, the cooperation of States in relation to the implementation of the Court's arrest warrants remains problematic: of the 17 individuals subject to arrest warrants, 11 remain at large. Greater efforts are required by the international community to bring these individuals to justice.

C. Non-judicial dispute resolution and accountability mechanisms

19. The establishment by the United Nations of international commissions of inquiry or fact-finding missions contributes to enhancing human rights protection, combating impunity, and restoring trust both between parties and in political processes and institutions. Key developments included the activities of the

⁹ *Belgium v. Senegal* (case concerning questions relating to the obligation to prosecute or extradite the former President of Chad, Hissène Habré).

International Commission of Inquiry on Libya, the mandate of which was extended in the light of the extensive allegations of violations of international human rights and international humanitarian law and the submission of a final report to the Human Rights Council in March 2012 (A/HRC/19/68). Profoundly concerned about the findings of a fact-finding mission dispatched by the Office of the United Nations High Commissioner for Human Rights (OHCHR) to investigate the situation in the Syrian Arab Republic, the Human Rights Council established an independent, international commission of inquiry to investigate alleged violations of human rights since March 2011 (Council resolutions S-17/1 and 19/22). After a first report, this commission will present further findings and recommendations to the Human Rights Council in September 2012. In both of the aforementioned instances, gender-based crimes have been increasingly documented as a result of dedicated expertise provided to the commissions by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women). In March 2012, an independent, international fact-finding mission was established to investigate the implications of Israeli settlements on the political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory (Human Rights Council resolution 19/17).

20. Practical initiatives to support the implementation of the recommendations of the international commissions of inquiry and fact-finding missions can maximize the utility of such recommendations. For example, with regard to the fact-finding mission to investigate the situation in the Syrian Arab Republic, the Human Rights Council decided in December 2011 to establish the mandate of the Special Rapporteur to monitor the situation of human rights in the Syrian Arab Republic as well as the implementation of the recommendations made by the above-mentioned international commission of inquiry, once the commission completes its work (Council resolution S-18/1). In respect of the United Nations Fact-Finding Mission on the Gaza Conflict, the Human Rights Council, in April 2012, requested the Secretary-General to present to the Council a comprehensive report on the progress made in the implementation of the Mission's recommendations (Council resolution 19/18).

21. Other non-judicial mechanisms promoting compliance with international norms and standards include the monitoring and reporting mechanism dealing with grave violations against children in situations of armed conflict, established pursuant to Security Council resolution 1612 (2005) and now implemented in 15 conflict-affected countries, and following this model, the monitoring, analysis and reporting arrangements on conflict-related sexual violence mandated by the Security Council in its resolution 1960 (2010), concerning women, peace and security. The latter arrangements provide for the listing and delisting of parties credibly suspected of committing sexual violence, thereby facilitating commitments by parties to a conflict to prevent and address such violations. Implementation of the arrangements has begun in the Democratic Republic of the Congo, South Sudan, Côte d'Ivoire, and the Central African Republic, where the Secretary-General has listed parties credibly suspected of committing patterns of sexual violence (A/66/657-S/2012/33, annex).

D. Strengthening the rule of law at the regional level

22. Many challenges faced today involve cross-border dynamics which impact stability and justice at the regional level. Hence, regional approaches to strengthening the rule of law are emerging. For example, in response to incidents of piracy off the coast of Somalia, support to States in the region undertaking the prosecution of suspected pirates is being provided to Kenya, Seychelles, the United Republic of Tanzania and Mauritius. The assistance rendered to Somalia, in particular to the authorities in Somaliland and Puntland, seeks to improve prison conditions, standards and management, build institutional capacity to ensure due process in the prosecution of suspected pirates and provide support to the Law Reform Commission so as to allow for the transfer of sentenced persons back to Somalia. Complex, irregular mixed migration movements, which involve persons in need of international protection, are another challenge that is increasingly addressed at the regional level, including through monitoring, establishing identification and referral mechanisms for asylum seekers and refugees, and a model framework for cooperation in rescue at sea operations which involve asylum seekers and refugees, developed under the leadership of UNHCR and the International Maritime Organization.

23. Regional programmes and initiatives bring together national, regional and multilateral partners. For example, the regional programme on drug control, crime prevention and criminal justice reform in the Arab States for the period 2011-2015, implemented by the United Nations Office on Drugs and Crime (UNODC) in partnership with the League of Arab States and 18 of its member States, assists countries undergoing transition by addressing needs related to the recovery of stolen assets, combating corruption, capacity-building in regard to crime prevention and law enforcement, and prevention of terrorism. The establishment of the UNCITRAL Regional Centre for Asia and the Pacific, funded from voluntary contributions, promotes more systematic engagement with States which require assistance in the use and adoption of the international commercial law standards elaborated by UNCITRAL. With regard to human trafficking, OHCHR promotes the Recommended Principles and Guidelines on Human Rights and Human Trafficking at the regional and subregional levels through training and awareness-raising initiatives which foster the human rights-based approach to combating human trafficking, resulting in increased capacity of government and civil society in 44 countries in Central Africa, the Middle East, Europe and Central Asia.

III. United Nations approach to the rule of law at the national level

24. The United Nations approach to strengthening the rule of law involves, inter alia, strengthening national ownership of reform initiatives, providing support to national reform constituencies, developing strategic approaches aligned with in-country assessments, and coordinating activities in partnership with key stakeholders, including civil society (see A/63/226, sect. II.C). The Organization's framework for engagement in the rule of law sector comprises constitution-making, law reform, electoral assistance and guarantees, building capacity in relation to justice and security institutions, transitional justice processes and mechanisms, and engagement with civil society.

A. Framework for strengthening the rule of law

1. Constitution-making

25. Constitutions, or their equivalent, are the foundation for a State based on the rule of law. If properly designed and inclusive, the process of developing a constitution can play an important role in peaceful political transitions and peacebuilding, conflict prevention and economic and social development by granting equal rights for all citizens, including marginalized groups.

26. Responding to increasing demand for constitution-making assistance, the United Nations has over the past year provided support to, among others, Bosnia and Herzegovina, Ghana, Guinea-Bissau, Libya, Tunisia, Yemen and Zimbabwe. In Somalia, the draft constitution was presented to an inclusive 825-member National Constituent Assembly on 25 July for provisional adoption, pending a popular referendum. Specific examples of the technical advice provided concerned, inter alia, safeguards against statelessness in Nepal and adequate consideration of housing, land and property rights for internally displaced persons in Zambia and Afghanistan. In Mexico, United Nations advocacy resulted in the incorporation of the principle of best interests of the child into the Constitution. United Nations support of legislative drafting under the new Kenyan Constitution and capacity-building for implementation underpinned the potential benefits of the new provisions.

2. National legal framework

27. The United Nations continues to assist States in the incorporation of international legal obligations into domestic law, as well as the establishment of legal foundations for the governance, oversight and accountability of justice and security institutions.

28. Legislative achievements in the field of justice include the drafting of new criminal, criminal procedure, civil and civil procedure codes in Nepal, the enactment of which is pending the promulgation of the Constitution. In Mozambique, the United Nations Development Programme (UNDP) supported the revision of the penal code and drafting of legislation providing for alternatives to imprisonment. New legal aid laws resulted from comprehensive United Nations-supported processes in Montenegro and Sierra Leone. The establishment of the Human Rights Support Unit in the Ministry of Justice in Afghanistan resulted in improvements to, inter alia, the civil and criminal procedure codes, the Child Act and the Law on Elimination of Violence against Women.

29. Viet Nam and Guinea-Bissau passed anti-trafficking laws, and Bangladesh, Kenya, Tunisia and Zimbabwe enacted amendments that allow women to confer nationality on their children and thereby prevent statelessness. With a view to strengthening the rule of law in public administration, Timor-Leste passed the Audit Chamber Law, which was drafted with United Nations support and allows for an audit court to assume independent oversight over public funds.

3. Institutions of justice, governance, security and human rights

30. United Nations rule of law assistance strengthens institutions, both formal and informal, so that they are well structured and financed, professional and

accountable, and their staff trained and equipped to enforce, uphold and adjudicate the law — criminal, public or private — in a manner that gives force and meaning to constitutional guarantees, laws, policies and regulations, and ensures protection, security, safety and access to justice for all, in line with international norms and standards.

31. Assessments of systemic weaknesses and comprehensive approaches allow for more balanced and strategic support to be provided to institutions along the criminal justice chain. To strategically approach arbitrary and prolonged detention in South Sudan, a mapping was undertaken in partnership with national authorities and in line with Security Council resolution 1996 (2011). The aim is to join the key governmental institutions and relevant United Nations actors at the national and state levels to prioritize and implement initiatives to end arbitrary detention. In Haiti, UNDP-led support provided to the prosecution service and for capacity development in prisons resulted in significantly lower levels of detention in three pilot jurisdictions: Port-de-Paix, Fort-Liberté, and Jacmel. In Kenya, UNODC support of the police reform process aims to ensure compliance with the new Constitution and international norms, standards and best practices. Increasing police capacity to prevent and investigate sexual and gender-based violence is the aim of seven regional train-the-trainer courses in post-conflict environments, resulting in the certification of 146 police officers from 80 Member States as trainers and 25 Member States which conduct their own courses. In Sri Lanka, the establishment of electronic prison databases led to better control of prolonged and arbitrary detention. Initiatives to address inhumane detention conditions in Burundi, the Democratic Republic of the Congo, Guinea-Bissau, Haiti and Sri Lanka ranged from legal reform, construction and refurbishment of infrastructure and training of police, judiciary and penitentiary personnel, to developing effective oversight mechanisms and legal aid services for remanded prisoners. In the Central African Republic, the first extensive survey of the situation in prisons since 1960 and the establishment of the Prisons Observatory ensure better monitoring of detention conditions. To guide such efforts, UNODC is finalizing, together with the International Committee of the Red Cross, a handbook on strategies to reduce overcrowding in prisons.

32. Witness and victim protection and the provision of support in line with relevant international standards are essential to criminal justice processes, including the investigation and prosecution of gross human rights violations and international crimes, in particular those involving sexual and gender-based violence. The United Nations provides support in relation to national efforts to develop the necessary legal frameworks and programmes, for example, in Kosovo and Uganda. In Bosnia and Herzegovina, development of the capacity of the witness support offices has helped to create the conditions for the prosecution of war crimes at the district level.

33. The United Nations-supported International Commission against Impunity in Guatemala made progress in the investigation of paradigmatic cases, aimed at dismantling illegal security bodies and clandestine security organizations. The Commission assisted in the transparent selection of key justice and security officials and the development of national criminal investigation and witness protection capacities. Part of an overall US\$ 10 million grant from the Peacebuilding Fund will be used to consolidate the Commission's work in the justice sector. With regard to counter-terrorism, OHCHR continues to promote the compliance of law enforcement policies and activities with international human rights law, including through the development of a set of good-practice guidelines and the convening of a

series of regional expert symposiums on the right to a fair trial and due process in the context of counter-terrorism.

34. Ensuring the delivery of just, equitable and effective services which ensure the rule of law is a key to enhancing State legitimacy. In the Occupied Palestinian Territory, a 61 per cent increase was achieved in the execution of court decisions through the UNDP-supported Palestinian Maintenance Fund, a government body that collects alimony and support payments from former spouses and enhances coordination with relevant government ministries. In Nepal, at the initiative of the Supreme Court and with the support of UNDP, a centralized database was completed and court staff and law enforcement officials were trained in the execution of judgements. Recognizing the potential of informal mechanisms for strengthening the delivery of justice services, the United Nations engaged with informal justice systems in over 20 countries, in all regions and contexts. The joint study by UNDP, UN-Women and the United Nations Children's Fund (UNICEF), *Informal Justice Systems: Charting a Course for Human Rights-based Engagement*, provides an overview of effective programming entry points, based on extensive case studies and experiences. Promising results include the establishment of 500 village courts in Bangladesh, and enhanced transparency and accountability in the adat justice mechanism in Aceh, Indonesia, through United Nations support focused on the participation and representation of women. In Sierra Leone, with the support of the United Nations, a local mechanism for the referral to formal courts of sexual and gender-based violence cases was established through the designation of chiefdom focal points.

35. Securing housing rights and strengthening property restitution and land governance are core elements in ensuring the rule of law. It has long been recognized that disputes over such issues fuel conflict and hamper social and economic development. Thus, for example, in Burundi, UNHCR, with support from the Peacebuilding Fund and in partnership with the National Commission for Land and Other Properties, assisted the peaceful resolution of land disputes, especially as regards returning refugees. In Timor-Leste, UNDP provided support for the establishment of the land registry system, ensured that land and property issues were a central component of the nation's justice sector strategic plan for the period 2011-2030, and facilitated a land surveying project of the Ministry of Justice which allowed more than 54,000 Timorese to lay claim to over 50,000 plots of land. In Ukraine, a comprehensive initiative of UNDP included awareness-raising campaigns for rural populations in three regions, enhancing legal aid in regard to land and property matters through the provision of support to the Ministry of Justice and partnerships with specialized non-governmental organizations, and convening of a conference of the Ministry of Justice and other high-level stakeholders on land and property issues.

36. The United Nations Children's Fund continues to facilitate the conceptual and programmatic shift from juvenile justice to justice for children, a holistic approach that extends beyond children in conflict with the law to include child victims and witnesses of crime, working with governmental partners in over 100 countries in relation to legislative reform, capacity-building, advocacy and coordination. As a result, many countries, including Bangladesh, Cambodia, the Lao People's Democratic Republic, Jordan, Montenegro and Albania, have developed laws on juvenile procedures. In approximately 130 countries, the Government is taking

measures to implement the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.

4. Transitional justice

37. Over the past year, the United Nations has provided assistance in the design and/or implementation of transitional justice processes in countries in all regions of the world, such as Burundi, Cambodia, Colombia, Côte d'Ivoire, the Democratic Republic of the Congo, those of the former Yugoslavia, Guatemala, Guinea, Kenya, Liberia, Libya, Nepal, Sierra Leone, Timor-Leste, Togo and Uganda.

38. Carrying out broad-based, genuine and transparent national consultations prior to the design of any transitional justice process or mechanism ensures that they reflect the specific needs of the affected persons and communities. Over the past year, the United Nations has, for example, provided advice and support to the Dialogue, Truth and Reconciliation Commission of Côte d'Ivoire in the planning of national consultations and has assisted preparations for the national dialogue on transitional justice in Tunisia.

39. The investigation and prosecution of gross violations of human rights and serious violations of international humanitarian law are vital, along with truth-seeking processes, to ensuring accountability for such violations. The United Nations and its partners have assisted authorities in the Democratic Republic of the Congo to hold proceedings, including by means of mobile courts, which have resulted in the conviction of perpetrators of gross human rights violations, such as rape, wrongful imprisonment and other inhuman and degrading treatment, including those constituting international crimes. For the first time, high-ranking military officers were convicted of crimes related to sexual and gender-based violence. This support was strengthened in December 2011 with the launch by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the Congolese Government of prosecution support cells in line with Security Council resolutions 1925 (2010) and 1991 (2011).

40. The past year has seen the establishment or the functioning of truth-seeking processes in a number of countries, including Brazil, Côte d'Ivoire, and Guinea. The truth, justice and reconciliation commissions in Solomon Islands and Togo both submitted final reports in 2012. In Solomon Islands, international support allowed for statement taking and interviews with over 2,000 conflict-affected people, and outreach to the broader public through hearings broadcast nationally via television and radio. Dedicated consultations with women resulted in the greater inclusion of gender-based violations in the final report. In Burundi, a technical committee submitted its report containing a draft law on the establishment of transitional justice mechanisms, including the truth and reconciliation commission.

41. Reparations seek to redress harm caused by gross and systematic human rights violations by providing a range of material and symbolic benefits to victims and their families. In the Democratic Republic of the Congo, the United Nations is assisting in strengthening the reparations programme for victims of sexual violence. In Colombia, the Organization has continued to support the implementation of the Victims and Land Restitution Law in Colombia, and the Justice and Peace Law. Some 17,762 victims attended the justice and peace law proceedings and 9,566 of them took part in one of the 79 interactive legal hearings broadcast via satellite. Support provided to the Ombudsman's offices in the capital and provinces

facilitated access to justice for 27,716 victims. In Uganda, extensive, United Nations-supported consultations undertaken by the Human Rights Commission collected the views of victims of serious violations of human rights and international humanitarian law, resulting in the report entitled *The Dust Has Not Yet Settled*,¹⁰ and informed the national process on reparations, including a specific focus on gender-just reparations. With funding from the Peacebuilding Fund, a reparations programme was established in Sierra Leone, resulting in symbolic community reparations events and the delivery of benefits to 21,317 of the 32,100 registered victims.

42. The United Nations also provides ongoing advice and expertise in regard to transitional justice processes in the context of political transitions in the Middle East and North Africa. In Cairo, in November 2011, delegations from Tunisia, Egypt, Yemen, Morocco and Libya engaged in a regional debate on the achievement of justice for crimes committed following the major political and social upheavals and to exchange views on transitional justice tools and lessons learned with the United Nations, specialized non-governmental organizations and national actors from settings that have undergone comparable experiences, such as Guatemala and South Africa.

5. Empowering individuals and civil society

43. Adherence to the rule of law requires a culture of legality and legal empowerment that addresses exclusion so that all persons know and can seek protection of their rights and entitlements. Legal protection is the most sustainable means of ensuring such protection. The central finding of a recently released report of the Global Commission on HIV and the Law, an independent body with a UNDP-based secretariat, is that many of the successes in addressing HIV have taken root where laws have been used to protect the human rights of the marginalized and disempowered.

44. Raising awareness of rights and legal processes is a critical step in enabling access to justice; for example, ensuring that children are conversant with the 2009 Guidelines for the Alternative Care of Children through, inter alia, the development of a child-friendly version and providing targeted training in Spanish for the Americas and Caribbean. In Guinea-Bissau, for the first time, a compilation of criminal laws was published with United Nations support to increase awareness and access to justice.

45. Access to justice in both formal and traditional dispute resolution mechanisms, as well as transitional justice mechanisms, is central to making the rule of law a reality. Mobile courts are increasingly used to access the most geographically remote and often disenfranchised populations and to facilitate the access to justice of women, including female refugees and internally displaced persons.¹¹ In the Democratic Republic of the Congo, approximately 70 per cent of cases heard by United Nations-supported mobile courts in 2011 concerned sexual violence, including cases which constituted international crimes. In Sierra Leone, UNDP-

¹⁰ Available from www.ohchr.org/Documents/Press/WebStories/DustHasNotYetSettled.pdf.

¹¹ For example, UNHCR has been providing support for such mobile courts, supplementing them with legal aid, the establishment of legal aid centres and safe houses, and advocacy for and implementation of standard operating procedures for sexual and gender-based violence in camps and urban settlements, based on an updated, 2011 strategy for action against such violence.

supported extraordinary weekend court sittings (Saturday courts), resulted in 73 per cent of the initial backlog of sexual and gender-based violence cases being brought to court in 2011.

46. Legal aid services are key requirements for ensuring access to justice. In Côte d'Ivoire, a new United Nations-supported programme provides for the establishment in six regions of legal clinics which will offer legal advice and representation through, inter alia, a network of trained information points of contact in the communities to facilitate access to State-run justice institutions. In 2011, UNDP engagement with civil society organizations and the Ministry of Justice in the Occupied Palestinian Territory resulted in the establishment of six additional legal aid clinics. Regional sharing of experience in regard to legal aid is critical to developing home-grown approaches, for example, through an expert meeting on legal aid convened by OHCHR with representatives from the offices of public defenders in Argentina, Brazil, Colombia, Mexico and Peru and expert practitioners from the United States of America. The UNODC publications, *Handbook on Improving Access to Legal Aid in Africa*¹² and *Access to Legal Aid in the Criminal Justice Systems in Africa: Survey Report*,¹³ and a paper prepared jointly with UNICEF and UNDP, entitled "Child-friendly legal aid in Africa",¹⁴ will further assist practitioners.

47. Adequate legal documentation, including birth registration, identity cards and citizenship certificates, is critical to ensuring legal empowerment. The focus of UNICEF in this area has resulted in the number of birth registrations increasing from an estimated 13 million in 2010 to almost 24 million in 2011; this was achieved, inter alia, through the use of mobile technology to reach children born outside hospital facilities in Uganda and Nigeria. Seventy-seven countries now have laws and secondary legislation on free and universal birth registration. Migration adds to the challenge and requires appropriate responses, such as registration of births and issuance of birth certificates to unaccompanied and separated children at the border between Tunisia and Libya in 2011 and the provision of legal documentation to the displaced and conflict-affected communities in Sri Lanka through UNDP-supported mobile documentation clinics. The adoption by the Human Rights Council, in March 2012, of resolution 19/9, on birth registration and the right of everyone to recognition everywhere as a person before the law, further recognized the obligation of States to undertake non-discriminatory birth registration and to identify and remove all barriers that impede access to birth registration, including late registration.

B. Addressing critical challenges

1. Strengthening the linkages between rule of law, poverty reduction and environmental sustainability

48. Sustainable human development is facilitated by a strong rule of law, yet the relationship between legal and policy protection and poverty reduction continues to

¹² Available from www.unodc.org/pdf/criminal_justice/Handbook_on_improving_access_to_legal_aid_in_Africa.pdf.

¹³ Available from www.unodc.org/pdf/criminal_justice/Survey_Report_on_Access_to_Legal_Aid_in_Africa.pdf.

¹⁴ Available from www.unodc.org/pdf/criminal_justice/Child-Friendly_Legal_Aid_in_Africa.pdf.

be underestimated. Recent waves of protest have illustrated the inextricable link between demands for the rule of law, transparency and economic opportunity in the face of inequality, high unemployment, greed and corruption. Global economic woes have provided a stark reminder of the importance of well-regulated economies, capable of quick adjustment and speedy recovery, supplemented by effective State responses to mitigate the negative impact of economic crises on affected populations. As the international community considers the progress made towards the achievement of the Millennium Development Goals and their follow-up beyond 2015, it is important to recall that the rule of law at the national and international levels is essential for sustained, inclusive and equitable economic growth, sustainable development and the eradication of poverty and hunger.¹⁵

49. The General Assembly has recognized this link in resolutions on the role of legal empowerment of the poor (e.g., resolution 64/215), highlighting the important role of access to justice, legal identity and property and land rights to expanding the livelihoods of the poor. As noted in the World Bank's *World Development Report 2011: Conflict, Security and Development*,¹⁶ there is both growing empirical evidence and recognition that the rule of law is critical to lifting societies out of cycles of conflict and fragility. The General Assembly has recognized the relevance of UNCITRAL instruments and resources for creating an environment of sustainable economic activity conducive to post-conflict reconstruction and preventing societies from sliding back into conflict (Assembly resolution 66/94).

50. Discussions at the recent United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in June 2012, have thrown into particular relief the link between the rule of law at the national and international levels and sustainable development. At the national level, a broad and far-reaching range of laws and regulations are relevant to environmental sustainability. Yet, developing countries face many common legal and institutional barriers to achieving sustainable development, including poor enforcement of contracts, limited capacity to settle contractual disputes and enforce property rights, and weak regulations for the management of natural resources.

51. The rule of law can and should serve as a means to reset the balance among economic progress, social fairness and environmental sustainability. Promising examples include the directive on the harmonization of guiding principles and policies in the mining sector, prescribed by the Economic Community of West African States, which calls for standards of environmental integrity and community rights. The identification for social use of a portion of the mineral riches of Chad serves as a mechanism to devolve profits to the country's poor and to the region from which the resource originates. Yet, legal frameworks will have little impact without access to information and adequate avenues for redress,¹⁷ hence the importance of combining legal reforms with adequate remedies and enhanced access to justice. Positive examples include new rules of procedure on protection in environmental cases in the Philippines, which have allowed for a ban by the Supreme Court on mining in the Zamboanga peninsula for its dangerous effects to the environment and indigenous communities.

¹⁵ See outcome document of the United Nations Conference on Sustainable Development, "The future we want" (General Assembly resolution 66/288, annex).

¹⁶ Available from http://wdronline.worldbank.org/includes/imp_images/book_pdf/WDR_2011.pdf.

¹⁷ Ibid.

52. United Nations work on the rule of law needs to be responsive to these emerging developments and be more firmly grounded in the development agenda. At an operational level, greater emphasis should be placed, in all contexts, on the realization of social and economic rights, civil justice matters related to housing, land, property rights, labour laws, and legal protection of the environment and related natural resources, as well as laws enabling sustainable economic activity.

2. Responding quickly to emerging needs

53. Responding in real time to operational rule of law needs remains a priority. In operation since June 2011, the Justice and Corrections Standing Capacity of the Department of Peacekeeping Operations, which complements its Standing Police Capacity, has significantly enhanced the Organization's ability to respond to urgent, specific demands from missions within days. Core capacity was provided to the mission start-up in South Sudan. Following the post-electoral crisis early in 2011, the United Nations Operation in Côte d'Ivoire (UNOCI) received critical assistance for the national prisons authority to reopen national prisons, develop a prison registry management system and urgently revise 18 prison registries following mass escapes, as well as support for the development of new national justice and corrections strategies and a nationally led coordination mechanism. The most recent deployment to the United Nations Supervision Mission in the Syrian Arab Republic assisted with the implementation of the Joint Special Envoy's six-point plan on issues relating to arbitrary detention and the provision of legal and technical advice to United Nations military observers. Through its express roster for rapid response, UNDP has deployed technical expertise to support, for example, the Ministry of Interior of Tunisia in responding to the new security challenges.

IV. Overall coordination and coherence

A. Strengthening coordination at headquarters

54. Responsibility since 2007 for the overall quality, coordination and coherence of the rule of law within the United Nations system rests with the Rule of Law Coordination and Resource Group, the focal point for system-wide attention to the rule of law. The Group is chaired by the Deputy Secretary-General and supported by the Rule of Law Unit (see A/63/226, paras. 46-48),¹⁸ complemented by a system of lead entities responsible for coordinating and facilitating efforts in their respective subsectors of the rule of law (see A/61/636-S/2006/980 and Corr.1). After five years, the Group has been assessing this arrangement with a view to strengthening the ability of the United Nations system to effectively and coherently deliver on mandates and respond to emerging challenges in the field. This process has informed and been informed by the work carried out under the ongoing civilian capacities initiative, which has advanced the complex issue of ensuring effective headquarters support in respect of police, justice and corrections for United Nations field presences in post-conflict and crisis settings. As a result, the Department of Peacekeeping Operations and UNDP have assumed joint responsibility as the global

¹⁸ The current membership of the Group consists of the Department of Political Affairs, the Department of Peacekeeping Operations, OHCHR, the Office of Legal Affairs, UNICEF, UN-Women, UNDP, UNHCR and UNODC.

focal point for rule of law (police, justice and corrections) in post-conflict and other crisis situations. As a matter of priority, the Deputy Secretary-General will review the existing institutional arrangements in the broader rule of law area and determine the appropriate relationship of this global focal point with other rule of law entities, task forces and coordination mechanisms.

55. As a result of this ongoing review, the Rule of Law Coordination and Resource Group has taken on additional workstreams. For example, a mapping of existing United Nations experience and capacities in constitution-making is expected to enhance existing system-wide arrangements to respond in a coherent and comprehensive manner to needs and requests. Under the leadership of UN-Women, a review of the current programming and funding of all relevant United Nations entities in relation to women's access to justice in conflict and post-conflict situations aims to catalyse a system-wide effort towards a measurable increase in such programming and funding. A lessons learned exercise on the Organization's work to ensure accountability for international crimes at the national level will provide the basis for a guidance note by the Secretary-General.

56. In partnership with United Nations System Staff College and with the support of the Government of Finland, the Group held a second United Nations unified rule of law training course in Turin, Italy. The purpose of such training is to strengthen coherence, coordination and effectiveness of support for the rule of law through the promotion of a common understanding of challenges and approaches among field-based staff, and between headquarters and the field.

B. Strategic and joint engagement at the country level

57. To maximize impact in the field, great emphasis continues to be placed on enhancing inter-agency cooperation and joint initiatives in support of the rule of law. Joint initiatives between the mission and the United Nations country team seek to draw on respective strengths and to ensure the sustainability of United Nations support along and beyond the mission cycle. In Côte d'Ivoire, UNOCI, UNDP and UNICEF are currently developing a multi-year joint United Nations justice support programme to assist in the re-establishment and reinforcement of the police, judiciary and correctional services and strengthen access to justice, in line with Security Council resolution 2000 (2011). In the Democratic Republic of the Congo, the blueprint of the justice support programme mandated by Security Council resolutions 1925 (2010) and 1991 (2011) was revised in partnership with national authorities. In the past year, the United Nations Integrated Mission in Timor-Leste and UNDP have completed the first round of providing capacity development assistance to the national police force. In Guinea-Bissau, an integrated approach to the rule of law and reform of the security sector brings together until 2017 the United Nations Integrated Peacebuilding Office in Guinea-Bissau, the United Nations country team and national counterparts around shared outcomes and benchmarks in support of national plans. The joint implementation of the West African Coast Initiative by relevant field missions, the Department of Peacekeeping Operations, UNODC, the Department of Political Affairs and the International Criminal Police Organization (INTERPOL) has continued to contribute to the reduction of drug trafficking and organized crime in Côte d'Ivoire, Guinea-Bissau, Liberia and Sierra Leone through capacity-building of the police and other law enforcement, enhanced cross-border collaboration and support to criminal justice

reforms at the national and subregional levels. The forthcoming extension of the West African Coast Initiative to Guinea is a testament to the utility of this joint, multidisciplinary approach.

58. Countries undergoing difficult political transitions require a concerted, strategic engagement that will assist in strengthening the rule of law. In Libya, coherence is being strengthened by integrating expertise from the Department of Political Affairs, UNDP, OHCHR and UNODC into a broad rule of law initiative which addresses policing, development of justice institutions and facilitation of transitional justice mechanisms. In Tunisia, UNDP and OHCHR, in partnership with the Ministry of Justice, developed a programme supporting the transitional justice process and providing professional and institutional assistance to the justice sector.

59. While joint arrangements have increased in scope and number, they vary in pattern and are driven by specific circumstances. Deeper cooperation will require better alignment of operational procedures and the development of system-wide incentives for joint programming. Coordination at the field level will be enhanced through the clear and joint articulation of goals, strategies and implementation methodologies. In this regard, the Secretary-General has tasked the Rule of Law Coordination and Resource Group with ensuring systematic consideration of joint programming on the rule of law at all stages of planning.

C. Measuring effectiveness and evaluating impact

60. Demand for rule of law assistance has continuously risen, but determining the effectiveness of such assistance remains often difficult. The ongoing inter-agency assessment of the impact achieved in strengthening justice and security institutions in one peacekeeping setting, one special political mission setting and one conflict area in which there is no mission should provide the beginning of a shared evidence base for measuring the impact of programming in the field and allowing for preliminary recommendations on how the United Nations system can improve predictability, accountability and effectiveness in strengthening the rule of law.

61. The Organization continues to work in partnership with Governments towards more evidence-based interventions, inter alia, by providing support for the collection of data for the creation of baselines against which national policies can be developed and action targeted towards priority areas. Over the past year, the continuing implementation of the United Nations rule of law indicators with national authorities in Haiti, Liberia and South Sudan has resulted in country reports with detailed findings on the strengths, effectiveness and transformation of law enforcement, judicial and correctional institutions over time. On this basis, national and international actors are in a position to formulate jointly recommendations that will inform national rule of law strategies and to coordinate support by the international donor community.

62. The Organization is also working to enhance its knowledge of assessment methodologies and of how and when to integrate data and measurements into rule of law programmes. UNDP completed a comprehensive study of over 23 assessments of access to justice in Asia and the Pacific¹⁹ and is developing a user's guide on

¹⁹ *Access to Justice Assessments in the Asia Pacific: A Review of Experiences and Tools from the Region*. Available from www.snap-undp.org/elibrary/Publication.aspx?id=597.

measuring rule of law, justice and security. Similarly, the planning toolkit recently launched by the Department of Peacekeeping Operations contains guidance on how United Nations staff can build on available data, including those gathered through the implementation of the United Nations rule of law indicators, to help determine the effectiveness of mission activities in supporting the areas of justice, police and corrections.

D. Expanding partnerships

63. United Nations goals cannot be achieved by working in isolation. A critical aim of United Nations coordination and coherence efforts is, therefore, to develop meaningful partnerships with all stakeholders in order to successfully promote the rule of law and strengthen the assistance provided to Member States.

64. The expertise needed for successful institutional transformation can often be found in countries which have recently experienced reform and transition. The Organization is thus working to enable greater South-South and triangular cooperation in relation to the rule of law. UNICEF, for example, has facilitated South-South collaboration in the area of justice for children and birth registration between countries such as the Islamic Republic of Iran and South Africa, Madagascar and Uganda, Myanmar and Cambodia, Guinea-Bissau and Brazil, and Rwanda and Uganda. In Côte d'Ivoire, the United Nations is assisting the Government in identifying best practices from successful experiences in security sector reform in Africa, and in accessing expertise in the region. Within the framework of the civilian capacities initiative, an online platform currently under development (CapMatch) will help to promote South-South and triangular cooperation, including in regard to the rule of law, by matching organizations wishing to exchange experiences and supply and demand for specialized civilian capacities for countries emerging from conflict or crisis, as well as by exchanging experiences.

65. Recognizing that the rule of law is an area characterized by a multitude of actors at the national and international levels, the United Nations is following the initiative for increasing global policy coherence among all stakeholders through a set of peacebuilding and statebuilding goals, including a goal on justice, which would address injustices and increase people's access to justice, and another on security, which would establish and strengthen people's security. The goals were agreed by over 30 Member States at the end of 2011 as part of the New Deal for Engagement in Fragile States. This is a promising endeavour, as internationally agreed goals and corresponding benchmarks have proved useful in measuring progress and in constructing an inclusive national dialogue on strategies to meet those goals.

66. Cooperation between the United Nations and the World Bank in regard to the rule of law remains an important priority. Building on the findings of the 2011 World Development Report which addressed conflict, security and development, the Organization is engaging with the World Bank to better integrate their complementary capacities and entry points in support of conflict-affected and fragile States in order to achieve more coherent and sustainable outcomes, in line with national priorities.

E. Strengthening the rule of law in the Organization

67. The system of administration of justice has continued its essential task of upholding the rule of law between the Organization and its staff members. As at 30 July 2012, the United Nations Dispute Tribunal had issued 647 judgements, and the United Nations Appeals Tribunal, upon completion of its seventh session, had rendered 220.

68. The Security Council continues to make progress towards improving the fairness and transparency of procedures relating to the Al-Qaida sanctions regime, especially through the Office of the Ombudsperson. The latter conducts an independent review of applications for delisting and reports to the Committee its observations and recommends retention or removal of the petitioner. By 19 July 2012, the Office of the Ombudsperson had received 28 delisting petitions, of which 9 are pending and 17 had resulted in delisting. These are encouraging advances, but further measures are necessary to ensure stronger rule of law within the Organization. As recommended previously (A/65/318, para. 93), the Security Council should consider extending the mandate of the Ombudsperson to all other sanctions lists which, to date, rely on the focal point for delisting established pursuant to Security Council resolution 1730 (2006).

V. Cultivating a just, secure and peaceful world governed by the rule of law

69. Progress has been achieved in regard to strengthening the rule of law at the national and international levels but long-term commitment is required to maintain momentum. Past recommendations (see A/63/226, paras. 76-78; A/64/298, para. 97; and A/66/133, para. 76) remain an important road map for the work of the Rule of Law Coordination and Resource Group and the Rule of Law Unit. The outcome of the high-level meeting on the rule of law will provide further guidance for the United Nations and Member States.

70. For future discussions in the Sixth Committee on the rule of law at the national and international levels, Member States may wish to consider the following as possible subtopics:

- (a) Strengthening international adjudicative mechanisms, including the implementation of their final and binding decisions;
- (b) Strengthening treaty-based monitoring mechanisms, including the implementation of their recommendations;
- (c) Means to achieve effective coordination of rule-making activities at the regional and international levels;²⁰
- (d) Strengthening judicial integrity and independence;

²⁰ See the report of UNCITRAL on the work of its forty-fifth session, held in New York from 25 June to 6 July 2012 (to be issued as *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17* (A/67/17)). This recommendation is based on the difficulties encountered by UNCITRAL in the implementation of its mandate to coordinate legal activities in the field of international trade law and its previous decisions in this regard.

- (e) The mutually reinforcing impact of economic development and the rule of law;²¹
- (f) Strengthening the rule of law through access to justice;
- (g) Access to justice through alternative means of dispute resolution;²²
- (h) Rule of law and women's access to land and property;
- (i) Statelessness, displacement, rescue at sea, migration and the rule of law;
- (j) Rule of law and combating transnational organized crime;
- (k) Protection of victims and witnesses of sexual and gender-based crime in post-conflict societies;
- (l) Strengthening national legal systems to investigate and try genocide, war crimes and crimes against humanity;
- (m) Birth registration, national identification and citizenship.

²¹ Ibid. UNCITRAL noted that in the United Nations system the emphasis had so far been on the role of the rule of law in economic development but not the role of economic development in strengthening and sustaining the rule of law over the long term.

²² Ibid. UNCITRAL noted in this regard the cost and time-consuming nature of judicial reforms, which might make it advisable to seek alternative ways of delivering justice. Also, it was noted that this subtopic would inevitably touch upon issues of traditional and informal justice mechanisms, much debated in the United Nations system, but should also touch upon issues of arbitration and conciliation.

Annex

Views expressed by Member States

1. The General Assembly, in its resolution 66/102, invited Member States to suggest possible subtopics for future Sixth Committee debates for inclusion in the present report.
2. Pursuant to the above-mentioned resolution, the Secretary-General, by a note verbale dated 23 March 2012, invited Governments to submit, no later than 31 May 2012, their suggestions for possible subtopics, with a view to assisting the Committee in choosing the subtopics for its future debates.
3. The Secretary-General has received views expressed by El Salvador (1 May 2012), Guyana (6 June 2012), Kuwait (25 April 2012) and Switzerland (4 June 2012). Those views are presented below.

El Salvador

El Salvador suggests the following topics which, in accordance with General Assembly resolution 66/102, might be considered in order to enrich the debate on the important topic of the rule of law:

- Principles of the rule of law
- The rule of law and judicial independence
- The rule of law and its relationship to democracy
- Legality and the rule of law
- The rule of law and security
- Legitimacy and the division of powers under the rule of law.

Guyana

The rule of law related to the protection of diplomatic/official correspondence communicated via the Internet. In considering national and international laws in the context of a common threat, it is submitted that a possible subtopic may be one which seeks to address the lacuna in the laws regarding the issue of confidentiality of international, diplomatic, official or secret communications transmitted through the technological medium of the Internet. In this twenty-first century, the Internet has become the primary means of communication, and has extended to official correspondence and documents. The decentralized nature of the Internet may provide challenges for States, both developed and developing, in respect of their duty or responsibility to protect official communication in the advent of widespread Internet piracy, the installation of various viruses and hacking. On the face of it, there appears to be no rule of law governing or guiding this issue at the international level.

Resolving conflicts between international law and national law: conflicts arising from the inconsistency in the laws.

Kuwait

It is important to focus on the question of the implementation of the law. Many international instruments regarding various matters have been concluded. States ratify and accede to those instruments, and then take measures to implement them within the framework of their domestic legislation. It is therefore necessary to assess such implementation and any obstacles encountered, with a view to developing appropriate solutions.

Exploration of international guarantees for implementing the provisions of international law through the relevant international agencies and the mechanisms by which those agencies interact with States.

Switzerland

Optimization of the potential of the International Court of Justice

The International Court of Justice is the principal judicial organ of the United Nations. Although its authority and the importance of its activities are widely recognized, it has not so far been able to fully realize its potential. This is because, in particular, it is competent to entertain a dispute only if the States concerned have accepted its compulsory jurisdiction, a step which only around a third of States have taken. If the Court is to fulfil its mission of participating in the settling of disputes and the clarification of legal questions, consideration must be given to ways of facilitating access to it and encouraging States to accept its compulsory jurisdiction.
