

Measuring Rule of Law and the Post-2015 Agenda

Side Event to the Eighth Session of the Open Working Group on Sustainable Development Goals
Trusteeship Council Chamber, Friday 7 February 2014, 1.15 p.m.

A. Summary

The Permanent Mission of Pakistan and the United Nations system, through the Rule of Law Coordination and Resource Group (RoLCRG¹), chaired by the Deputy Secretary-General, are co-sponsoring a side-event on *Measuring Rule of Law and the Post-2015 Agenda* at the Eighth Session of the Open Working Group on Sustainable Development.

Panelists will discuss ways that the rule of law can be measured in the post-2015 agenda, and address concerns around the feasibility of including the rule of law in the post-2015 agenda. This event will provide Member States with an opportunity to explore options for developing goals, targets and indicators that promote justice and the rule of law.

The panel discussions will address:

- Existing measures of justice and rule of law
- What is feasible in scaling existing measures and developing baskets of indicators
- Options for national-level variation in targets and indicators, including examples of national development plans that include targets/indicators on rule of law/justice

Keynote address: Mr. Jan Eliasson, United Nations Deputy Secretary-General

Opening remarks: H.E. Mr. Masood Khan, Permanent Representative of Pakistan to the United Nations

Chair: Mr. Mahmoud Mohieldin, Special Envoy for the President of the World Bank

Speakers:

- Dr. Juan Carlos Botero, Executive Director, The World Justice Project
- Mr. Mario Palma, Vice President, National Institute of Statistics and Geography of Mexico
- Ms. Susan Davis, CEO BRAC USA

B. Background

The rule of law is an intrinsic end of development, and also essential to the achievement of many other development goals, including: (1) preventing and mitigating conflict, crime and violence; (2) ensuring executive accountability (including for the delivery of basic services); (3) establishing a functioning regulatory system that fosters equitable private sector growth, and (4) empowering citizens to address underlying causes of inequality and exclusion (e.g. access to justice, legal recognition and information).

Issues of justice and rule of law are of global concern, affecting countries in all development situations. Justice institutions as a means of dispute resolution are important in all countries, including for conflict prevention and post-conflict peacebuilding, where institutions that curb conflict and provide a means for peaceful grievance redress are key. Effective and transparent

¹ The Rule of Law Coordination and Resource Group includes the Department of Economic and Social Affairs, the Department of Political Affairs, the Department of Peacekeeping Operations, the Office for the Coordination of Humanitarian Affairs, the Office of the High Commissioner for Human Rights, the Office of Legal Affairs, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, the United Nations Peacebuilding Support Office, the United Nations Democracy Fund, the United Nations Development Programme, the United Nations Environment Programme, the United Nations Human Settlements Programme, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the United Nations Office on Drugs and Crime, the United Nations Office for Project Services, the United Nations Entity for Gender Equality and the Empowerment of Women and the World Bank.

institutions also lay the foundation for a stable and peaceful society, thereby playing an important role in stabilizing countries. Inequality and exclusion occurs in all countries and demands for equal access to justice, safety, legal recognition and access to secure land and property rights are concerns not limited to developing countries.

While the Millennium Development Goals (MDGs) did not explicitly address rule of law or justice, over the past decade the international community has increasingly emphasized the importance of these issues in addressing poverty and achieving shared prosperity. The High-level Meeting of the General Assembly on the Rule of Law in September 2012 noted that “the rule of law and development are strongly interrelated and mutually reinforcing” and should therefore “be considered in the post-2015 international development agenda.”² The September 2013 United Nations General Assembly Special Event further reaffirmed that the post-2015 agenda “should also promote peace and security, democratic governance, the rule of law, gender equality and human rights for all.”³ The New Deal for Engagement in Fragile States also identified justice as one of five Peacebuilding and Statebuilding Goals, intended to guide work in fragile and conflict-affected states.⁴

This creates expanded space to design goals, targets and indicators in the post-2015 framework that measure rule of law and justice. Indeed, the goals and targets set out by the High-Level Panel (HLP) represent a leap forward from the MDGs in recognizing the contribution of justice and the rule of law to development. Goal 10: Ensure Good Governance and Effective Institutions and Goal 11: Ensure Stable and Peaceful Societies directly address rule of law issues. Rule of law is also mainstreamed into other goals (1 - Poverty; 2 - Gender; 12 - Global Enabling Environment) and the subject of specific targets (outcomes in Target 11a; institutions in Targets 11b and 11d).⁵ However, the report indicated that a majority of the targets related to rule of law and justice required additional technical work to recommend appropriate indicators. As 2015 draws nearer, exploring appropriate indicators will become increasingly important for member states.

C. Measuring Rule of Law in the Post-2015 Agenda

Defining and measuring goals, targets and indicators on justice and rule of law is both technically feasible and a key component in ensuring that the post-2015 agenda is equitable and inclusive. The event *Measuring Rule of Law and the Post-2015 Agenda* will provide Member States with an opportunity to explore options for developing goals, targets and indicators that promote rule of law and examine ways that justice and rule of law can be measured in the post-2015 agenda. The event will address concerns around the feasibility of measuring justice and rule of law, and discuss ways to overcome these challenges.

Existing measures of justice and rule of law

Accurate and comparable data on rule of law and justice already exists in many forms at both national and international levels, and can be harnessed and analyzed to support the post-2015 process. Almost every national government collects some type of administrative data relevant to rule of law and justice, whether it is on the number of court cases resolved in a 12 month period,

² UN General Assembly, “Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels.” A/RES/67/1. 30 November 2012.

³ UN General Assembly, “Outcome document of the special event to follow up efforts made towards achieving the Millennium Development Goals, October 2013.

⁴ International Dialogue on Peacebuilding and Statebuilding, “A New Deal for Engagement in Fragile States”, November 2011.

⁵ Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, 2013. A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development.

police and hospital records on number of reported homicides, or voting records.⁶ These existing reporting systems can be strengthened where necessary, and analyzed to inform justice and rule of law indicators. Civil society and international organizations also conduct many cross-national studies that measure elements of rule of law and justice, which could be strengthened and adapted to include the specific indicators agreed upon for the post-2015 framework.⁷ Some surveys include perception-based measures, which provide context to better understand the lived experience of citizens and users of the justice system.

Scaling measures and developing baskets of useful indicators

The experience of the MDGs showed that setting international goals can spur indicator development and data collection, and it is likely the post-2015 goals will do the same. This could be its great contribution to issues of justice and rule of law. Although there are plenty of existing data to provide a starting point, it is important that post-2015 indicators are not limited to these measures. Rule of law indicators in post-2015 should consider existing sources of data, but importantly consider what new data is reasonably collectible, with additional international support in order to encourage the design and delivery of services that fulfill rule of law needs.

Rule of law and justice are complex concepts to define and quantify, and measurement of these issues should not be constrained to a single indicator. Preference should be given to measures that focus on outcomes, not inputs. These are measures that focus on changes in the experience of users, rather than those that track internal aspects -- that is, measures that indicate results rather than resources, activities, or level of effort. Utilizing baskets of indicators can address these challenges and draw on multiple measures and data sources to paint a more nuanced picture of the experience of justice for citizens. For example, to measure access to justice, measuring the number of public defenders per 100,000 provides an administrative indicator of inputs to the justice system, but does not offer significant information about justice outcomes. However this can be combined with an 'objective' situation indicator measuring the average time to resolve a dispute as well as a perception measure assessing a user's confidence that they can access timely, effective legal services, and together provide a rounded picture to the assessment of progress towards the target.⁸

Incorporating national priorities and utilizing national-level justice indicators

Including the rule of law in the post-2015 agenda will also necessarily involve balancing national priorities within an inclusive international framework. Past experience has shown the importance of developing strong national support for rule of law reform, and reflecting local context and realities of users' justice experience⁹. For the post-2015 agenda to create meaningful improvements in justice and rule of law, this balance is vital. Member States are exploring the options, including having a global framework with national level variation.

⁶ Statistical note for the TST Issues Brief on Conflict Prevention, Post-conflict Peacebuilding and the Promotion of Durable Peace, Rule of Law and Governance, December 2013.

⁷ For example, the Afrobarometer, Asian Barometer, Latinobarometer; The Ibrahim Index of African Governance and the World Justice Project Rule of Law Index measuring administrative and criminal justice; UNODC data on criminal justice themes; UNICEF data on birth registrations and legal identity; Global Corruption Barometer and Global Integrity Index measuring corruption; Cingranelli-Richards CIRI Human Rights Dataset and Freedom House; The United Nations Rule of Law Indicators Project, developed by the Department of Peacekeeping Operations and the Office of the High Commissioner for Human Rights.

⁸ Open Society Institute, "Measuring Justice In The Post-2015 Development Framework." December 2013.

⁹ Berg, Louis-Alexandre and Deval Desai. "Background Paper: Overview on the Rule of Law and Sustainable Development for the Global Dialogue on Rule of Law and the Post-2015 Development Agenda." August 2013.