



INDIA
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STATEMENT

BY

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ON

AGENDA ITEM 82

“THE RULE OF LAW AT THE NATIONAL AND INTERNATIONAL LEVELS”

AT THE

SIXTH COMMITTEE OF THE 69TH SESSION OF THE
UNITED NATIONS GENERAL ASSEMBLY

NEW YORK

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Thank you, Mr. Chairman,

We associate ourselves with the statement made by the distinguished delegate of the Islamic Republic of Iran on behalf of Non-Aligned Movement yesterday.

Mr. Chairman

The agenda item “The Rule of Law at the National and International Levels” has been on the agenda of this Committee since sixty-first session of the General Assembly in 2006. The principal objective for inclusion of this item on the agenda is to focus the attention of the United Nations towards the rule of law at all levels.

We thank the UN Secretary-General for his report A/69/181 entitled “Strengthening and coordinating United Nations rule of law activities”. It highlighted the UN rule of law activities and developments at the national and international levels during the last year.

We appreciate the UN and its agencies for rendering assistance to the LDCs and other developing countries in promoting the rule of law by establishing or fostering the institutions and practices acceptable to those countries. It may also be noted that there is no agreed definition of the term “rule of law”.

We subscribe to the view that the independent, efficient and competent judicial systems are the backbone of the rule of law, as they provide legitimate and peaceful means to solve conflicts, ensure accountability and provide redress. But at the same time, it is important to note that the law-making activity at the national level is exclusively within the sovereign domain of the national legislature.

Mr. Chairman

We recall that at the 67th session of the General Assembly, the United Nations hosted a High-Level-Meeting on the Rule of Law at the National and International Levels, where the Heads of State and Government adopted a Declaration on the Rule of Law as an outcome document.

That Declaration, taking stock of the political, social and economic conditions, stressed upon the importance of implementation of the rule of law principles to achieve the purposes and principles of the United Nations, namely the maintenance of international peace and security, peaceful co-existence, justice for all and development. The Declaration reaffirmed the duty of all States to settle their international disputes by peaceful means. It also stressed the importance of continuing efforts to reform the Security Council. We consider it essential to reform

the Security Council at the earliest possible to make that body broadly representative, efficient and transparent.

Mr. Chairman,

According to the General Assembly Resolution 68/116 adopted last year, the focus of our debate in the present Session is on the sub-topic of “Sharing States’ national practices in strengthening the rule of law through access to justice”.

We are happy to share the Indian legal position and practices aimed at ensuring equal access to justice for all, which strengthens the rule of law.

Mr. Chairman,

After independence in 1947, India had adopted the Constitution, which is the supreme law of the land. According to the Preamble of the Constitution one of the objectives is “to secure to all its citizens Justice social, economic and political”.

Part III of the Constitution guarantees fundamental rights and freedoms to all citizens. These rights include the right to life and liberty, equality before law and equal protection of law, right against arbitrary detention, freedoms of speech, association, religious freedom, etc. Another most important right is the right to remedy in case of violation of any of these fundamental rights or freedoms. Article 32 of the Constitution guarantees the right to approach the Supreme Court of India for violation any of the fundamental rights. This right to approach directly the Supreme Court and seek remedy is itself a fundamental right. Further, Article 226 of the Constitution guarantees access to the High Courts in each State for remedies against any violation of any legal rights of individuals.

Further, the Indian Constitution guarantees everyone the right to have any dispute decided in a fair public hearing before an independent court or tribunal or any other independent and impartial forum. In order to secure that the operation of the legal system promotes justice on a basis of equal opportunity, Article 39A of the Constitution directs the State to provide free legal aid to the poor and disadvantaged citizens. Pursuant to this directive, the Indian Parliament has enacted the Legal Services Authorities Act, 1987 to provide free legal advice and other legal services to the peoples, in particular with social and economic backwardness, women, children, industrial workers, victims of mass disasters and natural calamities.

Mr. Chairman,

The Indian judiciary has, through its judicial pronouncements and activism in a number of cases, upheld the essence of the Constitutional provisions on ensuring equal access to justice for all. The Supreme Court and the High Courts have

pronounced in number of cases that there could be no derogation from fundamental rights conferred by the Constitution, especially the right to life and liberty, right to equality and right against discrimination, and the right to access to justice.

Mr. Chairman,

Moreover, the Supreme Court of India has taken pro-active measures to promote access to justice. It has relaxed the traditional rules of *locus standi* and procedural rules by treating a petition or even a letter received from any individual or body acting *pro bono publico*, as a formal petition to initiate legal proceedings for realization of fundamental rights. In appropriate cases the Court appointed commissioners or expert bodies to undertake fact-finding investigations. The mechanism of PIL now serves a much broader function of access to justice.

Thus the high Constitutional and democratic values of the Indian judicial and political system have the effect of ensuring equal access to justice for all.

Mr. Chairman,

With regard to the UN Secretary-General Report A/68/213/Add.1, we recommend that a comprehensive and thorough discussion should be held on the possible tools and models proposed in the SG Report. And such discussion should primarily be held in the Sixth Committee.

Finally, Mr. Chairman, we take this opportunity to call upon the international community to ensure observance of rule of law at international plane. There is an abiding deficit of rule of law in the institutions of global governance, in particular in the UN agencies and bodies. These organizations are neither representative nor transparent which raises questions about their legitimacy. Developing countries need to be given real voice and participation in global decision making. These global institutions must be fully reflective of contemporary realities and the rule of law norms to enable them to address the global challenges effectively.

I thank you Mr. Chairman.