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OFFICE OF THE PRESIDENT OF THE GENERAL ASSEMBLY

The Office of the President of the General Assembly presents its compliments to all Permanent Missions and Permanent Observer Missions to the United Nations and has the honour to transmit the President's summary of the Interactive Thematic Debate on The Rule of Law and Global Challenges, held on 11 April 2011.

The Office of the President of the General Assembly avails itself of this opportunity to renew to all Permanent Missions and Permanent Observer Missions to the United Nations the assurances of its highest consideration. *W*

New York, 24 May 2011

All Permanent Missions and
Permanent Observer Missions to the
United Nations
New York

**THEMATIC DEBATE
OF THE 65TH SESSION OF THE GENERAL ASSEMBLY
ON THE RULE OF LAW AND GLOBAL CHALLENGES**

New York, 11 April 2011

President's Summary

The Informal Thematic Debate on the Rule of Law and Global Challenges was convened to examine how strengthening the rule of law can assist in addressing the key concerns facing the international community. It also aimed to focus Member States' attention on the breadth of the issues in this area in an informal setting in view of the high-level meeting of the General Assembly on rule of law, mandated for the high-level segment of the Assembly's 67th session (A/RES/65/32).

Opening session

High-level speakers in the opening session highlighted how recent events in the Middle East and North Africa illustrate the universal desire for strengthening the rule of law, which lies at the heart of the United Nations' mission. The fundamental principle that all persons, and the State itself, must be accountable to the law is central to international order and hopes of building peaceful, prosperous societies. Speakers highlighted that progress has been achieved on strengthening the rule of law at the national and international levels since the World Summit in 2005, when the General Assembly last debated the issue in plenary. UN rule of law assistance has expanded to more than 125 countries, in all regions and contexts. The Sixth Committee of the General Assembly has since held annual debates on the agenda item entitled "The rule of law at the national and international level". There is increased attention to the issue by the Security Council, resulting, for example, in stronger rule of law mandates for peacekeeping and special political missions.

Still, shortcomings remain in the international community's action in this field. Recognizing that a weak rule of law framework can be an underlying cause of conflict, strengthening rule of law frameworks should be more prominent in conflict prevention. Sophisticated types of criminality, such as drug and human trafficking, have emerged as new threats undermining the rule of law and require an adequate response at the national, regional and international levels. Building an effective rule of law system at the national level remains challenging, especially in post-conflict settings, where strategy development, operational support, capacity strengthening, logistics and infrastructure will require outside assistance. The political nature of the process must at all times be recognised and addressed. Further, the community of relevant actors on rule of law remains fragmented, among multilateral and non-governmental organisations as well as Member States. Greater coordination and coherence among them and more sustainable funding mechanisms are needed. For efforts to strengthen the rule of law to be effective, they must be centred more consistently around national perspectives of recipient countries. A global forum among all stakeholders, for which the United Nations would be a natural home, could help address many of these shortcomings.

Panel 1: “Rule of law and conflict situations”

The absence of rule of law within a country may not only cause suffering to its people, but can become a threat to international peace and security. Establishing the rule of law should be a key component of any conflict prevention and peacebuilding strategy. In a post-conflict society it requires bolstering confidence that agreed norms and justice can prevail, which often involves changing perceptions of public institutions, especially those in charge of justice and security. For the rule of law to be sustainable, there is a need for a comprehensive and balanced approach to strengthening justice and security institutions.

Accountability for gross violations of human rights law and international humanitarian law is of crucial importance for peace and reconciliation after conflict. Establishing that human rights violations have occurred including through international inquiries into these violations as well as transitional justice mechanisms is critical to this end. Support for domestic capacity to prosecute gross human rights violations should remain an important element of UN rule of law activities. Commitment to victims should be demonstrated by providing remedies for past injustices. International dispute settlement and accountability mechanisms play an important role in maintaining international peace and security. Judgments and advisory opinions of the International Court of Justice can help diffuse tension through the application of international law. Ad hoc and hybrid tribunals, while trying a minority of higher profile cases, have sent strong pre-emptive messages to potential perpetrators and are leaving behind a critical legacy in international criminal law.

Processes to strengthen the rule of law need to be nationally driven and the international community must not replace national authorities in the task. It is important to recognize local circumstances and strengthen national capacities when seeking to advance the rule of law at country level. For example, traditional and informal mechanisms are widely used for the provision of justice. Whilst some systems may raise concerns in relation to human rights or gender equality, it is critical to take them into account when developing approaches to strengthen the rule of law. Custom and tradition, and the justice systems based on them, are not static and can evolve to meet new needs.

Panel 2: “Rule of law and development”

The rule of law is important to overall development and the attainment of the MDGs. Strengthening the rule of law should be a continuous endeavour for both developing and developed countries. Among others, the role of a rules-based trade was emphasised by several Member States as a vehicle for stimulating consumption, production, and promoting employment. Predictable, fair, and properly enforced laws in societies can create an enabling environment for long-term investment returns, as well as ensure equitable distribution of rights and resources that underpin development efforts. Citizens who feel safe, are aware of their rights and confident that institutions and processes will deliver legal redress when they need it, will be better able to take their lives and progress into their own hands and can help drive development. In the private sector, the rule of law helps businesses move from the informal to the formal sector. In the same vein, women’s access to justice is critical to development. While the powerful link between focusing development resources on women and achieving poverty reduction targets are now well established, such gains will be short-lived if they are not protected by a commitment to women’s rights and access to justice.

The link between rule of law, conflict, and development was also highlighted. Conflict and fragility impede development. Developed societies are able to continually, incrementally and peacefully change without being subject to violent rupture and crisis. Effective institutions that can deliver justice and security are integral to achieving this ability of societies to adapt and pave the way out of fragility. However, it is important to acknowledge that there is no one institutional form to aim for.

Establishing the rule of law thus needs to be seen as an integral part of overall development strategies, designed to build resilience, improve governance and advance inclusive growth, and not as something to be initiated only in response to crises. Rule of law should be integrated into broader development programming, at the request of Member States and tailored to the local realities and priorities. Strengthening the rule of law is a national responsibility. Fostering a true sense of ownership by all, including civil society, is critical for successful rule of law initiatives. At a national level, countries need to take genuine steps to ensure that laws and practices are not incompatible with international norms and standards while adapting to social, economic, and political change. They also need to internalize an inclusive rule of law culture.

Closing session and conclusion

The Informal Thematic Debate reaffirmed the vital importance of strengthening the rule of law in addressing today's global challenges. It illustrated the critical role the rule of law plays in preventing conflict and violence, both of which threaten global and regional peace, and in fostering stable and sustainable development.

While the debate highlighted the progress achieved since the 2005 World Summit, it illustrated that progress remains uneven. One issue of concern is that, too often, the support provided by the international community, including bilateral donors and assistance providers, has not yielded the expected results at the national level. Further, the voices of national actors have largely been absent from the global discussion on rule of law assistance. Assistance has often been piece-meal and donor-driven, resulting in unsustainable results and conflicting approaches to developing justice and security institutions. Assistance has also suffered from a lack of strategic planning and coherence, which is essential given the wide range of issues and the large number of actors involved. The record to date thus strongly suggests the need for an inclusive international policy forum that brings together all stakeholders, for which the United Nations would appear to be a natural home.

The Interactive Thematic Debate was intended to contribute to the preparatory process for the high-level event on the rule of law which the General Assembly mandated for the beginning of the 67th session through an informed but informal discussion. While some Member States expressed concerns about linking these two initiatives, it was emphasised that the Interactive Thematic Debate was not intended in any way to prejudge the content of the high-level meeting or to define the discussion around its modalities, but merely to focus Member States' attention on the issues. It will be for Member States to take forward the content of the discussions with a view to shaping a high-level event in accordance with their shared priorities.