



General Assembly

Sixty-sixth session

Official Records

Distr.: General
3 November 2011

Original: English

Sixth Committee

Summary record of the 6th meeting

Held at Headquarters, New York, on Wednesday, 5 October 2011, at 3 p.m.

Chair: Mr. Salinas Burgos (Chile)

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The meeting was called to order at 3.05 p.m.

Agenda item 83: The rule of law at the national and international levels (*continued*) (A/66/133)

1. **Mr. Sharifov** (Azerbaijan), welcoming the General Assembly's decision to convene a high-level meeting on the rule of law during its sixty-seventh session, affirmed his Government's commitment to a global order based on international law and the rule of law. Adherence to the rule of law was fundamental to the maintenance of international peace and security and to the achievement of economic development and social progress. Unfortunately, in many areas violations of international law remained frequent, and political will to ensure consistent compliance was weak. Existing mechanisms for monitoring and promoting compliance with international law, while sufficient, had not proved effective in meeting existing challenges. The United Nations should increase its efforts to ensure respect for justice and for the principles of international law, in particular by addressing the major threats and challenges that continued to erode the basic elements of the international legal order, to undermine the national unity, territorial integrity and stability of States and to breed disregard and contempt for human rights. Although Member States had an obligation under the Charter of the United Nations to refrain from the threat or use of force against the territorial integrity of other States, military and foreign occupation continued to occur, as exemplified by the situation in his country.

2. Justice was essential to sustainable peace, and peace agreements should never countenance situations arrived at through the unlawful use of force or other egregious violations of international law, nor should they allow amnesty or immunity from prosecution for genocide, war crimes, crimes against humanity or other gross violations of human rights. Inaction or lack of sufficient action on the part of the United Nations in ensuring the implementation of its own decisions sent a wrong and dangerous signal to violators of the principles of justice and the rule of law and fostered a culture of impunity. Such a culture must never be allowed to prevail: those responsible for breaches of international humanitarian law or international human rights law must be brought to justice. Putting an end to impunity should be the primary role and responsibility of the United Nations, which must be more consistent in its approach to the rule of law. Selective

implementation of the resolutions of the Security Council and the General Assembly and the application of a double standard would destroy the Organization's credibility and could lead victimized Member States to conclude that they would have to rely solely on themselves to restore justice. In order to achieve the goals of the rule of law, all Member States should uphold the fundamental principles and ensure the uniform application of international law and promote democratization of international relations.

3. **Mr. Yadav** (India) welcomed the guidance note on promotion of the rule of law issued by the Secretary-General in May 2011. Promotion of the rule of law was an essential tool for encouraging harmony and ensuring peaceful coexistence and cooperation among States and strengthening peace and security at the international level, and for protecting democracy, generating sustainable economic growth and development, eradicating poverty and hunger and protecting human rights and fundamental freedoms at the national level. His Government strongly believed in respect for the rule of law and related principles, both in the internal affairs of a State and in international relations. Indeed, the principles of democracy and peaceful coexistence were enshrined in the Constitution of India.

4. In any post-conflict situation where political change was required, it must be ensured that the transition evolved in a peaceful manner and that it afforded full justice to the people of the State concerned. At the same time, unauthorized intervention in a State's internal affairs or the use of force in any conflict or post-conflict situation must be avoided. Rule of law assistance had sometimes been piecemeal; moreover, it might be donor-driven and not in line with the national priorities of the recipient countries. There was therefore an urgent need to move towards approaches that were nationally driven and sustainable and that could garner the requisite political and popular support at the national level.

5. **Ms. Paoni Tupa** (Democratic Republic of the Congo) said that the rule of law constituted the basis for peaceful coexistence among nations and was essential to individual freedom and respect for human rights. The rule of law was a multidimensional concept encompassing a number of aspects, the most prominent being human rights and democracy, security and stability, and good governance, but it also had to do with economic and trade relations, investment security

and the creation of a favourable environment for business and with the fight against corruption, organized crime and all forms of trafficking, including trafficking in human beings. The rule of law thus provided a foundation for political, economic, social and environmental development.

6. Her country's laws and practices with respect to the implementation of international law were grounded in the monistic tradition and, consequently, the rules of international law could be applied directly by the judicial system. In 2006, the country had adopted a new Constitution, which affirmed the independence of its judiciary and provided for a reorganization of its court system, laying the groundwork for reform of the justice system, a process that was ongoing. The aim of the reform was to restore the justice system to its role as an institutional pillar of a democratic political order and to improve access to justice, strengthen the promotion and protection of human rights, and enhance the capacity and performance of judicial authorities in the fight against corruption and impunity. Ultimately, the reform process was intended to lead to a justice system in which the law enforcement services, the courts and the prison system would be efficiently linked and coordinated. Her Government remained determined to establish and maintain a justice system that was fair, responsible, ethical and efficient, in accordance with the principles of international law and the Charter of the United Nations, and it appealed to the international community to support its reform efforts. It also continued to need technical and financial support and international cooperation in order to implement its ambitious action plan for the promotion and protection of human rights.

7. Her delegation welcomed the Secretary-General's guidance note on the United Nations approach to rule of law assistance and appreciated the assistance provided to her country, in particular for the establishment of prosecution support cells to facilitate the investigation and prosecution of serious criminal cases. In that connection, her Government was developing and applying new rules in the area of criminal justice, including measures aimed at eliminating violence against women and at implementing the United Nations standard minimum rules for the treatment of prisoners and for non-custodial measures.

8. **Mr. You Ki-Jun** (Republic of Korea) said that respect for the rule of law was central to ensuring peace and security at the international level and to

creating and sustaining the necessary conditions for political, social and economic development at the national level. It was important for States to settle their disputes peacefully, but the means for peaceful settlement should be left to the parties to decide. Both judicial means and non-judicial means, such as mediation, might be used.

9. More needed to be done to enhance international capacity for coordination in order to improve the delivery of rule of law assistance, which involved myriad actors and covered a broad range of activities. The United Nations should therefore strengthen its role in improving coordination and coherence. His delegation welcomed the General Assembly's decision to hold a high-level meeting on the rule of law during its sixty-seventh session and looked forward to continued work on the topic.

10. **Mr. De Vega** (Philippines) said that adherence to the rule of law and fulfilment of international commitments provided stability and certainty in the conduct of relations between States and served as an equalizer in a world marked by inequality in economic, military and political resources and influence, thereby ensuring protection of rights and fulfilment of duties and responsibilities. Fostering the rule of law at the international level also bolstered efforts to secure the world against the threat of nuclear weapons, helped to prevent conflicts and ensured a means for peaceful settlement of any disputes that did arise.

11. At the national level, the rule of law provided a strong foundation for robust democracies and promotion and protection of human rights. The Philippines valued and treasured its democracy and was firmly committed to the further strengthening of its democratic institutions and processes through the rule of law and adherence to a rules-based regime in the conduct of its relations with other States.

12. The report of the Secretary-General (A/66/133) highlighted the issue of statelessness, and in that connection he was pleased to report that his country had recently become a party to the 1954 Convention relating to the Status of Stateless Persons. It had also recently ratified the Rome Statute of the International Criminal Court, demonstrating the resolve of the Philippine people to join in the fight against impunity around the world, just as they had stood up against the impunity of colonial rule and of corrupt, dictatorial government at home. As a further contribution to

global efforts to safeguard the world against impunity, his Government had fielded a candidate for election to the International Criminal Court, Dr. Miriam Defensor Santiago, and sought support for her candidature.

13. He welcomed the work of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law and the collaboration of Member States with one another and with the United Nations to strengthen the rule of law, combat impunity and provide assistance in transitional justice processes in conflict and post-conflict settings. Now more than ever it was important to strengthen such partnerships. Aware of that need, his Government was working with the Organization to build the capacity of United Nations peacekeeping troops to prevent and investigate sexual and gender-based violence in post-conflict societies. It was also working with other countries of the Association of Southeast Asian Nations to strengthen the rule of law through, *inter alia*, discussions aimed at developing a regional code of conduct. His delegation looked forward to the high-level meeting of the General Assembly on the rule of law in 2012, which would afford a valuable opportunity for Member States to take stock of their individual and collective actions to strengthen the rule of law and to reaffirm their adherence to the rules-based regime.

14. **Mr. Sánchez Contreras** (Mexico) said that international criminal law and, in particular, the work of the International Criminal Court and the *ad hoc* criminal tribunals had helped to strengthen the rule of law at the national level. While national cooperation with international criminal courts was crucial, it was equally important to strengthen national judicial capacity in order to ensure a more lasting and effective solution to new challenges such as piracy and armed robbery at sea.

15. Despite the diversity of legal systems, States had agreed on universal principles and norms of international and regional law designed to strengthen the rule of law, engendering a process of continual feedback in which international law created expectations that reinforced the rule of law at the national level. Such feedback was especially important in the context of transitional justice processes in post-conflict societies. However, the affected communities must be consulted in order to ensure that transitional justice mechanisms responded to their specific needs. United Nations rule of law activities, too, must take

account of local needs and realities, particularly in light of the expected increase in such activities in response to political change in North Africa and the Middle East. That increase would necessitate closer interaction and coordination among the various agencies and organizations that made up the Rule of Law Coordination and Resource Group. The Secretary-General's guidance note would undoubtedly help to enhance coordination; it would also be useful, however, to designate one office or organization to take the lead in United Nations rule of law activities.

16. His delegation wished to propose that the issue of statelessness and the rule of law be included as a topic for future consideration by the Sixth Committee. Those discussions should also examine the situation of displaced persons and some groups of migrants, as they were affected by many of the same conditions that infringed the rule of law in relation to stateless persons. His delegation also looked forward to the high-level meeting on the rule of law and stood ready to assist in organizing that event.

17. **Ms. Habtemariam** (Ethiopia) said that it was important to consider the rule of law and transitional justice within a broader developmental context. Sustainable economic development could only occur in societies where the rule of law was firmly established. That, in turn, could not occur without a transparent legal system, the main components of which were a clear set of laws, strong enforcement structures and an independent judiciary to protect citizens against the arbitrary use of power by the State, individuals or any other entity.

18. Her country's five-year growth and transformation plan, which was intended to bring about rapid, broad-based economic growth, focused on strengthening democratic institutions, building the capacity of the civil service and civil society organizations, facilitating citizens' access to information and encouraging public participation in order to create an enabling environment for development and ensure the transparency and accountability of government. The plan also aimed to strengthen law enforcement institutions; ensure the independence, transparency and accountability of the judiciary; improve the effectiveness of the justice system; increase awareness and understanding of Constitutional issues and amend laws to ensure that they were in line with the Constitution; and encourage peaceful resolution of disputes.

19. The United Nations should continue working to strengthen the rule of law at the national and international level and should increase its rule of law assistance to developing countries that requested such support, taking into account their national priorities and strategies.

20. **Ms. Taratukhina** (Russian Federation) said that her delegation welcomed the Organization's efforts to support judicial reform and would follow closely the work of the new Justice and Corrections Standing Capacity in the Department of Peacekeeping Operations. The approach to strengthening political will and national ownership in conflict and post-conflict societies outlined in the Secretary-General's report (A/66/133) — in particular, high-level bilateral dialogue between United Nations leaders, the General Assembly and the Security Council, on the one hand, and senior Government officials in conflict and post-conflict regions, on the other — could be quite effective. However, such dialogue must maintain strict respect for the principle of non-interference in the internal affairs of sovereign States.

21. The work of the Organization with regard to the rule of law in conflict and post-conflict societies should be based on the principles set out in the Secretary-General's 2004 report on transitional justice in conflict and post-conflict societies (S/2004/616), which remained valid. At the same time, it was important to bear in mind that the needs and priorities of conflict and post-conflict societies were diverse and to recognize that the State affected by the conflict was best placed to identify the most suitable means for restoring the rule of law, be that a truth commission, a compensation system for victims of conflict or another mechanism.

22. The Organization's efforts to support economic recovery in post-conflict societies on the basis of a clear legal framework were also commendable; the early recovery policy implementation plan in the Sudan and the socio-economic reintegration project for women in the Democratic Republic of the Congo, described in the Secretary-General's report (A/66/133), would provide valuable experience for enhancing the effectiveness of future work in that area. Overall, fostering the rule of law in conflict and post-conflict societies was a promising area of work for the Organization and could well serve as one of the major topics for discussion during the high-level meeting of the General Assembly in 2012, relying on the examples

of the restoration of the rule of law in Afghanistan, Iraq, Libya, and other conflict and post-conflict societies.

23. **Mr. Ulibarri** (Costa Rica), while commending the work of the Rule of Law Unit and the Rule of Law Coordination and Resource Group, said that, regrettably, human rights, democracy and the rule of law remained the weakest of the three pillars of the United Nations strategy for implementing the responsibility to protect. His delegation therefore believed that it was time to rethink the Organization's priorities, not only because the United Nations had a duty to protect people, but for pragmatic reasons: investing more resources and effort in that pillar would prevent conflicts, save lives and conserve resources, which could then be invested in development, among other priorities. International evidence, and the experience of his own country, had shown that, all other factors being equal, States in which the rule of law prevailed offered better living conditions for their citizens and were better able to withstand a variety of challenges. The existence of an effective, representative legislature; fair and uniformly applied legal rules; independent courts and legitimate, equitable access to justice; and tolerance of diversity, coupled with intolerance for corruption and impunity, accelerated development and enhanced its sustainability.

24. He welcomed the recent symposium on the link between democracy, the rule of law and development, organized by the United Nations Democracy Fund (UNDEF) and Institute for Training and Research (UNITAR). Discussion on that topic should continue, and the link should be reflected in the policies of the Organization and its cooperation agencies. He also welcomed the launch of the United Nations Rule of Law Indicators, which would provide a robust and legitimate tool for measuring changes in the performance and characteristics of justice institutions.

25. In just 10 months, people in several countries of the Middle East and North Africa had mounted intense movements for democracy, accountability and transparency. They now faced the challenge of building a new political, legal and social order, for which purpose effective mechanisms of transitional justice must be put in place. In that connection, his delegation endorsed the recent Declaration of the Human Security Network on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence and was

encouraged by the new developments in the international criminal justice system aimed at fighting impunity. The central institution in that effort was the International Criminal Court, for which his Government reiterated its support. The International Court of Justice, too, played a crucial role in strengthening of the rule of law, resolving disputes between countries and developing international law. Costa Rica reaffirmed its unconditional support for the rule of law, the various international legal instruments and the institutions through which they were given effect, and international law in general.

26. **Ms. Millicay** (Argentina) said that strengthening the rule of law involved action in three crucial areas, namely, capacity-building, fighting impunity, and the peaceful settlement of disputes. In the first area, the commitment of Member States to support United Nations efforts to strengthen the rule of law, as manifested through their participation in United Nations peace missions, was essential. Due priority should be given in the mandates of such missions to ensuring the capacity to maintain the rule of law, in particular through the strengthening of domestic justice and law enforcement systems.

27. As for impunity, the international community had fortunately moved beyond the “justice versus peace” paradigm, in which agreements of a political nature had derailed the pursuit of justice through *de jure* or *de facto* amnesties. In current thinking, justice and peace were not only compatible but also complementary, and tremendous strides had been made in the sphere of international criminal justice and the fight against impunity, most notably with the founding of the International Criminal Court. However, while the Court was playing a central role in the fight against impunity, its role was subsidiary to that of domestic courts, and so it was necessary to strengthen national investigative and judicial systems.

28. The international community had also made remarkable progress in the development of rules and standards relating to the right to truth, justice, reparation and guarantees of non-recurrence, including the recent adoption of a resolution by the Human Rights Council (A/HRC/RES/18/7) appointing a Special Rapporteur and establishing a special procedure on the matter, which would contribute to the fight against impunity in the framework of the United Nations through studies of trends and challenges, identification of best practice, provision of technical

assistance and formulation of recommendations, among other activities. The adoption of the International Convention for the Protection of All Persons from Enforced Disappearance, which had entered into force in December 2010, had marked another step forward in protecting human rights, and she called upon all Member States to ratify it.

29. With regard to the peaceful settlement of disputes, she said that the International Court of Justice played a key role, as did other international courts specializing in specific areas of international law, such as the International Tribunal for the Law of the Sea established by the United Nations Convention on the Law of the Sea, which in her view had made a major contribution to peace among nations. The success of those and other means, including the good offices of the Secretary-General, would depend on whether or not the parties fulfilled the obligations incumbent upon them, in particular the obligation to heed in good faith any calls by the organs of the Organization, including the General Assembly, to negotiate with a view to facilitating the peaceful settlement of disputes. Third States, meanwhile, had a duty to refrain from engaging in acts that might hinder the parties’ fulfilment of that obligation.

30. No discussion of measures aimed at strengthening the rule of law would be complete without mentioning the role of regional cooperation and collaboration, such as the Union of South American Nations and the Community of Latin American and Caribbean States. Her Government was supporting regional mechanisms aimed at strengthening democracy within the framework of both organizations and reaffirmed its commitment to the preservation of democratic institutions, the rule of law, constitutional order, social peace and absolute respect for human rights.

31. **Mr. Hameed** (Pakistan) said that the United Nations should lead by example in exercising its central role in promoting and preserving the rule of law. In particular, it must ensure that the resolutions and decisions of the Security Council were implemented uniformly and without discrimination, irrespective of whether they had been adopted under Chapter VI or Chapter VII of the Charter. Selectivity in the design and implementation of resolutions created an atmosphere that was conducive neither to resolution of conflicts nor to strengthening of the rule of law at the national level. It also eroded confidence in the international system and undermined the credibility of

the Organization. His Government appreciated recent efforts to make Security Council sanctions regimes fair and transparent and was hopeful that country-specific sanctions regimes would receive the same treatment with respect to due process as the Al-Qaida sanctions regime. In order to meet the basic requirements of the rule of law, much needed to be done to improve the revised procedures for ensuring fair and transparent listing and de-listing of individuals and entities.

32. Any United Nations or other international assistance in post-conflict societies must address justice and rule of law needs. However, there was not as yet any agreement on how to accomplish a seamless transition from a peacekeeping environment to dispute settlement and peacebuilding strategies. An important challenge was to enable post-conflict societies to stand on their own feet through good governance and national judicial capacity-building, bearing in mind that indigenous and informal traditions for the administration of justice might be useful for the promotion of good governance.

33. Partnerships among stakeholders at the national level should be fostered by placing national perspectives at the centre of United Nations rule of law assistance activities and strengthening national ownership of reform initiatives, by providing support to national reform constituencies and giving a central place to national-level assessments. The Organization's assistance must be provided in keeping with requests from Member States and must respect social and cultural traditions and the unique needs and level of development of each society. The importance of grass-roots experiences in global-level policy discussion on the rule of law should not be discounted.

34. Impunity for financial and other crimes must be eliminated, and the international community should strengthen and improve cooperation mechanisms to that end. His Government supported innovative approaches to rule of law assistance in order to improve the performance of justice and security institutions, particularly in post-conflict States. Nevertheless, all transitional justice processes must reflect the specific needs of post-conflict societies and be subordinated to the national planning of the States concerned. Donor-driven projects and imported solutions must be avoided.

35. His delegation stood ready to assist in determining the modalities for the high-level meeting

of the General Assembly on the rule of law in 2012, which should highlight the importance of the rule of law for both the security and the development agendas of the United Nations.

36. **Ms. Kaewpanya** (Thailand) said that adherence to the rule of law meant that justice was respected through the application of just laws and principles based on notions of non-discrimination and equality before the law. Without justice, there could be no peace. The rule of law was a cornerstone of the United Nations and of international peace and security, and all Member States had a duty to observe the principles of the Charter and to ensure that their actions did not harm other States. Failure to do so could ignite conflict and engender a state of lawlessness.

37. Transitional justice was necessary in post-conflict States, which were often fragile, traumatized and highly divided. However, while the United Nations unquestionably had a role to play in transitional justice processes, strong political will and professionalism on the part of national policymakers and stakeholders was key to an effective and sustainable transition to a peaceful and democratic society, as was a realistic process of national reconciliation and political, legal, economic and social reform, in keeping with the circumstances of each country and involving all concerned.

38. Her delegation commended the efforts of the United Nations to promote and strengthen the rule of law at the national and international levels through its work in respect of, *inter alia*, human rights, peacekeeping, disarmament, development and good governance. It also appreciated the Organization's advisory role and support and its capacity-building efforts on behalf of countries in post-conflict situations. Her Government had been faced with various political, economic and social challenges over the years, but its commitment to the rule of law had never wavered. Indeed, it had recently agreed to set up a national reconciliation commission, which would be an important mechanism for strengthening democracy and the rule of law. Her delegation looked forward to discussing the modalities for the following year's high-level meeting on the rule of law.

39. **Mr. Khan** (Indonesia) said that the rule of law was the cornerstone of peaceful coexistence among nations. Experience in his country had shown that the rule of law and legal reform were also central to

political stability, economic advancement and sustainable development, a healthy democracy and unity at the national level. Indeed, the crucial role of the rule of law and good governance in sustainable development was now clearly recognized. The international community could contribute to efforts to enhance the rule of law at the national level by supporting education and law assistance programmes and sharing lessons learned.

40. His Government supported United Nations efforts to assist countries in developing their national laws to incorporate international norms and standards. However, each country must choose a legal reform model that was suited to its particular circumstances. Several interconnected factors came into play in an integrated approach to strengthening the rule of law at the national level, namely, the degree of political will and institutional capacity to ensure an accountable government; the capacity of the State to protect and uphold the rights of citizens and the existence of redress mechanisms; and the State's ability to enforce the law and protect citizens against various threats and the extent to which its security capacity was aligned with the principles of due process.

41. At the international level, multilateral cooperation based on the rule of law was essential in order to effectively address current and future global challenges. The United Nations had a crucial role to play in the development and implementation of international law and should continue to strengthen its capacity to do so. Close cooperation among the Organization's principle organs under the coordination of the General Assembly was indispensable. The role of the Security Council in promoting the rule of law was, of course, pivotal, as it was the organ entrusted with primary responsibility for the maintenance of international peace and security. In fulfilling that mandate, the Council should ground its decisions in international law, particularly the Charter.

42. In the context of transitional justice in conflict or post-conflict situations, close collaboration among the Security Council, the General Assembly and the Economic and Social Council was needed in order to facilitate the restoration and consolidation of the rule of law. It must be recognized that each conflict situation was different, and one-size-fits-all formulas must therefore be avoided. Justice and rule of law dimensions should be integrated from the outset into any international or United Nations activities in post-

conflict societies, and since justice, peace and democracy were mutually reinforcing, they should be promoted simultaneously, seeking to strike a balance and achieve synergy between the pursuit of justice and the maintenance of peace and security. Emphasis should be placed on building national capacity, particularly national judicial capacity, and independent national institutions and on promoting good governance. Reconstruction, economic revival and job creation would engender broader interest and involvement in preserving the rule of law and should therefore be promoted.

43. While the national and international dimensions of the rule of law were interlinked and equally important, greater attention should be given to the international dimension at the present time; it was also important to ensure a balanced focus in the General Assembly's work on the matter.

44. **Mr. Guterres** (Timor-Leste), noting that Timor-Leste was still a young nation, having regained its independence in 2002, said that his Government knew first hand the importance of working towards peaceful solutions to problems while strengthening the rule of law in post-conflict societies, and it was committed to enhancing the rule of law at both the national and the international levels. Timor-Leste had ratified the Rome Statute of the International Criminal Court and was a party to all the core human rights treaties, and its Constitution recognized the mutually reinforcing links between human rights, the rule of law and the promotion of democracy.

45. Building strong justice institutions as a complement to policing and security sector reform was a priority for his Government. A justice system programme launched in 2003 sought to strengthen institutional capacity and improve access to justice. Training was being provided for judges, lawyers and others in the legal sector, and the number of judges, prosecutors and public defenders now totalled 51, including 14 women. Access to justice in rural areas had been improved, and awareness and understanding of national justice institutions enhanced, through the establishment of legal aid services and the deployment of three mobile courts. The number of cases heard in the judicial system had risen steadily, although there continued to be a backlog of several thousand cases. As confidence in the justice system grew, more citizens were lodging claims.

46. Those achievements were the result of strong political commitment; however, that commitment could not be translated into further progress without sufficient resources. In order to meet growing needs and continue to inspire confidence in the justice system, his Government would require assistance in training and in implementing its policies and strategies.

47. **Ms. Fernandes** (Malaysia) said that, in order to ensure a smooth transition to the rule of law in a conflict or post-conflict society, transitional justice mechanisms must be tailored to the specific political, economic and social characteristics of that society. One-size-fits-all approaches must be avoided.

48. Her delegation wished to stress the importance of adherence to Security Council resolution 1325 (2000) and called on all parties involved in conflicts to take special measures to protect women and girls from rape, human trafficking and other forms of sexual abuse and exploitation. It was disturbing to see the lack of effective action at the international level to bring to justice perpetrators of gender-based violence against women and girls in conflict situations. Very few had been prosecuted in the International Criminal Court or the ad hoc criminal tribunals. The prosecution of such criminals would be facilitated if transitional justice mechanisms introduced in the framework of United Nations peacekeeping missions made provision for the necessary expertise and technical capacity to aid in the gathering of evidence and address the need for witness protection and support. At the same time, the United Nations needed to do more to change the perception that sexual violence perpetrated during armed conflicts was an incidental or opportunistic act and was therefore less serious than genocide, crimes against humanity and war crimes.

49. The Human Rights Council, through its special procedures mechanism, played a crucial role in affirming the rule of law in conflict and post-conflict situations by monitoring and reporting on the implementation of human rights obligations and the principles of the rule of law. The recently established special procedure mandate for a special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, for example, should help to ensure that the fundamental rights of women and children affected by conflicts were upheld by both the international community and the transitional government. However, the Council faced challenges in carrying out its duties as the primary human rights

body of the United Nations, notably the need for better cooperation by Member States with special procedure mandate holders in respect of both on-site visits and responses to communications and urgent appeals. Despite those challenges, however, her Government considered the special procedures mechanism to be an important and underutilized platform for highlighting human rights abuses and the urgent need for responses by the international community.

50. The practice of establishing international commissions of inquiry and fact-finding missions under the auspices of the Human Rights Council to address human rights abuses should be given greater emphasis, as should monitoring subsequent implementation of and compliance with their observations and recommendations, with a view to ensuring accountability, justice and reconciliation. Her Government looked forward to working closely with the Human Rights Council, of which it was a member, to assist conflict and post-conflict societies in restoring the rule of law.

51. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran) said that his Government attached great importance to the rule of law and to justice at the national and international levels. It was the sovereign right of each nation to establish its own model of the rule of law and the administration of justice and to develop an efficient and fair legal and judicial system based on its cultural, historical and political traditions and needs. The United Nations could contribute by providing technical assistance for capacity-building, but should do so only at the request of States and in accordance with their needs and priorities in order to ensure national ownership.

52. The purposes and principles of the Charter of the United Nations would only be fulfilled in a law-based international order in which international law was respected equally by all States in their international relations and all States refrained from unlawful use or threat of force. At the same time, a culture of accountability, justice, and the rule of law had to be promoted within the Organization. United Nations staff must be held accountable for any misconduct or criminal act, including those committed in the course of peacekeeping or other missions. His delegation considered the establishment of the new administration of justice system at the United Nations an important step in that direction and would support all initiatives aimed at ensuring the criminal accountability of United

Nations officials, including the development of an international convention on the subject.

53. The Security Council had a primary responsibility in maintaining international peace and security, but its mandate was not unlimited or above the law. It was bound by and should exercise its powers in accordance with the Charter. Making decisions on the basis of untrue information or politically motivated analysis received from some of the Council's permanent members would undermine its credibility and reputation, diminish the legitimacy of its decisions and weaken Member States' trust in it.

54. At the national level, adopting legislation that contravened established norms and principles of international law and violated the sovereign rights of other States would devalue the concept of the rule of law. Unilateral and extraterritorial application of domestic legislation against other countries also adversely affected the rule of law and indeed could be qualified as internationally wrongful acts entailing the responsibility of the States concerned. Selectivity and double standards in the application and enforcement of international treaties must also be rejected.

55. **Mr. Bamba** (Côte d'Ivoire) noted that his country was recovering from a 10-year crisis that had culminated in five months of violence following the contested presidential election of 2010, which had resulted in thousands of deaths and caused the displacement of hundreds of thousands of people. The international community, led by the Secretary-General of the United Nations, had provided solid support for the emergence of democracy in Côte d'Ivoire, demanding that the will of the people as expressed through the election be respected. That experience, which had been the most free and most transparent and inclusive election in the country's history, had served to intensify the Ivorian people's determination to strengthen democracy and their demands for freedom and justice. That, in turn, had paved the way for the emergence of the rule of law.

56. The country's new President had pledged to ensure respect for human rights and civil liberties and to make the rule of law a reality in the lives of the people. One of his first acts had been to create a ministry for human rights, which was pursuing four lines of action: ensuring that the practices of the security sector met international human rights standards; enforcing universal respect for human rights

and civil liberties and fostering a culture of forgiveness in order to facilitate the return of internally displaced groups and refugees; enhancing the availability of legal assistance; and bringing national laws into conformity with international standards. One of the activities envisaged in the fourth area was the creation of a national observatory of human rights, with a local office to be opened as soon as possible in the town of Duékoué, which had been the scene of massive human rights violations and atrocities during the post-election crisis. In that connection, his Government welcomed the decision of the International Criminal Court to open an investigation into crimes committed in the wake of the election and crimes that might be committed in the future in the context of the ongoing situation in Côte d'Ivoire. National reconciliation, which was essential in order to reweave the social fabric and restore national cohesion, must not interfere with the pursuit of justice and the fight against impunity.

57. The rule of law could not be established without a justice system that was genuinely independent and enjoyed respect and credibility. His Government was committed to putting such a system in place, firstly because it had an obligation to ensure its citizens free and equal access to justice through a system in which the litigants could be assured of fair judgements. Secondly, the national justice system must meet international standards in order to attract the amounts of foreign direct investment needed to realize the President's aspiration of transforming Côte d'Ivoire into an emerging market country by 2020. His Government was committed to meeting all its obligations in the work of post-crisis reconstruction, but would require the support of the United Nations and the international community in order to achieve its objectives and bring about the true rule of law.

58. **Mr. Mahmood** (Bangladesh) said that in order to ensure a world order based on international law, measures must be taken to enhance its implementation, notably through technical assistance and national capacity-building. The United Nations should increase the efficiency of its assistance in those areas, focusing on the specific needs of Member States. Measures should be taken to support institutional development for the promotion of international law and to encourage more States to become parties to international instruments. The Rule of Law Assistance Unit should regularly disseminate information on its activities

among Member States. Increased contributions to the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice should also be encouraged.

59. The rule of law was a basic feature of the Constitution of Bangladesh, which guaranteed all citizens equality before, and equal protection of, the law. His Government was actively promoting the rule of law and justice at the national level through administrative, judicial and electoral reforms. It had put in place an anti-corruption commission that served as an independent watchdog and had established a human rights commission aimed at ensuring that international standards relating to human rights and personal freedom were maintained.

60. His delegation welcomed the current discussion on the rule of law and looked forward to the high-level meeting on the topic in 2012. It stood ready to collaborate in identifying the modalities for the event.

61. **Mr. Delgado Sánchez** (Cuba) said that, in order to foster the rule of law, States should ensure that their relations were governed by the principles of sovereign equality, good faith compliance with their obligations, peaceful settlement of disputes, non-interference in the internal affairs of other States and non-selectivity, and they should refrain from the threat or use of force against the territorial integrity or political independence of any State. The international community could not supplant or replace national authorities. Instead, it should work to strengthen national legal systems, but only at the request of the State concerned, without any political conditions and with due respect for the State's institutions and right to self-determination. Strengthening of the rule of law could only occur in a context of respect for the sovereign right of peoples to create democratic judicial institutions in accord with their socio-political and cultural interests.

62. States' fulfilment of their obligations under international treaties was essential to the rule of law at all levels. His delegation remained concerned about the unilateral exercise of extraterritorial civil and criminal jurisdiction by national courts when it did not emanate from international treaties or other obligations under international law. Such actions were politically motivated. His Government also condemned the enactment of extraterritorial laws in flagrant violation of the rules of international law, firmly rejected all unilateral measures applied by one country to the

detriment of another and called for the immediate lifting of the economic, commercial and financial embargo imposed against his country by the United States of America.

63. His delegation welcomed the decision to hold a high-level meeting on the rule of law during the next session of the General Assembly, particularly in view of recent events that had seriously weakened the rule of law at both the national and the international levels. It was impossible to speak of justice and the rule of law in conflict and post-conflict situations when the North Atlantic Treaty Organization — supported by the Security Council, in clear violation of the Charter and its own resolution 1973 (2011) — was waging an armed attack on the Libyan people; when the Security Council, using the International Criminal Court for political purposes, had called for action against Libyan citizens, while ignoring the crimes committed by the military forces; and when the genocide against the Palestinian people continued and a veto had been threatened in order to prevent the Palestinian State from becoming a full member of the United Nations. Either justice and the rule of law applied equally to all or they became political hypocrisy. Justice and the rule of law could not exist in conflict and post-conflict societies, transitional justice situations or any other situation when the prevailing rule of law was the law of arms and the use of force by imperialist powers.

64. **Mr. Muchemi** (Kenya) said that the Organization's efforts had ushered in a new era, especially in the area of international criminal justice, but also with regard to the achievement of economic, political and social development. His Government had put in place various measures aimed at strengthening the rule of law at the national level, including the establishment of a new truth, justice and reconciliation commission to investigate human rights violations and serious economic crimes such as grand corruption. Kenya's new Constitution, adopted in August 2010, included a robust bill of rights that would ensure that the rule of law was constitutionally protected. In order to implement the new Constitution, new laws had been enacted in the area of legal and judicial reform. The Constitution provided that the principles of international law were applicable in Kenya, and in order to promote international transitional justice, the Government had enacted the International Crimes Act, which domesticated the Rome Statute. The Office of the Attorney General had been established pursuant to

the Constitution and the Attorney General had been given responsibility for promoting, protecting and upholding the rule of law. Other developments included the recruitment of justices for the Supreme Court, reform of the security sector and establishment of witness protection mechanisms.

65. His delegation welcomed the decision to hold a high-level meeting of the General Assembly on the rule of law and looked forward to participating in the deliberations on the matter.

66. **Mr. Nejmeddine Lakhal** (Tunisia) said that his delegation, too, looked forward to the high-level meeting. Since the uprising of January 2011 that had brought an end to the dictatorship in Tunisia, his Government had undertaken a set of thoroughgoing reforms aimed at building the rule of law from a foundation of democracy and strict respect for human rights. In addition to granting amnesty for all political prisoners, it had decided to ratify various international human rights conventions, including the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Demonstrating its firm support for the international community's efforts to end impunity, it had also ratified the Rome Statute of the International Criminal Court.

67. A democratic State achieved legitimacy through the expression of the will of the people in free and transparent elections, and his Government was preparing to hold the first such elections since the country's independence. The voting would be monitored by international observers and would lead to the election of a national constituent assembly, which would be charged with drafting a new Constitution and laying the foundation for the establishment of the rule of law, a cause for which so many Tunisian women and men had lost their lives.

68. He wished to thank the Secretary-General, who had visited Tunisia shortly after the revolution to offer his support. His delegation was also grateful to the sister countries and to the regional and international organizations and civil society groups that had supported Tunisia in its effort to establish the rule of law and to ensure that the country's democratic process would be inscribed in the annals of the political change

that was sweeping the world — change that was exemplified by the Arab Spring, which had begun in his country.

69. His delegation looked forward to the high-level meeting and was hopeful that it would culminate in the adoption of a code of conduct for ending impunity and contributing to the establishment of stable countries and prosperous societies.

70. **Mr. Hassan Ali Hassan Ali** (Sudan) said that the rule of law was a matter of the utmost importance in an ever more interconnected world, as affirmed at the 2005 World Summit, since when efforts had been ongoing in the Sudan to develop its legislation in line with evolving international human rights and humanitarian law. All crimes recognized in international law, including international customary law, had accordingly been incorporated into Sudanese domestic law.

71. The rule of law was directly linked with security, stability and development. At the national level, it was strengthened by the promotion of freedoms and good governance — a challenge embraced by many developing countries — and, at the international level, by prevailing values of justice and equality in which selectivity, double standards and politicization had no place. Dialogue and peaceful solutions were vital to conflict resolution at both levels. In the Sudan, for example, the Comprehensive Peace Agreement had been successfully implemented, ultimately changing in addition the fate of the people of South Sudan, whose ensuing declaration of statehood — recognized by the Sudan from the outset — had been similarly achieved through dialogue. The Sudanese Government's recourse to the Permanent Arbitration Court for the purpose of settling border disputes provided a further example. Complex issues should be addressed with increased circumspection, particularly in developing societies where armed conflicts were rife, and the Sudanese peace process and outcome served as a model to be emulated.

72. In the context of strengthening the rule of law in the Sudan, several national committees had been formed to investigate recent incidents in areas bordering the fledgling South Sudan, while in the context of implementing the Darfur Peace Agreement a prosecutor general had recently been appointed to investigate abuses that had occurred during the period of armed conflict in Darfur. Any attempt to downplay the international concept of justice would disrupt the

balance with peace and security, leading instead to politicization and disorder. Strengthening of the rule of law at the national and international levels was a cornerstone of the Charter of the United Nations and the majority of constitutions. Such issues, however, should be addressed outside the framework of international organizations, ruled as they were by the game of international politics.

73. His delegation called on the Organization to promote peaceful means of conflict resolution, in which the role of regional organizations and the International Court of Justice should be increasingly brought to bear. Respect for the rule of law at the national and international levels and for the sovereignty of States was another key principle to be emphasized. The mechanisms of international law and its application must likewise be strengthened, particularly in the humanitarian situations governed by the Geneva Conventions and their Additional Protocols, such as in the occupied Arab territories. His delegation also joined the call for recognition of the Palestinian right to establish a State, in accordance with the principles of international justice.

74. **Mr. Zeidan** (Observer for Palestine), noting that his delegation looked forward to contributing to the discussion of the modalities for the high-level meeting, said that the Palestinian Government had embarked upon a programme to build strong State institutions capable of meeting the needs of the Palestinian people and to empower them in their quest for freedom, justice and dignity under the most challenging of circumstances — the brutal 44-year military occupation by Israel. The programme, which had received high praise from the United Nations and other international organizations, had resulted in significant enhancement of the rule of law, strengthening of public order, safeguarding of rights and freedoms and improved quality of police and security services.

75. The continued Israeli occupation remained the greatest obstacle to the establishment of the rule of law in Palestine. It undermined Palestinian security efforts and limited the Government's ability to meet the safety and security needs of Palestinians residing in the Occupied West Bank. While the Palestinian Government had been building strong State institutions to promote and improve the rule of law, the occupying Power had meanwhile continued to violate international law, building illegal settlements whose residents torched Palestinian olive groves, set fire to holy places and

terrorized the Palestinian civilian population. It had also continued to build an illegal wall in the West Bank and had set up an unlawful blockade of the Gaza Strip, depriving Palestinians living in Occupied East Jerusalem of their residency rights and attempting to change the demographic composition of the Holy City by illegally evicting and deporting Palestinian Jerusalemites.

76. If the international community continued to tolerate Israel's illegal behaviour, it would have no incentive to change it. Moreover, allowing the occupying Power to continue breaching the law without consequence would destroy the two-State solution as a viable option. If the international community was serious about upholding the rule of law, Israel must be held fully accountable for its actions in accordance with international law, including international humanitarian law. Impunity must not be tolerated.

77. The Palestinian people, like all peoples, had the right to self-determination and the right to live freely in an independent State of Palestine, and there could be no justification for denying them those rights. The way in which the Security Council dealt with the application of the State of Palestine for admission as a full member of the United Nations would be a clear indication of whether the international community intended to continue along the path of occupation, impunity and destabilization or embark collectively upon a new path towards peace based on the principles enshrined in the Charter and on full respect for the rule of law.

The meeting rose at 5.55 p.m.