

High-level Meeting on the Rule of Law at the National and International Levels

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The Republic of South Sudan greatly appreciates the invitation to participate in this important meeting of the General Assembly to deliberate on a common catchphrase and important subject of modern times, namely, the rule of law at both the national and international levels.

The Republic of South Sudan, as the Assembly is aware, is the newest Member of the United Nations family, having only attained sovereign independence last year, after several decades of bitter struggle for self-determination, justice, human rights, human dignity, peace and freedom. The independence of South Sudan came about as a result of a peaceful, democratic and internationally monitored national referendum held in January 2011. The outcome of the referendum was 98.7 per cent in favour of the creation of a new independent State of South Sudan. In effect, the people of South Sudan have chosen peace and freedom instead of costly and perpetual civil wars and conflicts with the people of the Sudan, to the north, whose dream has always been to build an Arab Islamic identity in the Republic of the Sudan, which was the predecessor State.

South Sudan has now embarked upon the dual task of State- and nation-building as a peace-loving member of the African Union and the United Nations family. South Sudan is committed to building a democratic State for all of its ethnically diverse people. It is committed to promoting justice, freedom, human dignity and the rule of law, not only at the national level but also at the international level, together with the other Members of the United Nations.

We are therefore pleased to participate in this meeting of the sixty-seventh session of the General Assembly, dedicated to the important topic of the rule of law. We hope our contribution to this meeting will provide more understanding of the developments in the new Republic of South Sudan, particularly as it pertains to the rule of law at both the national and international levels.

The Republic of South Sudan takes cognizance and recognizes the importance of the rule of law at the international level, based on the development, promotion and implementation of international norms and standards in relevant fields of international law. As a new Member of the United Nations, the Republic of South Sudan declares its commitment to the rule of law and to an international legal order in which the conduct of States in their international relations is based on the rule of law, respect for the sovereign equality of States and the principles and ideals of the Charter of the United Nations for the maintenance of international peace and security. The Republic of South Sudan furthermore takes note of the ongoing work on the rule of law under the auspices of the Secretary-General. We particularly acknowledge the framework and precise definitions provided in the Secretary-General's 2004 report on the rule of law and transitional justice in conflict and postconflict societies, which states that

“The ‘rule of law’ is a concept at the very heart of the Organization’s mission. It refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.” (S/2004/616, para. 6)

That definition certainly summarizes the basic concepts that underpin the historical and philosophical foundations of the concept of the rule of law from its early origins in history to this day.

Upon independence, on 9 July 2011, South Sudan promulgated a transitional Constitution under which our country is to be governed until 2015, when a new constitution shall be established through a democratic, inclusive and participatory process. Currently, a national constitutional review commission is at work collecting views and suggestions from all stakeholders in the country on the text of the future constitution. The commission was established with due regard to gender and the political, social and regional diversity of South Sudan, in recognition of the need for inclusiveness, transparency and the equitable participation of all our people.

The rule of law is enshrined in the transitional Constitution of the Republic of South Sudan of 2011, which is the supreme law of the land, from which authority at all levels of Government is derived and to which all State constitutions must conform. The Constitution vests sovereignty in the people, and the State exercises that sovereignty through its democratic and representative institutions, established under the Constitution and the law. Most important, the Constitution proclaims that South Sudan is founded on justice, equality, respect for human dignity and the advancement of human rights and fundamental freedoms.

The supreme law of our country embodies a bill of rights that is a covenant among the people of South Sudan and between them and their Government at every level, and a commitment to respect and promote human rights and fundamental freedoms guaranteed in the Constitution. The bill of rights is taken seriously as the cornerstone of social justice, equality and democracy by all institutions of Government and the people.

The independence of the judiciary, including financial independence, is guaranteed by the Constitution. The judiciary is the custodian of the Constitution and has the power to review any executive or legislative act that does not conform with the Constitution.

Consistent with international human rights law, the transitional Constitution embodies a bill of rights that guarantees the sanctity of rights and freedoms — the right to life, human dignity, personal liberty; freedom from slavery, servitude, and forced labour; equality before the law; the right to found a family; the rights of women; the rights of the child; freedom from torture; the right to a fair trial and litigation; restriction on the death penalty; the right to privacy; religious rights; freedom of expression and media; freedom of assembly and association and to form political parties; the right to participate in public life and to vote; freedom of movement and residence; the right to own property; the right to education; the rights of persons with special needs and the elderly; public health care; the right of access to information; the rights of ethnic and cultural communities; and the right to housing.

Those rights are guaranteed in our Constitution. That bill of rights is justiciable before courts of law, and therefore enforceable.

To ensure national implementation, South Sudan, following independence last year, embarked on the enormous task of building its legal system from the ground up following its disconnection from the old Sudanese legal system. While building

those legal frameworks, we are also currently engaging in a process of identifying multilateral and regional treaties and agreements for the purpose of their ratification, or for the Republic of South Sudan to accede to those international treaties and agreements, in accordance with the procedures and requirements of our Constitution. That process will facilitate the incorporation into domestic law of relevant international treaties, covenants, agreements and protocols in order to ensure their national enforcement.

South Sudan has so far acceded to a number of important international treaties and agreements, including the four Geneva Conventions of 1949 and their additional Protocols, and agreements relating to the International Monetary Fund and World Bank Group institutions. South Sudan has incorporated those instruments into its domestic laws. There is ongoing work between the Ministry for Foreign Affairs and the Ministry of Justice to update the situation so that our country accedes to all international human rights conventions and treaties in the coming months. Already, with the support of the United Nations Mission in our country, we have been able to hold workshops to address procedures for accession to, and ratification of, treaties. We are grateful for the cooperation of the United Nations Mission in South Sudan.

In spite of the progress made so far, South Sudan will continue to require more capacity-building support, possibly through bilateral and multilateral assistance and the integrated response provided by the Secretary-General. In strengthening the treaty bodies, as I have already mentioned, the Republic of South Sudan is working with the United Nations Mission in South Sudan and other multilateral bodies to develop strong and effective institutions in the area of the rule of law by providing training to the rule of law sectors, including the judiciary, the Ministry of Justice, the correctional services and the police. The support of the United Nations, although limited in nature, is greatly appreciated.

Building rule-of-law institutions remains one of the most challenging tasks our country is undertaking. As our nation is just one year old, it is still challenged by various difficulties, as it lacks capacity in the areas of the rule of law. In that regard, South Sudan is seeking the support of the United Nations so that in promoting the noble idea of the rule of law we have the capacity to carry out our obligations under the Charter of the United Nations.

With regard to the International Court of Justice and strengthening its role, South Sudan recognizes the importance of the international dispute resolution mechanisms. South Sudan is therefore committed to utilizing the forum of the

International Court of Justice and other adjudicative bodies and mechanisms for the peaceful resolution of disputes. From its inception, the Comprehensive Peace Agreement, which led to the independence of South Sudan, was brokered through such international mechanisms. Moreover, South Sudan, even before its independence from the Sudan, agreed to a settlement by the Permanent Court of Arbitration at The Hague on the Abyei boundary dispute between it and the Sudan. Furthermore, South Sudan fully accepts the recommendations of Security Council resolution 2046 (2012) and has agreed to peaceful negotiations with the Sudan, facilitated by the African Union High-level Implementation Panel under the leadership of President Thabo Mbeki.

As for strengthening the rule of law at the national level, the transitional Constitution of the Republic of South Sudan incorporates important principles that guarantee access to services for marginalized and vulnerable groups. The Constitution also requires all levels of Government to enact laws to combat harmful customs and traditions that undermine the dignity and status of women and to promote the rights of women to own property and share in the estates of their deceased husbands together with any surviving heirs. It requires the provision of maternity care, child care and medical care for pregnant and lactating women. Furthermore, the Constitution also provides for the right of the child to life, survival and development and not to be subjected to exploitative practices or abuse, nor to be required to serve in the army or permitted to perform work that may be hazardous or harmful to the child's education, health or well-being.

As I said, the Assembly will definitely acknowledge that I represent the youngest Member of the United Nations. So I appeal to the President to allow me to finish my statement as a privilege for the youngest member of the community here.

Our Constitution requires all levels of Government to guarantee the right of persons with disabilities or special needs to participate in society and to enjoy rights and freedoms, especially access to public facilities, suitable education and employment. All levels of Government are also required to ensure that the elderly and persons with special needs are accorded, with dignity, the medical services and care necessary for their health.

With regard to accountability, the Government of South Sudan recognizes that the basic principles of open Government are key to achieving public confidence in Government. To that end, the Government has established legal and institutional frameworks in the areas of anti-corruption efforts, public financing, accounting and management, anti-money-laundering, public auditing and public employee

grievance mechanisms. In addition to those legal frameworks, new legislation pertaining to the public's right of access to information has been presented to, and is under deliberation by, our Parliament.

Nevertheless, significant funding and technical assistance for design, planning and implementation in areas such as the programme for the protection of whistle-blowers and witness protection is required if they are to be made active. However, in its development plan, the Government ensures that public participation and engagement in policy and decision-making processes are an integral part of good governance, the rule of law and accountability.

With regard to national data collection, South Sudan is committed to strengthening its service delivery by improving the organizational management of rule of law institutions, including the establishment of policies for the improvement of services. Work is already under way through the South Sudan judiciary action plan 2011-2014, the Ministry of Justice strategic framework 2012-2013, and the Ministry of the Interior action plan for 2012. However, as a new nation emerging from conflict, there is enormous need for technical support, capacity development and programming to ensure effectiveness and efficiency in policy development and implementation.

In terms of civil society, the transitional Constitution of the Republic of South Sudan includes provisions relating to the freedom of assembly and association and the right to participation and voting. The Government has already established legal frameworks for political parties, elections and electoral law. The legal and institutional framework for the professional associations of lawyers and other civil society and professional groups is also under way. The Government recognizes its partnership with civil society.

Even before South Sudan's independence, civil society organizations were actively involved in addressing many social and public needs within southern Sudan. The Government is committed to supporting civil society organizations in their efforts to effectively strengthen the voice of the citizens by empowering them.

In terms of traditional and informal justice systems, the Constitution recognizes customary law and traditional institutions, allowing them to function alongside formal justice sector institutions. The traditional and informal sector is functioning in accordance with the Constitution and the law. Under the Local Government Act, customary law councils and courts are established with appointed judges.

However, there still remain major conflict areas between the traditional justice mechanisms and the formal legal system.

In supporting peace and security in conflict and post-conflict situations, as a nation emerging from a long civil war, security continues to be a concern for the Government of South Sudan, especially with regard to interference coming from the north from our former compatriots in the Sudan. The impact of continued armed conflict in parts of the country affects the implementation of rule-of-law programmes, the security of citizens and human rights. Moreover, in the aftermath of conflict, South Sudan lacks the capacity and financial resources required to implement initiatives and programmes within justice sector institutions to mitigate the causes and consequences of insecurity.

However, we are in dialogue with our neighbour the Sudan, in order to resolve all outstanding issues through peaceful means, in accordance with the Charter of the United Nations. Together with the United Nations Mission in the Republic of South Sudan, South Sudan is currently providing training for justice sector institutions to increase their presence throughout the country, improve their efficiency and effectiveness and gradually improve overall peace and security throughout the country.

With respect to sustainable human development, even prior to independence, South Sudan had continually endeavoured to develop and promote legal frameworks for business and to foster an enabling environment that supports entrepreneurship and the growth of small- and medium-size enterprises. Some of the legal frameworks already developed to boost private sector investment include investment promotion, consumer protection laws and regulations relating to companies, cooperative societies, the sale of goods, import and export, registration of businesses, partnerships, contracts and agencies, to mention but a few. Recently, South Sudan acceded to a variety of conventions and other legal frameworks through membership in the International Monetary Fund and the World Bank Group institutions. However, South Sudan is still hampered by severe capacity deficits in its efforts to foster an enabling environment for sustainable human development.

With respect to fighting corruption, as a new State, South Sudan has limited legal frameworks for dealing with that problem, but it has taken major steps to develop mechanisms and create institutions by which accountability can be ensured. We have an anti-corruption commission within the Ministry of Justice and other bodies whose role is to check corruption in public life.

Finally, I would be remiss if I did not mention the rights of women and children. Our Constitution includes affirmative action specifically designed to empower women. We set aside 25 per cent of the seats in all decision-making institutions for women. Thanks to that policy, South Sudanese women currently participate in various areas of public life through social networks, women's groups, political parties, and in the executive and legislative bodies of our Government. With regard to empowering children, our Constitution and bill of rights provides for the protection of the child, including the right to life, survival and development, and name and nationality. The Constitution also protects children from all forms of discrimination, corporal punishment in schools, cruel and inhuman treatment, and from being subjected to negation or harmful cultural practices that affect child health. In short, we have already incorporated the United Nations Convention on the Rights of the Child into our domestic law.

In conclusion, as a new nation, South Sudan is committed to strengthening the nexus between the rule of law at the national, regional and international levels in order to ensure accountability for perpetrators of international crimes and other gross violations of human rights. We stand ready to cooperate in investigations and prosecutions of international crimes. However, at present, due to inadequate capacity within our domestic institutions, assistance is needed to support our rule-of-law institutions in investigating, prosecuting and trying perpetrators of international or transboundary crimes.