

A day-long thematic debate in the Security Council today culminated in the adoption of a presidential statement by which the Council stressed the importance and urgency of restoring justice and the rule of law in post-conflict societies, not only to come to terms with past abuses, but also to promote national reconciliation and to help prevent a return to conflict.

Through a statement read out by the Council's President for the month, Emyr Jones Parry (United Kingdom) (S/PRST/2004/34), the Council emphasized that ending the climate of impunity is essential in a conflict and post-conflict society efforts to come to terms with past abuses, and in preventing future ones.

Opening the meeting this morning, Secretary-General Kofi Annan said that reintroducing the rule of law and ensuring its impartial application was essential for resuscitating societies shattered by conflict. The United Nations had learned many lessons, including the need for peace-building activities to reflect international norms and standards. That did not mean, however, that foreign models should be uncritically imported or imposed. Support needed to be carefully tailored to the context, based on national assessments, needs and aspirations.

ruth and justice postponed meant hidden graves deep in the human mind, at least for the families of victims, said United Nations Development Programme (UNDP) Administrator Mark Malloch Brown. The rule of law was a system of interrelated institutions that could not be considered separately -- actions in any one impacted them all. Issues of truth and reconciliation often risked overshadowing early justice development, he cautioned, noting that the too early exercise of retributive justice could undermine a fragile peace and the even more fragile trust between former enemies on which it rested.

The Secretary-General's Special Advisor on the Prevention of Genocide, Juan Mndez, said that a peace settlement that rejected impunity was a legal and moral imperative. That was why it was important to resist the lackmail of those who threatened to continue to commit atrocities unless they were given immunities. Ceasefires should always be encouraged, but it might be necessary to forego immediate justice, as long as the ability to address past wrongs in the future was preserved. Such thorny questions could not be resolved in an abstract debate, however.

The Council first considered the subject of today's thematic debate when it convened a ministerial level-meeting on 24 September 2003, and again on 30 September 2003 in an open meeting for non-Council members. Dominating today's discussion were calls to integrate justice and rule-of-law provisions into the mandates of peace operations from the outset, to allow for early reconciliation and reconstruction to take hold in societies fractured by conflict. Speakers cautioned, however, against pre-packaged solutions and ne-size-fits-all formulas. Several commended the International Criminal Court as the embodiment of the hopes and aspirations of the victims of the most serious international crimes, insisting that it offered the best hope for ending impunity.

Germany's representative noted that the Secretary-General's report, while a landmark document, was only a beginning and had left several difficult questions unresolved, including the proper sequencing and timing of measures to promote peace, justice and reconciliation, and

institutional relationships between the United Nations and the International Criminal Court. His country, together with Finland and Jordan, had circulated a non-paper presenting the idea for a new United Nations entity, which that would, among other things, develop proposals and policies for action and help to plan comprehensive national strategies.

Also speaking today were the representatives of Philippines, Russian Federation, Pakistan, Spain, Chile, Brazil, Romania, Algeria, United States, Benin, France, China, Angola, United Kingdom, Netherlands, Australia, Jordan, Finland, Austria, Uganda, Switzerland, South Africa, Liechtenstein, Belarus, Sweden, Argentina, Singapore, Burundi, India, Republic of Korea, Costa Rica, Japan, Peru, Fiji, Sierra Leon, Canada, Mexico, Saint Vincent and the Grenadines, Nigeria, and Indonesia.

The Permanent Observer of Palestine to the United Nations also spoke.

The meeting began at 10:41 a.m. and was suspended at 12:55 p.m. It resumed again at 3:10 p.m. and adjourned at 6:40 p.m.

Presidential Statement

The full text of the Presidential Statement which will be issued as S/PRST/2004/34, reads as follows:

The Security Council thanks the Secretary General for his report dated 3 August 2004, which reissued on 23 August 2004 (S/2004/616), and reaffirms the vital importance that the Council attaches to promoting justice and the rule of law, and post-conflict national reconciliation. The Council will consider, as appropriate in its deliberations, the recommendations set out in paragraph 64 of the report.

The Security Council urges the Secretariat of the United Nations to take make proposals for implementation of the recommendations set out in paragraph 65 of the report, and draws attention in particular to the importance of the practical measures set out in that paragraph that can be implemented rapidly, including co-ordination of existing expertise and resources, setting up databases and web-based resources and developing rosters of experts, workshops and training. The Council urges Member States which are interested in doing so to contribute national expertise and materials to these developments within their means, and to improve their capacities in these areas.

The Security Council recalls the important statement made by the Secretary General to the fifty-ninth session of the United Nations General Assembly on 21 September 2004 and endorses his view that it is by reintroducing the rule of law and confidence in its impartial application that we can hope to resuscitate societies shattered by conflict. The Council stresses the importance and urgency of the restoration of justice and the rule of law in post-conflict societies, not only to come to terms with past abuses, but also to promote national reconciliation and to help prevent a return to conflict in the future. The Council emphasises that such processes must be inclusive, gender-sensitive and open to the full participation of women.

The Security Council underlines the importance of assessing the particular justice and rule-of-law needs in each host country, taking into consideration the nature of the countrys legal system, traditions and institutions, and of avoiding a ne-size-fits-all approach. The Council recognizes that building national capacities and independent national institutions is essential, that local ownership and leadership in that process should be encouraged and respected, and that international structures can play a complementary and supportive role.

The Security Council emphasizes that ending the climate of impunity is essential in a conflict and post-conflict societys efforts to come to terms with past abuses, and in preventing future abuses. The Council draws attention to the full range of transitional justice mechanisms that should be considered, including national, international and ixed criminal tribunals, truth and reconciliation commissions, and underlines that those mechanisms should concentrate not only on individual responsibility for serious crimes, but also on the need to seek peace, truth and national reconciliation. The Council welcomes the reports balanced appraisal of the lessons to be learned from the experience of the ad hoc international criminal tribunals and ixed tribunals.

The Security Council recalls that justice and rule of law at the international level are of key importance for promoting and maintaining peace, stability and development in the world. The Council underlines also the importance of helping to prevent future conflicts through addressing their root causes in a legitimate and fair manner.

The Security Council warmly welcomes the Secretary Generals decision to make the United Nations work to strengthen the rule of law and transitional justice in conflict and post-conflict societies a priority for the remainder of his tenure. The Council invites the Secretary-General to keep it informed on the Secretariats progress in taking forward the recommendations set out in paragraph 65 of the report and expresses the intention to consider this matter again within six months.r
Background

The Security Council met this morning to consider ustice and the Rule of Law: the United Nations Role. The Council first took up the agenda item on 24 September 2003, at the ministerial level, and then on 30 September 2003, in an open meeting. [For further information, see Press Releases SC/7880 and SC/7884.]

For todays discussion, the Council had before it the Secretary-Generals report on the rule of law and transitional justice in conflict and post-conflict societies (document S/2004/616), in which he states that in helping war-torn societies re-establish the rule of law and come to terms with large-scale past abuses after conflict, the United Nations must reject any amnesty for genocide, war crimes or crimes against humanity. Such crimes include ethnic, gender- and sexually-based international crimes, and Council mandates should ensure that no such amnesty previously granted bar prosecution before a United Nations-created or assisted court.

At the same time, he stresses that the United Nations not establish or directly participate in any tribunal for which capital punishment is a possible sanction, and that it insist on full government

cooperation with international and mixed tribunals, including the surrender of accused persons. Helping such societies, "all within a context marked by devastated institutions, exhausted resources, diminished security and a traumatized and divided population, is a daunting, often overwhelming task", he notes.

But "justice, peace and democracy are not mutually exclusive objectives, but rather mutually reinforcing imperatives", he adds in his recommendations, requested by the Council at a meeting in January on post-conflict national reconciliation and the role of the United Nations. Advancing all three in fragile post-conflict settings requires strategic planning, careful integration and sensible sequencing of activities. Approaches focusing only on one or another institution, or ignoring civil society or victims, will not be effective. The main role of the United Nations was not to build international substitutes for national structures, but to help build domestic justice capacities.

The Secretary-General calls for recognizing the need to ensure gender sensitivity in restoring the rule of law, as well as ensuring the full participation of women, and for avoiding the imposition of external models. "We must learn as well to eschew one-size-fits-all formulas and the imposition of foreign models, and, instead, base our support on national assessments, national participation and national needs and aspirations", he says, noting that recent years have seen an increased United Nations focus on the problem that has been "yielding important lessons for our future activities". He pledges to instruct the Executive Committee on Peace and Security to propose concrete action to strengthen United Nations support for tackling the issues.

In some cases, he notes, international or mixed tribunals have been established to address past crimes in war-torn societies. While they have helped bring justice and hope to victims, among other things, they have been expensive and have contributed little to sustainable national capacities for justice administration. The International Criminal Court offers new hope for a permanent reduction in the phenomenon of impunity and the further ratification of its statute is to be encouraged.

Statement by Secretary-General

Secretary-General KOFI ANNAN said that reintroducing the rule of law, and ensuring confidence in its impartial application, was an essential part of resuscitating societies shattered by conflict. That principle lay at the heart of the report before the Council. The report reviewed the tools at the Organizations disposal to help administer transitional justice and rebuild the rule of law in conflict and post-conflict societies. These included national justice systems, United Nations peace operations support, the International Criminal Court, ad hoc international and mixed tribunals, truth commissions, public sector vetting and reparations for victims.

The work of the United Nations in the field had taught the Organization many lessons, he said. The first was that, to be successful, peace-building activities must reflect international norms and standards. That did not mean, however, that foreign models should be uncritically imported or imposed. One size did not fit all, he said. Support needed to be carefully tailored to the context, based on national assessments, national participation and national needs and aspirations.

e must be provided with the resources needed for a sustainable investment in justice, he continued. While those resources must help build local capacity, simply providing technical assistance was not enough. It was also important to help foster and sustain political will at the national level. The international community should, therefore, support domestic reform constituencies and facilitate national consultations on justice reform and transitional justice.

It was also important not to forget the political context, he said. Peace and stability could only prevail if the causes of conflict, including ethnic discrimination, gross disparities in the distribution of wealth and social services, abuse of power, and the denial of the right to property or citizenship, were addressed in a legitimate and fair manner. Indeed, justice, peace and democracy were mutually reinforcing. In fragile post-conflict settings, efforts must advance on all three fronts. That required strategic planning, careful integration and sensible sequencing.

The international community's approach to justice must be comprehensive, he continued. It was also important to address the police, courts, prisons, defence lawyers and prosecutors. The world must be sensitive to the needs of civil society, including victims, women, children and minorities.

Concerning transitional justice, the best approach was usually not an either/or choice between prosecutions and truth commissions, he said. Instead, a nationally determined combination of mechanisms generally worked best, including, where appropriate, traditional justice mechanisms. In some cases, international or mixed tribunals had been set up to address past crimes. Those tribunals had helped bring a measure of justice to victims, held some perpetrators to account and helped remove extremist elements from power. They had also enriched the jurisprudence of international criminal law. But they had been expensive and had not contributed adequately to building sustainable national capacities for the administration of justice.

The establishment of the International Criminal Court, he stated, offered new hope for a permanent reduction in the phenomenon of impunity, a hope that would grow stronger with each new ratification of the Rome Statute. He hoped the recommendations in the report would serve as a practical aide-memoire for the Council to help it pay due attention to the rule of law and transitional justice, as it addressed the conflict and post-conflict situations before it.

have not forgotten my own responsibilities and those of United Nations departments, agencies, funds and programmes, he said. The United Nations system was working on important new tools to help strengthen its capacities to support the rule of law and transitional justice, including a justice-sector mapping guide, support for the development of model transitional criminal codes, and policy guidance for domestic and hybrid prosecutions. The United Nations system would continue to work in the coming months to implement the reports recommendations.

Statements

JUAN MNDEZ, Special Adviser to the Secretary-General on the Prevention of Genocide and Director of the International Centre for Transitional Justice, said that the Centre was founded on the premise that societies in transition could find solutions to common problems by analysing

experiences in different countries at different times. Official denial of mass crimes was often a feature of those transitions. To overcome them, some States had established truth-telling mechanisms. The atrocities, however, were often met by *e jure* or *e facto* impunity, but there could be no successful transition unless impunity was broken through prosecution, trial and punishment. The remedy was a policy of reparations that restored the respect that societies owed to their most vulnerable members. If perpetrators remained in power, the risk also remained of repeat offences. Societies still torn by underlying conflict of a social, political, or ideological character should consider conscious efforts to achieve reconciliation. Reconciliation should be viewed as the ultimate objective and condition of the legitimacy of efforts to achieve transnational justice.

He said that international law placed obligations on States undergoing transitions to remedy violations. Although those obligations were universal, the policy mechanisms to put them in effect must allow for national customisation and experimentation. Each society must find the set of tools and policy schemes suitable to the circumstances of its own transition. The international community should avoid adopting initiatives that seemed to work in other contexts, without a broad consultation with national stakeholders. He supported the reports emphasis on national assessments and consultation processes designed to increase local legitimacy and ownership, thereby leaving a lasting legacy of tolerance and democratic values. National ownership would reduce the risk that the United Nations work would be perceived as a foreign imposition that ran roughshod over the richness and capabilities of local cultures.

The inclusion of a commitment to transitional justice in peace agreements and United Nations mandates should not lead to premature decisions to apply untested models, he said. The United Nations must invest from the start in outreach, public education and dissemination of the principles of transitional justice, as well as in the applications of rule-of-law principles to the reform of State institutions. He recognized that the Organization needed to increase its reservoir of expertise and capacities, and he hoped that, in so doing, it drew on the wealth of knowledge present in civil society organizations, democratic governments, and academic institutions. The Security Council could play a large role in enhancing the legitimacy of that evolving doctrine. In some cases, it would be necessary to create international judicial instruments to provide redress to the victims of mass atrocities.

He said that when tribunals were created under Chapter VII of the Charter, there was an explicit obligation on all Member States to cooperate with their investigations, detentions, and evidence gathering. On the other hand, even when not acting under Chapter VII, the Council could explicitly mandate cooperation with mixed, or hybrid courts and with the International Criminal Court. That would help clarify the scope of third-party States obligations to cooperate with those institutions. More significantly, however, that would signal that the international community was not so much interested in imposing its will on war-torn States, but that it recognized that the restoration of justice and the rule of law was a common enterprise in which all States must play a part. The temptation to establish a truth commission as a substitute for accountability should be resisted. It should also be recognized that punishment without a full exploration of the facts and of historical and political responsibilities was equally not advisable.

For those reasons, he said he embraced a policy that assigned proper priorities to truth seeking

and truth telling, as well as to bringing perpetrators to justice. The United Nations had played a major role in supporting the Truth and Reconciliation Commission in Sierra Leone. It had also been central to the operations of the Sierra Leone Special Court. While the relationships between those institutions had not been without their difficulties, there was an increasing recognition that courts and commissions could complement each others work. There was also a long-standing debate as to whether the requirements of transitional justice objectively, as well as subjectively, complicated peace processes by creating disincentives for parties to a conflict to renounce violence. Those who approached those problems from a human rights perspective must humbly recognize that the prospect of being prosecuted for war crimes was not likely to persuade combatants to resolve the conflict by peaceful means. It was not so much that he objected to peace agreements that were premised on impunity, but he must insist on the need to do better.

Continuing, he said that a peace settlement that rejected impunity was a legal and moral imperative. At the same time, it must also address the grievances that gave rise to the conflict in the first place. It was important to resist the lackmail of those who threatened to continue to fight and commit atrocities unless they were given immunities. Ceasefires and truces, however, should be encouraged at all times, and it might be necessary to forego immediate justice as long as the ability to address past wrongs in the future was preserved. Those thorny questions were context-specific and could not be resolved in an abstract debate. Yet, peacemaking should end the easy resort to blackmail embodied in the promise of loose amnesties and other rewards for atrocities.

JOSE DE VENECIA, JR. (Philippines) said that nations emerging from civil conflicts were often traumatized by memories of violence and abuse. Nevertheless, ell-meaning outsiders were not always helpful in preserving the peace. For example, they frequently prioritized demobilization of irregular militias, organization of new security forces, and punishment of guilty parties. What they failed to realize, however, was that addressing past crimes prematurely could lead warlords and gangsters to resist peace initiatives. In that regard, it was better to strike a balance between accounting for past crimes and ensuring effective reconciliation between antagonistic parties.

Despite his punishment-related concerns, he stressed that justice had to be a key element in the promotion of reconciliation in post-conflict societies. In addition, bringing back the rule of law was an integral part of the rebuilding process. He lauded the efforts of the United Nations in post-conflict societies to build models of ustainable peace, which would endure long after international peacemakers had left. Nevertheless, he insisted that such efforts must be well-planned and long-lasting. After all, the international communitys track record for successfully rebuilding States was not very good.

Turning to his countrys proposals to have an nter-faith dialogue within the United Nations system, he said it was easier to bring about reconciliation in an atmosphere of spirituality and faith. For its part, his country had initiated Christian-Muslim dialogues at the regional level, not only among political leaders, but among religious ones as well. He added that because of the religious sectors oral authority, it was well positioned to help the Security Council deal with conflicts, especially if they had religious undertones.

ANDREY DENISOV (Russian Federation) stressed the need to improve peacekeeping mandates, as many did not include tasks regarding transitional justice, or reflect the needs of States where missions were deployed. Several years ago, the Russian Federation had proposed that the Special Committee on the United Nations Charter consider the question of the legal basis for United Nations peacekeeping operations. That Committee might now resume work on the Russian proposal.

One could not count on stable reforms for ensuring the rule of law when they were imposed from the outside and not based on local traditions, he said. The international community should not replace, but encourage, national initiatives. In the initial stages of United Nations efforts to ensure the rule of law in post-conflict societies, there had been an emphasis on establishing expensive tribunals. Experience had allowed for corrective measures, such as mixed tribunals, which included local jurists, thereby making it possible to train national cadres in law, establish national legal systems, and enhance the overall level of societies understanding of the law.

One important stage in establishing the rule of law was the establishment of the International Criminal Court, which had just begun considering its first criminal cases. Ensuring the rule of law must be regarded as a fundamental goal of United Nations work for peace. It could not, however, be a goal in and of itself. One should make more active use of alternative mechanisms, such as truth and reconciliation commissions.

He supported that proposal to develop a roster of experts for providing assistance to countries, and was ready to work with the Secretariat on that matter. He agreed overall with the Secretary-Generals report in establishing justice systems and ensuring the rule of law in conflict and post-conflict countries. While he did not reject the need to establish a new coordinating structure within the United Nations on matters related to the rule of law, he did not believe that increasing the number of bureaucratic mechanisms would lead to enhanced functioning and effectiveness. In that regard, he urged the Executive Committee on Peace and Security to focus on ways to improve coordination within existing mechanisms.

GUNTER PLEUGER (Germany) called the Secretary-Generals report on the rule of law and transitional justice a landmark document, and said that, as a major donor country that devoted a significant part of its aid to the promotion of both judicial and non-judicial governance structures, Germany would work with the United Nations to make the reports vision a reality. Nevertheless, the report was only a beginning and had left several important and difficult questions unresolved. Those questions involved such themes as: the proper sequencing and timing of measures to promote peace, justice and reconciliation; institutional relationships between the United Nations and the International Criminal Court; and resources.

Drawing delegates attention to the Justice Rapid Response Initiative, which had been recently launched by several countries, including his own, he said the programme allowed for States to provide other countries with assistance, in the form of expertise and materials, if they so requested it. That was crucial since any United Nations action needed to be complemented by resources. Turning to the Organisations institutional capabilities, he expressed concern over the fact that United Nations work in the field of transitional justice and the rule of law was divided among 11 departments and agencies. Because there was no central office dedicated to

the issue, it was difficult to record best practices or lessons learned.

To solve such problems, his country, together with Finland and Jordan, had put forth a non-paper, outlining possible models for the future organization of United Nations activities related to transitional justice and the rule of law. Central to the non-paper was the idea of a new entity that would, among other things, develop proposals and policies for action, plan comprehensive national strategies, coordinate activities with actors from outside the United Nations, and update guidelines and manuals. Such an entity should be funded by the regular budget, with operational activities financed by the budgets of implementing departments and agencies.

MUNIR AKRAM (Pakistan) said that the need for justice and the rule of law was self-evident, particularly in conflict societies. Each conflict situation was unique and had its own dynamics. He had agreed with the Secretary-General that pre-packaged solutions were ill-advised, and one-size-fits-all formulas must be eschewed. Justice and the rule of law should be integrated into all international or United Nations involvement in post-conflict societies. He recognized the importance of building national capacities and independent national institutions, and he supported the promotion of good governance and national judicial capacity-building.

He said that using indigenous and informal ideas in the settlement of disputes was consistent with international norms. He fully supported the need for ending impunity for crimes against humanity. Justice, peace and democracy were mutually reinforcing and should be simultaneously promoted. Reconstruction and economic revival, as well as employment generation also created a wider stake in the preservation of the rule of law. The need to end impunity for financial crimes was also important. The international community should strengthen and improve mechanisms to ensure that looted money or other assets acquired unlawfully were returned to the country of origin. Justice and the rule of law were vital for the establishment and maintenance of order, peace and stability, both at the intra- and inter-State levels.

The international community could also be regarded as a conflict society, he said. Thus, national rule of law strategies must be complemented by the international rule of law. In opening the general debate, the Secretary-General had made several powerful points, among them that the rule of law was at risk around the world, and that every nation that proclaimed the rule of law at home must respect it abroad. The United Nations must build its capacity to uphold the rule of law, both at the national and international levels, Mr. Akram said. The international judicial system should be strengthened to promote adherence to the Charter and to international law. Those bodies so far established were a good start, but the international community should seek to promote and further those international judicial systems in the context of the measures being considered to create a United Nations system responsive to the realities of the twenty-first century.

JUAN ANTONIO YZ-BARNUEVO (Spain) said the need to create security and trust among the populations in crisis was indispensable for establishing or restoring the rule of law and respect for the administration of justice. Legal certainty was a fundamental basis for ensuring stability, not only of political systems but also in terms of socio-economic issues. The role of local

institutions was key. In some cases, United Nations activities in the field might be regarded as external interference. That perception must be avoided. In that regard, he fully supported the Secretary-Generals view that the Organization must not direct, but assist fragmented societies requiring external support.

Justice must be more than a mere abstraction, he said. Citizens, particularly victims, had to be closely involved in the process of transitional justice. Proposals regarding the idea of reparations needed to be studied positively. The trust fund for victims set up by the International Criminal Court had already begun operating. The report had also mentioned the problem of legal vacuums. The Brahimi Report in its day had raised the possibility of developing a legal code that could be provisionally applied to fill such lacunae.

Regarding the role of tribunals, he noted that the international community now had a permanent independent and impartial instrument. With a number of ratifications in the last few days, more than half of United Nations Member States were now party to the Rome Statute. The world had also witnessed the positive results of applying extrajudicial measures for securing justice in transitional situations, including truth and reconciliation commissions. The specific forms of such mechanisms should depend on the specific circumstances involved and the will of the people. Training local personnel in the rule of law was key. Spain fully supported the Secretary-Generals recommendations and was ready to coordinate in their implementation.

CRISTIAN MAQUIEIRA (Chile) said that the notion of the rule of law was a fairly recent paradigm in international relations, and could regulate relations within societies and between them. Reconciliation was seen as a collective response of a society emerging from crisis. That process put an end to the cycle of violence and promoted coexistence. There would be no reconciliation, however, without justice. Today's meeting related to two previous ones of the Council, including one in January under his delegations presidency. The recent report of the Secretary-General on the question was comprehensive and of great conceptual value. It very clearly described the United Nations experience in promoting the rule of law and human rights, both in conflict and post-conflict societies. He agreed with the Secretary-General on the key role to be played by the rule of law and the critical need to take an integrated approach. He also agreed with the need to build effective national judicial systems, as well as promote support for the International Criminal Court.

Regarding reconciliation, he said that the report might have applied a somewhat restrictive notion in regarding reconciliation as an extrajudicial means of attaining transitional justice. However, that view had not taken into account that reconciliation was a process and also a result, which might take the form of specific mechanisms whose reality might lead to changes in interpersonal relations within a society. Perhaps the report failed to address reconciliation from the political perspective, particularly of the political response that States, the United Nations and the Security Council were called upon to give in the post-conflict reconstruction process. That phenomenon went beyond the solely legal ambit. Nevertheless, he endorsed the reports recommendations, which it was important now to prioritise. He welcomed the reports emphasis on promoting the full participation of women in the process. He stressed the need for information gathering from the outset, rather than waiting for the end of a conflict or for the post-conflict phase to begin, and determining how that could be done.

RONALDO MOTA SARDENBERG (Brazil) said all Member States had an overriding duty to abide by the United Nations Charter. Much could be done by the United Nations in the area of the rule of law. Mandates recently adopted by the Council included important rule-of-law and justice components in missions such as Côte d'Ivoire, Liberia and Haiti. In multidimensional peacekeeping operations, the United Nations played a major role in formulating and implementing long-term post-conflict initiatives, not only towards development and democracy but also in relation to the strengthening of the rule of law. All those objectives were interdependent and mutually reinforcing, and contributed to building sustainable peace in war-torn societies.

Under the rule of law, conflicts were likely to steer towards peaceful settlements, he said. Where an independent and impartial judiciary functioned, justice was pursued and rules fairly applied. Adhering to the rule of law entailed the observance of the principles of equality before the law, separation of powers, democratic governance and social justice. The rule of law must be consistent with international human rights norms and standards. The respect for human rights -- the most effective course for establishing restrictions on governmental power and curbing the tyranny of the majority -- was even more imperative in post-conflict scenarios, where the protection of persecuted minorities was urgently needed.

Helping shattered societies to re-establish the rule of law and address past abuses to achieve reconciliation was a critical task that in many cases required international engagement, he said. Regarding transitional justice in post-conflict societies, the Council should carefully consider each country's particular rule of law and justice needs. The dynamic was different in each experience and a distinct and calibrated combination of mechanism would be required. Reparation programmes and vetting processes were essential.

Reconciliation efforts were compromised, he said, when the legacy of past violence was left unaddressed. Justice, peace and stability were mutually reinforcing imperatives and it was possible to promote all three in fragile post-conflict settings. Brazil supported the establishment of the International Criminal Court. Ultimately, the Court's full credibility was directly proportional to its universality. While the United Nations had great experience in the rule of law, it could do more to help countries emerging from conflict. It was regrettable that the United Nations lacked sufficient funds for providing substantial financial assistance to national projects.

MIHNEA IOAN MOTOC (Romania) said his country had a more immediate understanding of the importance of justice and the rule of law in building a democratic society, as a country that had dealt, quite successfully, with that process. He stood ready to share the recipe with any interested States. One important ingredient in that recipe was how to handle the constantly evolving requirements of making the law actually rule the land. He strongly advocated the central role played by the United Nations, both as a promoter of the universal principles of justice and the rule of law, and also as an active participant in their concrete implementation. Embedding justice and rule-of-law components in assisting war-torn societies put in place adequate reforms should be a constant priority of United Nations activity. Real progress in achieving effective, genuine justice and rule of law largely depended on local actors. Multilateral and bilateral assistance should be conceived only as a supporting device, as the fundamentals of justice and the rule of law had to be practiced locally.

He said that achieving national reconciliation had often proved to be one of the biggest challenges in the efforts to ensure lasting peace in conflict shattered societies. It, therefore, made sense to capitalize in such cases on the virtues of the general concept of transitional justice, with due account given to cultural specificities and traditions of the countries and societies concerned. Atrocities and injustices stemming from civil wars and State repression could easily fuel new cycles of violence. Impunity might undermine trust in the legal system, thereby encouraging further crimes. While welcoming the important role played by ad hoc international criminal tribunals, he believed that, in many cases, similar results, at lower costs, might be achieved if judicial mechanisms were established nationally and consolidated with international support. Easier interaction with the local population, closer proximity to the evidence and witnesses, and greater accessibility to, and for victims, were undisputable advantages in that regard.

For sure, where States were unable or unwilling to prosecute and bring to justice those responsible for the most serious crimes, the complementary jurisdiction of the International Criminal Court should be employed. He reiterated his country's firm commitment to the goals and principles of the Rome Statute, and expressed his strong belief that the Court would live up to expectations and provide effective means of bolstering the rule of law and dealing a decisive blow to the culture of impunity. Criminal justice must, of course, be supplemented by a wider range of non-judicial mechanisms, such as truth commissions and reparation programmes for the victims. The latter aspect should be afforded greater consideration, as reparations programmes could contribute substantially to the promotion of national reconciliation.

He said that the international community had improved its capacity to address and handle even the most intricate and complicated conflict and post-conflict situations, but it was doing so mostly when it had before it a conventional set of parties, or conventional actors. It did not seem to know how to handle self-styled republics, where there was no recognized authority to be held accountable by global opinion. There were plenty of such lack holes in the international legality of nowadays, stretching over most of the areas of the globe. The reluctance, uneasiness or inability of the international community to tackle such problems shadowed the valuable work displayed in putting off more conflicts, and eventually made the work incomplete, a glaring case of unfinished business.

MOURAD BENMEHIDI (Algeria) said justice and the rule of law were closely linked to the maintenance of international peace and security. United Nations peace operations could sometimes have a direct responsibility for the administration of jail systems, and help to strengthen the judiciary and train legal professionals, among other things. Given the historic importance of the role of the United Nations in the field, the establishment of a legal framework for peace operations under Chapter VII was necessary. No reform of institutions, particularly legal ones, during transitional periods had any hope of lasting if imposed from the outside. The role of the United Nations was not to act as a substitute of local initiatives, but to support and supplement them. Elections must be well planned, as rushing into them could be detrimental to the rule of law.

He stressed the importance of the role of mixed and international tribunals in the last ten years. While the ad hoc tribunals for Rwanda and the former Yugoslavia had functioned, they were

extremely expensive. The role of the International Criminal Court must be bolstered. He supported the recommendations in the Secretary-Generals report on mandates approved by the Council and on measures to be taken within the United Nations system. Re-establishing the rule of law meant that the three pillars of peace, freedom and development must be built. The tragedy of the Palestinian people and the international community's silence on the matter was indicative of how precarious the rule of law was at the international level.

JOHN DANFORTH (United States) said that transparency was a true engine of the rule of law and promised a responsive and trustworthy judicial system, in both stable societies and those scarred by conflict. For the rule of law to grow in a society, the people must know the law; the law must be transparent to all citizens. That meant that the judicial system, courts, police and prisons must be open and available, the citizens must be educated, and judges must publish recent decisions. The law might seem to require special expertise to understand, and if it was not accessible to the ordinary citizen, then the rule of law would be far out of reach. Knowledge and openness were the best bulwarks against arbitrary decision-making. The United Nations, in particular, should harness its resources effectively to help societies emerging from conflict to develop their national judicial capacities in a manner accountable to their citizenry.

He said that the rule of law could not simply be imposed by international bodies. Citizens must also know their own government -- understand how it worked and how to influence it. Absolute secrecy could encourage corruption. Transparency was an engine to a modern economy and participation in the global economy. Access to information technologies also played an important role in open and free societies, both to stimulate economic activity and to provide citizens with information to know their government, including the judicial systems. In addressing the problems of countries formerly engulfed in conflict, the United Nations should assist with developing a judicial system based on transparency and openness. The Secretary-Generals report had some valuable insights and recommendations, and had rightly stressed, among other points, the imperative for respect for the rule of law in any democracy.

The United States had long supported efforts to hold responsible the perpetrators of atrocities, such as genocide, crimes against humanity and war crimes, he said. And, it had supported efforts to create international tribunals. In Iraq, it was supporting an Iraq-led effort to support the creation of a tribunal, and, in Sudan, it was urging greater action to stop the atrocities. The Secretary-Generals report, however, had not properly respected national decisions about criminal justice, particularly the sentence that a particular society might deem appropriate.

As everyone knew full well, he said, the United States had fundamental objections to the International Criminal Court. Its problems concerned the rule of law. The Court should not have jurisdiction over citizens of States not parties to the Rome Statute. That Statute did not reflect due process of law, as he understood it, because it allowed, among other things, multiple jeopardy. Also, the Court ran the high risk of politicisation and was not accountable. He could accept today's presidential statement, as that had not explicitly or implicitly endorsed the Court.

JOL W. ADECHI (Benin) said establishing the rule of law involved learning healthy practices to strengthen the very foundations of States. Restoring the rule of law was essential for societies emerging from conflict. At the national level, measures to legitimize the exercise of power

meant that all segments of society must support a common vision. Establishing national institutions required identifying suitable persons to lead those institutions. The international community could help by providing a proper framework for ensuring that new institutions learned the good practices they needed to survive. The United Nations could contribute to the emergence of a true culture of democracy.

Post-conflict societies could ensure stability by establishing conditions to enable citizens to articulate their interests peacefully and legally, he said. Courts could be expensive and shortages in human resources often led to difficulties in establishing credible justice systems. Using international fora for addressing serious crimes was fully justified. He stressed the need for ad hoc tribunals to help strengthen national capacities in the administration of justice. He also stressed the need for such structures to be given sufficient resources.

Benin welcomed the coming into force of the International Criminal Court, which was an essential tool in combating impunity, he added. Special attention could be given to the correlation between the rule of law and socio-economic development. The rule of law looked like an unattainable luxury for poor countries, most of whom were just managing to survive. Extreme poverty had serious consequences for the administration of the rule of law as was exemplified by the devastation in Haiti following the recent hurricanes.

JEAN-MARC DE LA SABLIRE (France) said that the excellent Secretary-Generals report had provided a useful account of experiences and made several insightful recommendations. He particularly supported those addressed to the Security Council. The Council had a special responsibility in the restoration of the rule of law and justice, with international assistance, in countries at war or which were emerging from conflict. The Council should take into account, right from the outset of peace operations, the restoration of the rule of law and justice. It should also draw on the experience of the whole international community in that regard, and it should act on its responsibilities, particularly by combating impunity. It should also bolster preventive action. First of all, the Council should build the rule of law dimension into an overall approach to the restoration of peace. It had begun to follow that course. The action undertaken in Haiti, in that regard, was a good example. From the first resolution, respect for human rights, combating impunity, and the need to restore rule of law had been affirmed as goals and fully built into the action to restore security.

He said there should be no illusions, however; that was a patient endeavour and not a hasty one. Regarding elections, the utmost must be done to ensure that they took place in a climate of freedom and security. For that, the international community should benefit from the vast experiences acquired at the regional and national levels. Regional organizations had increasingly accumulated genuine expertise and often were partners of the United Nations in restoring sustainable peace, such as in Bosnia and Herzegovina and Kosovo. Increasingly, the contribution of non-governmental organizations should be considered and incorporated more systematically. At the same time, proper coordination of efforts would avoid duplication. He also favoured further reflection on ways to better dovetail the activities of the United Nations with other organizations, including non-governmental organizations and the private sector.

A society fractured by conflict was often not capable, unassisted, of ensuring the dispassionate

exercise of justice, which was vital for reconciliation, he said. The Organization should be ready to lend its support in the building of national institutions. He agreed with the Secretary-General that the United Nations could not participate in any court system that might demand the death penalty. The so-called hybrid tribunals, which brought together national and international justices, were a very useful approach in helping a society to put to rest a troubled past and give proper restoration to the victims. On Darfur, he supported the investment in a commission of inquiry, which was a means of combating impunity, and hoped it would be set up as early as possible.

ZHANG YISHAN (China) said the restoration of the rule of law and justice was a prerequisite for restoring peace in conflict-ridden societies. The rule of law was a basic safeguard for ensuring long-term peace. There could be no genuine peace without the rule of law. Sustained economic growth, among other things, could help to ensure the establishment of genuine peace and stability. The rule of law and justice could not be built on fragile foundations, and were not merely legal matters, but closely tied to political, legal and social issues.

The origins of conflict, while not always the same, were often associated with poverty, he said. The end of conflict did not mean the coming of peace. The international community and donors, in granting assistance, had to ensure full respect for local customs, cultural traditions and the local legal system. The participation of external parties should be limited to guidance and not to direction. There was also a need to enhance coordination within the United Nations system. Recommendations regarding a roster of experts should be put into effect as soon as possible. Restoring the rule of law should serve the purpose of securing lasting peace and security, and for providing for socio-economic development.

ISMAEL ABRA GASPARD MARTINS (Angola) said that the Secretary-Generals report underlined the essential role played by justice and the rule of law in the maintenance of peace and in promoting development and long-term national reconciliation. The last decade had witnessed several important landmarks with regard to transitional justice and the rule of law, particularly concerning its codification. The African countries, through their engagement in peacekeeping efforts, as well as the entry into force of the Protocol on the African Court on Human and Peoples Rights, had taken far-reaching steps in the fight against impunity on the continent, in applying international humanitarian law, and in the promotion of and respect for human rights. He hoped that such efforts and the additional components of the national healing processes, such as the truth and reconciliation commissions, would succeed in helping post-conflict societies to foster accountability, render justice to the victims, discourage further crimes, and contribute to the restoration of peace.

He said that, despite the significant progress so far achieved, much remained to be done. Only the establishment of sustainable democratic societies would ensure, on the African continent, the primacy of justice and the irreversibility of the rule of law. Being a country that had recently emerged from a long period of conflict and war, Angola was deeply committed to justice and the establishment of the rule of law, as indispensable prerequisites for a sustained process of peace and national reconciliation. A piecemeal approach to the rule of law and transitional justice did not bring satisfactory results. Strategies for the establishment of an effective rule of law must stem from the grass roots, encompass popular participation, and be comprehensive by committing all relevant social, cultural, economic and judicial institutions. Financing

reconstruction and peace-building was critical to long-term national reconciliation and development processes.

In order to address the issues in a comprehensive and coordinated manner, a long-term commitment of the international community was essential, he said. It was a shared responsibility to ensure justice for crimes under international law, which were, after all, crimes against the international community as a whole. While being aware that the proposition was not to build international substitutes for national justice capacities, he saw international cooperation as a fundamental prerequisite for the effectiveness of justice and the rule of law, and for the consolidation of peace and long-term national reconciliation. He welcomed the Secretary-Generals report and endorsed its recommendations.

Council President BILL RAMMELL, Parliamentary Undersecretary of State, Foreign and Commonwealth Office of the United Kingdom, speaking in his national capacity, said the report reflected a concerted effort within the Secretariat to produce, for the first time, a single, coherent strategy on justice and rule of law. The analysis was excellent and the recommendations achievable. Council members should be actively looking for appropriate opportunities to take forward the recommendations that applied to the Council. In particular, due attention must be given to the restoration of the rule of law within peace agreements and in the mandates of peace support operations. Much had been done in that area, and he hoped the Secretariat could focus on bringing ideas together into a cohesive effort.

The Secretary-General had rightly focused on the establishment of transitional justice, that was to say, a framework for a society that needed to reconcile crimes from the recent past, as well as build an enduring framework for the future. Transitional justice was a necessary part of re-establishing normal social frameworks. The international tribunals had been an important learning curve in that context, and he hoped that future initiatives would provide more effective, less costly means of accountability for crimes. He shared the view that the International Criminal Court offered new hope for a permanent reduction in the phenomenon of impunity.

In contrast, the rule of law was part of looking forward and building a stable peace, he said. That was an essential part of reconstructing post-conflict societies. It was also important, however, to recognize the value of upholding law and order in preventing conflict and in wider peace support operations.

Highlighting two broad ways in which the United Nations could take forward work on the rule of law, he said the first was in promoting international standards. The United Nations was in a critical position to take an overview of what had worked and what had not in efforts to build the rule of law in different systems across the world. It could develop common standards in its own work. While a specific rule-of-law element might not always be necessary in every United Nations peace support operation, it would encourage good practice to have in place a checklist of the main factors necessary to build effective judicial and legal frameworks. Factors to be considered in United Nations missions could include providing advice on international norms and providing technical expertise.

The United Nations itself needed to uphold those standards too, he said, not just in the programmes and missions it ran but also in the management of operations and the actions of its

staff. While the Organization could take a lead in promoting international standards, the emphasis must be on building local frameworks, tools and mechanisms to support justice, law and order. An internationally imposed solution was not a durable one. Civil society's capacity must be strengthened to uphold the rule of law.

Highlighting the role of women, he stressed the importance of ensuring that action to restore human rights and the rule of law was undertaken in a gender-sensitive way. Capacity-building needed to be worked into United Nations programmes at all stages. At a higher level, that required, first and foremost, political will to contribute resources and expertise. In the field, a coherent and effective integration of justice and rule-of-law elements within United Nations missions was needed.

Referring to the Secretary-General's report, he said he would like to see implementation of the very practical toolbox idea, including convening technical level workshops on the rule of law and transitional justice, establishing arrangements for creating an up-to-date roster of experts, and organizing staff training programmes. He proposed that the Council return to the subject in six months to assess progress and, if necessary, give renewed impetus to the agenda.

MARK MALLOCH BROWN, Administrator of the United Nations Development Programme (UNDP), said that for the Programme, the rule of law had moved centre stage, particularly in crisis and post-conflict situations. It was the indispensable platform for development. People and economies needed rules if the sustained interactions that built societies were to take place. The rule of law must be rooted in the social and political context of a nation. That was an expression of the fundamental social contract arrived at when peace replaced war and people found the terms on which they could live together. Legitimacy, availability and accessibility governed the success of new laws in a post-conflict society. Questions arose as to whether the laws met the test of being adequately home-grown or whether somebody else's legal system had been imported wholesale. Also, was there a court system able to restrain overzealous police and military, and one that offered affordable, rapid redress to the emerging small businessmen and women?

He said that UNDP had been working on those issues across the world. As the Secretary-General had made clear this morning, the Programme's starting point was that too often international assistance on the rule of law had ignored the link with politics. Assistance was often technocratic and apolitical in nature, focusing on the transfer of technical know-how to State institutions and on the technical modernization of institutions. In the first stages, a policeman in the neighbourhood often mattered much more than a computer, but, given violence and training issues, the first might be much harder to pull off. The United Nations was important in facilitating negotiations among stakeholders, in order to build the political will for rule-of-law reform. Above all, the rule of law was a system of interrelated institutions that could not be considered separately: actions in any one impacted them all. Yet, rule-of-law assistance was often piecemeal and did not acknowledge the linkages.

As examples, he highlighted assistance to El Salvador, Guatemala and Haiti, which, in many ways, viewed the public security sector as separate from the judicial and correctional sectors. It was the failure to develop complementary reforms across sectors and institutions that had often

resulted in conflict and lack of clarity on the roles of different institutions. Nevertheless, cooperation among donors was too often the exception rather than the rule, resulting in a failure to accumulate information and lessons learned. Also important was the need for early, transparent commercial laws. Throughout all of the efforts, issues of truth and reconciliation often risked overshadowing early justice development. There was a need to be cautious. There was a time and place for that, as too early retributive justice could undermine a fragile peace, and the even more fragile trust between former enemies, on which it rested.

Yet, he stressed, truth and justice postponed meant hidden graves deep in the human mind, at least for the families of victims, which could prevent a society from turning the page to a new era. The UNDP was also working with the United Nations Secretariat to support electoral processes. Within the United Nations system, good progress was being made in pooling expertise and resources in support of the various rule of law aspects in peace operations. In Afghanistan, Iraq and Haiti, UNDP had made available some of its expert staff to advise the Secretary-Generals representatives on rule-of-law issues. That had led to joint assessment, joint programming and joint resource mobilization, culminating in enhanced cooperation. Recognizing the interdependence between the rule of law and development, and the social, political and economic context within which it must be rooted, it was clear that we owe it to the countries where we work and to ourselves to deliver the holistic approach to the rule of law that we preach.

DIRK JAN VAN DEN BERG (Netherlands), speaking on behalf of the European Union and associated States, said that the rule of law was indeed at risk, with its fundamentals being flouted not only by individuals, armed groups and terrorists, but also by States themselves. The maintenance and promotion of the rule of law was an ever-present imperative, and he urged all States to endorse the entire set of recommendations set out in the Secretary-Generals report. He also strongly urged the Secretariat to take forward the recommendations in the report. In that regard, he said that adequate resources needed to be secured for relevant departments, particularly the Department of Peacekeeping Operations, to enable them to respond effectively.

The European Union realized, he said, that when the international community was called to intervene in conflict and post-conflict societies, there was no one-size-fits-all formula. Strategies should take into account national cultures and traditions, as well as local structures and capabilities. Furthermore, he believed that the International Criminal Court would be an effective tool of the international community to buttress the rule of law and combat impunity, and shared the conviction of the Secretary-General that Member States that had not yet done so should move to ratify the Rome Statute at the earliest possible opportunity.

The lessons to be learned from the experience of the ad hoc international criminal tribunals, he added, had convinced the European Union even more of the importance of the establishment of the permanent International Criminal Court. States in the Security Council that established the tribunals in the first place had a special responsibility regarding the assessment of contributions to both tribunals.

JOHN DAUTH (Australia) said the Secretary-Generals report outlined important recommendations on rule-of-law issues, including the need to assess existing capacity in a

State emerging from conflict, the importance of developing comprehensive long-term approaches, and the need to ensure responses were tailored to the characteristics of individual States. Involving all domestic constituencies throughout the process and building national capacity were also critical points. Australia's history of involvement in peacekeeping operations and other missions confirmed those lessons, he said, adding that the experience of the Australian-led Regional Assistance Mission to the Solomon Islands (RAMSI) was particularly relevant. The restoration of the rule of law there was the only way to achieve durable peace. To that end, Australia and the Pacific Islands Forum partners had assessed the justice system, provided assistance for the judiciary to strengthen correctional services, and deployed 300 police from the region, who were authorized to use executive powers. That strategy had now paid dividends with the arrest of a large number of alleged criminals and the removal and destruction of small arms.

The experience in Timor-Leste, he continued, indicated the importance of long-term strategies to developing the rule of law. Successive missions had played an important role, as had activities at the community level to achieve transitional justice and reconciliation. The work of the Reception, Truth, and Reconciliation Commission held important lessons for the Organization in devising and implementing future rule of law strategies. A major obstacle to addressing rule of law issues was the fact that, from the outset of peace operations, police were often too slowly deployed and often had insufficient mandates or skills. To address that gap, Australia had created the International Deployment Group, a body consisting of 500 police available to participate in peace missions. He added that international institutions were critical to delivering justice, as were the establishment of the International Criminal Court and the provision of international support for mixed institutions.

ZEID RAAD ZEID AL-HUSSEIN (Jordan), commenting on the insinuation that perhaps the ad hoc criminal tribunals had become too expensive and maybe not even worth it, said his delegation was at a loss to know where such thinking came from and urged others to think that idea through further. The International Criminal Tribunal for the Former Yugoslavia (ICTY) cost Member States some \$175 million per annum, which was a very reasonable amount. That total was one twentieth of what the United Nations paid annually, during the war, to maintain the peacekeeping operation in the former Yugoslavia. Put another way, the Tribunal would have to continue operating until 2014, for its budget over the span of 20 years to measure up to what the Organization spent in one year alone (1994) on the United Nations Protection Force in Bosnia and Herzegovina (UNPROFOR).

Also, were it not for the ICTY, the Dayton Peace Agreement would not have held up, as it had done for the past nine years. If the alternative to justice and accountability was a return to general warfare, could the amounts already spent on the ICTY be construed as too great? With an international community prepared to spend almost \$1 trillion a year on weapons, how can we say that anything we have spent thus far on justice is too expensive? he asked.

He said his delegation would like to have seen pertinent observations about the International Criminal Court and its significance in the Secretary-General's report. With three more countries having acceded to the Rome Statute, the majority of United Nations Member States had now become party to that Statute in only six years. That was by no means a small accomplishment.

He also stressed that, if there was to be a high measure of success in the area of peace and security, a dedicated rule of law department - a field-oriented legal and judicial service -- would have to be established. He also underscored that it was important for the Security Council to host the second thematic debate on justice and the Rule of Law: the Role of the United Nations, because it would complement the priorities established by the Secretary-General in his speech to the general debate two weeks ago. Hopefully, it would also set the future tone for the Council's own approach to the rule of law, the recognition of the law's primacy and its centrality to the maintenance of international peace and security.

MARJATTA RASI (Finland) said she saw the report as an important milestone, which had given the United Nations a chance to consider lessons learned and to reflect upon what should be done in the future. There was an increased demand for United Nations action, which had been responded to, among other things, by including rule-of-law and justice components in recently established United Nations peace operations in Liberia, Côte d'Ivoire and Haiti. In planning the United Nations response, it was important that the strategy be based on national needs and that local actors were fully engaged in the planning process.

Dealing with atrocities against civilians became a core issue in the process of establishing trust in the judicial system in States emerging from conflict, she said. In that regard, Finland fully supported the International Criminal Court and the ad hoc tribunals. The two international tribunals had played a significant role in ensuring accountability where national judicial systems had failed to do so. The impact of the International Criminal Court might be even more important, as it had the great advantage of being available when need arose. The Court was an institution for exceptional situations only. The primary responsibility for bringing offenders of international crimes to justice continued to rest with States. Enhancing respect for the rule of law, she added, must not be left to the post-conflict phase, but should be addressed while the conflict was still raging.

The increase in the demand for United Nations involvement in rule-of-law and transitional justice-related issues should be met by enhancing the capacity of the Organization, she continued. In the Department of Peacekeeping Operations, resources were perhaps most urgently needed in the Criminal Law and Judiciary Advisory Unit. Meeting the growing challenges also required effective cooperation within the entire United Nations system. The current Focal Point Network arrangement did not fully support the development of common policies and comprehensive strategies. Rule-of-law and transitional justice issues required their own dedicated entity in the United Nations Secretariat. For that purpose, Finland had prepared a non-paper together with Germany and Jordan, which reflected upon the possibilities for a future institutional structure in the United Nations.

The United Nations could not do everything on its own, she said, but should strengthen partnership arrangements with regional organizations, individual Member States, as well as civil society organizations that had valuable expertise in that area. She hoped the Secretary-General's report would enable the Organization to further develop its action in the area of the rule of law and transitional justice. To that end, it was crucial that the recommendations be effectively implemented.

GERHARD PFANZELTER (Austria), associating himself with the statement of the European Union, elaborated on just two points. The Secretary-General, in his report, had stressed that the most significant recent development in the international community's struggle to advance the cause of justice and the rule of law was the establishment of the International Criminal Court. In last years debate, the Ambassador had expressed confidence that the United Nations and the Court would cooperate successfully to achieve their common goal of strengthening the rule of law and justice in international relations. He was pleased at the recent signing of the relationship agreement between the United Nations and the Court, which was an important step forward in enhancing cooperation between them. Only by such close cooperation would it be possible to succeed in the concerted effort to end impunity and strengthen the rule of law.

He also warmly welcomed the Secretary-Generals pledge to make the strengthening of the rule of law and transitional justice in conflict and post-conflict societies a priority for the remainder of his tenure. In view of the unique role and responsibility of the Security Council, Austrias Foreign Minister announced plans to initiate a discourse on the Councils role and functions in strengthening an international system based on the rule of law. As a first step, his country would convene a panel on the question, entitled the Security Council as World Legislator, on 4 November during this years International Law Week at United Nations Headquarters in New York. The panel, which was organized in cooperation with New York University, was designed to enhance the dialogue between theory and practice on that important topic.

FRANCIS BUTAGIRA (Uganda) said that the United Nations had done remarkably well to advance world order and security, despite some setbacks. In order for it to gain credibility in that area, there should be no exemption clauses in the field application of international law. However, in extremely rare cases, national interest might justify a departure from recognized norms. But such departure should be well-grounded in law and form an exception rather than the rule.

The rule of law, he said, also meant that the United Nations should not stand by while civilians were grossly abused due to a States inability to act. The international community should intervene in those cases, and sovereignty should not be used as a cloak to cover gross human rights abuses. Attention should now be focused on defining the parameters of the right to intervene on humanitarian grounds. Justice and the rule of law also meant that all nations should benefit equally from globalization, and that had implications for access to markets and international lending.

Finally, he warned of a dangerous trend in the Security Councils and-off of peacekeeping responsibilities to regional organizations in Africa. The trend should be discouraged, though the Council should work in partnership with such organizations when appropriate. In addition, he affirmed that States had the right to carry out pre-emptive attacks in order to nip in the bud attacks against themselves. The problem was where to draw the line between acts of aggression and self-defence. The international community, he said, should elaborate on that.

PETER MAURER (Switzerland) said that the ad hoc international criminal tribunals for the former Yugoslavia and Rwanda had made a considerable contribution to re-establishing justice and impeding impunity in the concerned regions. They had also played a historical role in the

development of international criminal law. Thus, it was essential that they receive the means necessary to fulfil their mandates. He shared the Secretary-Generals appreciation that the most significant recent development in the international community's long struggle to advance the cause of justice and rule of law had been the establishment of the International Criminal Court. The Court was the spirit, incarnate, of the hope for impunity's lasting recession. Nevertheless, as the Secretary-General had stated to the General Assembly, the rule of law started at home.

In that context, he called on those who had not yet done so to ratify the Rome Statute and to cooperate with the Court. He invited the Council to exercise its particular competence in bringing before the ICC situations in countries not party to the Statute. The Secretary-Generals report had underlined the importance of the rule of law in stabilizing post-conflict societies. Thus, it was necessary to clarify the meaning of the rule of law, namely the putting in place of democratically-based legislative procedures, as well as equality before the law, fairness, and a police force anchored in civil society. All of that deserved increased support, including of the Council, the ECOSOC and the General Assembly, and, particularly, United Nations funds and programmes. One should not lose sight of the fact that steps to promote the rule of law and transitional justice were less costly, and the costs achieved were more lasting than instability and impunity.

SIVU MAQUNGO (South Africa) said that the exercise of the rule of law, especially in conflict and post-conflict societies, was critical to creating conditions for peace and security, which allowed for development to take hold. Quite often in conflict and post-conflict areas, especially in Africa, the experience had been that poverty and underdevelopment contributed to non-adherence to the rule of law. Yet, it was the same rule of law, when applied to regulate the conduct of individuals with each other and with the State, that would create conditions for sustainable development. His experience with the peace process in South Africa had led him to many of the same conclusions made by the Secretary-General. South Africa's Government had also concluded that the rule of law and transitional justice must address the causes of the conflict and the effects the conflict had had on the population.

In South Africa, he said, the cause of the conflict had been the oppressive policy of apartheid. A constitution was adopted that built on a non-racial society. Following the democratic elections in 1994, State institutions in support of constitutional democracy were put in place. Further, the Government had promulgated legislation on affirmative action and adopted policies on black economic empowerment to ensure that the problem of unequal distribution of wealth was addressed. The truth and reconciliation commission was put in place to promote national unity and reconciliation and to heal the wound inflicted by the oppressive apartheid policy. That process had offered victims opportunity to face their perpetrators and find closure, and the perpetrators the chance to seek forgiveness. The commissions sessions were made public and were broadcast on television to enable the whole country to be part of the healing.

He said he was the first to concede that South Africa's experience might not be common to other countries emerging from conflict and the lessons learned might not travel well. Nevertheless, adherence to the rule of law could contribute to lasting peace and security. He agreed with other delegations that institutional changes were needed to enable the United Nations to better cope with its work to strengthen the rule of law and transitional justice. The international

criminal justice systems, such as the International Criminal Court and the tribunals established by the United Nations could contribute to finding lasting peace in the areas where those were utilized. He encouraged the Council to exercise its mandate to refer situations to the ICC when national assessment needs dictated such action. He supported the Secretary-Generals recommendations, and underlined the importance of considering the needs of each specific situation, so as to avoid developing common strategies for each conflict and post-conflict situation.

CHRISTIAN WENAWESER (Liechtenstein) said the United Nations had a central role to play in the promotion of the rule of law. He noted that the rule of law at the domestic level had to be complemented at the international level, through full respect for internationally recognized standards and transparent and fair rules in international decision-making. Also, governance should not only be in accordance with the law, but the law itself had to be in conformity with international human rights standards. Thus, it was crucial that the United Nations, in assisting societies emerging from conflict, respected those standards. The rejection of any endorsement of amnesty for genocide, war crimes or crimes against humanity was but one such standard.

He observed that the International Criminal Court was instrumental in that respect, and the principle of complementarity on which it was based constituted a strong incentive for States parties to strengthen their national judiciaries. The establishment of the Court was in no small part an acknowledgement of the fact that the ad hoc tribunals were only half the answer to the enormous challenges of justice in post-conflict situations. The lessons learned from the two international criminal tribunals would show the way forward for the Court, as well as for other forms of assistance to national criminal justice systems, such as hybrid tribunals or other mechanisms, which might, in certain cases, be the preferred or complementary solution.

ALYAKSANDR SYCHOV (Belarus) said that the Councils participation in the exercise of international justice with respect to persons who had committed crimes in times of conflict had substantially influenced the development of a system of international criminal tribunals and international humanitarian law. The lessons of the tribunals for the Former Yugoslavia and Rwanda had confirmed that the transitional justice system must be, to a greater extent, underpinned nationally.

He said that the United Nations peace operations were also a key aspect of the Organizations involvement in establishing the rule of law and rebuilding a justice system in war-torn societies. Belarus did not accept any egal conceptual innovations aimed at sidestepping the Councils power to authorize the use of military force. The involvement of the Security Council in forming rules of international law could only be justified by exceptional and extraordinary circumstances constituting a threat to international peace and security. In that regard, the Council should be more democratic and representative to ensure general consent with respect to its orm-making.

NASSER AL-KIDWA, Permanent Observer of Palestine, said the rule of law and transitional justice in conflict and post-conflict societies was a matter of great importance to Palestine. The problem had been that Palestine remained in the midst of a raging conflict whereby the stronger party, the occupying Power, continued to colonize the Palestinian land and commit illegal practices against the Palestinian people, seeking to ensure that it did not succeed in its

post-conflict reconstruction. The international community must draw some conclusions. It was imperative to ensure a clear basis for an end to the conflict, before delving into the tasks of post-conflict reconstruction. Ignoring the crux of the problem and shelving international law with regard to the conflict itself could only lead to failure.

To succeed in building and institutionalizing a culture of law, it was necessary to ensure that conflicts were resolved on the basis of law, he said. In the case of Palestine, the law had been elusive. At best it had been sidelined, and at worst it had been transgressed in the most egregious manner. The human rights of the Palestinian people under international human rights law had been systematically violated. The United Nations, especially the Security Council, had failed in a historic way. It had failed to implement its own resolutions; failed to prevent the insidious colonization of the Palestinian land and the constant attempts to change the status of Jerusalem; and failed to be faithful to the purposes and principles of the Charter. In short, it had failed to uphold the law.

To be fair, it had not been the failure of the membership as a whole, he added. One permanent member had consistently prevented the Council from taking serious actions, providing the occupying Power with unjustified diplomatic protection. The consequences of that behaviour had been detrimental not only in terms of Palestinian rights, but also in terms of the credibility of the international system. It was his deep hope that the pattern, and not the law, would be cast aside when the International Court of Justice Advisory Opinion was brought before the Council for consideration.¹

ANDERS LIDN (Sweden) said that without the rule of law there could be neither economic progress nor social justice. Emphasizing the issue of prevention, he said the United Nations experience in the field of justice and the rule of law in post-conflict situations should enhance its ability to act early to prevent conflicts. The root causes of conflict had often been left unaddressed. Addressing the root causes in time would require enhanced coordination among all relevant actors. Prevention was part of the Council's responsibilities. Peace-building efforts in the area of the rule of law and justice in post-conflict societies constituted one form of preventive action and reduced the risk of societies falling back into conflict.

Domestic institutions had to be complemented by international and multilateral action, he said. The existence of the International Criminal Court was a deterrent for presumptive perpetrators, as was the readiness of domestic legal systems to apply universal jurisdiction for international crimes. It was important not only to make the Rome Statute universal, but also to increase cooperation between domestic legal authorities. Increased focus on those matters required concrete action, and possible changes, within the Secretariat. In that context, he welcomed the proposals presented by Finland, Germany and Jordan. Another key issue was the division of labour between the various United Nations bodies, which should be determined by needs and not by budgetary concerns.

Addressing several overlooked facts, he said attorneys were vital to a nation's legal system, as they not only provided representation and assistance to both the accused and the victims, but also contributed to the rule of law by ensuring that authorities were held to account. He also stressed the importance of gender justice and noted that no one -- including peacekeepers --

was above the law. The rule of law was a means to protect the dignity of all human beings, as well as a foundation for well-functioning societies.

ALBERTO PEDRO DALOTTO (Argentina) said that the United Nations system, once and for all, should institutionalize all of its strategies and policies relevant to the scope of today's debate. He urged members to consider the proposals made this morning by the representative of the United Kingdom. The Secretary-General's recommendations were essential for future efforts by the United Nations to strengthen the rule of law and justice in conflict-ridden societies and in places where institutions had collapsed. As the Secretary-General had stated, the United Nations had accumulated great experience in the task of reconstructing peace after conflict. It was important, therefore, for that experience to be transformed into something productive. A careful analysis must be conducted of the special needs required to build the rule of law and justice in every country hosting peace operations and programmes. Peacekeeping operations, especially the most complex, must include in their mandates from the outset the components of justice and the rule of law. Foreign remedies should not be imposed.

He stressed that effective societies must have ownership of the process under review today and, in that sense, civil society's participation was essential. Specific ideas to guide the work of the relevant organs should be submitted; everyone was presently involved in strengthening and reforming the Organization. A suitable way should be found to put into practice the Secretary-General's recommendations. Today, the international community could rely on a number of instruments to bring the perpetrators to justice. The Council, in a creative interpretation of its power under Article 39 of the Charter, had created the two criminal tribunals and had been able to respond to situations in Sierra Leone, Timor-Leste and Afghanistan. The truth and reconciliation commissions had also played an important role, but the main instrument for fighting impunity was the International Criminal Court. The Court's central role in establishing the rule of law must be promoted, and it must be ensured that that body had the necessary resources to fulfil its functions.

VANU GOPALA MENON (Singapore) said that filling the legislative and judicial vacuum in post-conflict situations was a key challenge facing many United Nations peace operations. Recalling the Secretary-General's assertion that it is by reintroducing the rule of law, and confidence in its impartial application that we can hope to resuscitate societies shattered by conflict, he said the seemingly impossible task of trying to put post-conflict societies back together, once their economic, social and political fabrics had been wrecked, required that the United Nations develop a framework to tap existing external expertise and resources to complement the Secretariat's in-house experience.

There might also be a need to immediately introduce a set of transitional laws, particularly if old laws had been unfair, abused or otherwise discredited, he said. Along with providing some form of public education to instil a culture of the rule of law, it was also important that national stakeholders be closely consulted to ensure that the best interests of the people -- particularly victims of violence and grave injustice -- were at the heart of transitional justice initiatives. Such initiatives must not be merely exercises in salving the international community's conscience for its past inactions, but must send a signal to all would-be perpetrators of large-scale abuses that the era of impunity was over.

Nevertheless, he said, the unfortunate reality in many post-conflict situations was that the international community lacked the political will or capacity to ensure the disarmament of groups that could remain a source of lawlessness, a threat to peace and stability and potential renewed conflict. It would be counterproductive if in our haste and impatience to pursue transitional justice, we were to cause a return to conflict, renewed violence and suffering. He noted that when helping to bring about the rule of law and transitional justice, the overall goal was not to manufacture global substitutes for national structures but to help build domestic justice capacities.

The aim, he continued, was to leave in place a sustainable, independent system that worked, even if it took years rather than months to attain, and especially if there was a need to train local judicial personnel from scratch. Finally, he noted that the Council's debate today amounted to norm-making, which Singapore welcomed. It was appropriate for the issue to now be discussed by the General Assembly -- the principle norm-making body of the United Nations -- particularly if the Council acknowledged that the rule of law was something that should be mainstreamed into every part of the United Nations system.

MARC NTETURUYE (Burundi) said his country needed justice that would reconcile and heal. The provisional immunity granted to political leaders returning from exile, as well as the release of numerous prisoners, had caused upheaval. Prisoners from various political groups had denounced justice that protected those who gave the orders and punished those who followed them. Providing immunity to political leaders was extremely delicate in a conflict situation where elections might lead to the executioners being given legitimacy and the victims once again being threatened.

He was pleased that the report of the Council's assessment mission would soon be available. The mission had been able to confirm the strong desire of Burundians for the establishment of a commission of inquiry. The National Assembly had just adopted the text creating the commission and the Senate would approve it as well during its current session. Burundians remembered another piece of unfinished work by the United Nations, namely the shelving of an important report identifying those behind acts of genocide. Another report was to have come out two years later. No action followed the report, which shed light on the threat of genocide that still existed in the Great Lakes Region.

The Council had already showed that it could take strong measures to try those responsible for serious crimes in the cases of Yugoslavia and Rwanda, he noted. Burundians were only asking for an international judicial commission of inquiry. As soon as the truth emerged, Burundians would be in a position to decide what kind of justice should be meted out. The commission was urgent, as after elections it would be difficult to try those who had been elected. The Government of Burundi was committed to cooperating fully for the cause of peace.

NIRUPAM SEN (India) commended the Secretary-General for emphasising the need for eschewing a one-size-fits-all formula and the importation of foreign models. He also agreed with the need for a common understanding of terms such as justice, the rule of law and transitional justice. The temptation to impose external models without the required sensitivity to cultural and other factors was too strong on the part of many. The assistance rendered to a

particular society recovering from conflict must take into account its socio-cultural specificities, so that the international community's support became durable and sustainable. If the gulf between the legal structure and social norms was too wide, giving effect to legal prescriptions could carry far too high a socio-political cost.

The specific function of the legal system was crucial, he said. Many conflicts arose from ethnic and economic grievances, and it was important to address them through the process of the administration of law itself. Any support by the international community should be preceded by a careful assessment of national needs. Often there was a tendency to render assistance in a piecemeal fashion. The careful sequencing of activities relating to rule of law reforms and transitional justice with post-conflict elections was vital, not only to ensure their success and legitimacy but also to preserve the fragile peace processes in societies emerging from conflict. United Nations peacekeeping operations were envisaged as short-term interventions. Building the rule of law and fostering democracy were long-term processes, however.

Direct United Nations involvement in the dispensation of justice in post-conflict situations had involved colossal expenditure and bequeathed questionable gains, he continued. The fallout of such lavish allocation for however worthy causes could be the disillusionment of the societies involved. The United Nations could not, or should not, seek to recreate the pillars of the institutions of justice, other than providing assistance for capacity building. The long-term task of institution building should be left to national authorities.

KIM SAM-HOON (Republic of Korea) said that since the end of the cold war cooperation among members of the Security Council had increased substantially. The conflicts addressed by the Council since the early 1990s had tended to be intrastate, stemming from failing or failed States, rather than the interstate conflicts that had traditionally been the Council's focus. Those conflicts within States raised a different set of issues and required a different approach. In that regard, he welcomed the Council's recent growing trends towards integrating transitional justice and rule-of-law concerns into the mandates of its peace operations. The rule of law, promotion of human rights, the delivery of justice and the establishment of democratic institutions were indispensable requirements for restoring peace and preventing conflict-ravaged societies from relapsing into violence and chaos. Without a reasonable degree of justice and rule of law, peace was simply not sustainable.

He said that peace missions in conflict and post-conflict societies must integrate into their operations three key aspects of justice and the rule of law. Those were: re-establishing the legal order that existed prior to the conflict; undertaking reform of the justice system; and administering transitional justice fairly and effectively in a way that facilitated the healing process and expedited national reconciliation. Peace missions must also engage in strategic planning to ensure that the justice system did not break down once the mission was terminated and, as such, it was imperative that peace missions work towards establishing sustainable national capacities for justice administration. Those extremely daunting tasks could take a long time to achieve. There was no internationally established procedure that could be applied uniformly to all conflicts. Ensuring justice was also a very expensive undertaking. In that vein, the full operation of the International Criminal Court was a most welcome development and he sought its early universal application.

The Security Council had been the guiding force behind concerted international efforts for post-conflict peace-building, but he shared the concern that it was currently overburdened, having increasingly become involved in the broad and time-consuming task of nation building. Furthermore, because it was often difficult to determine when a task was complete, or even what would constitute completion, the Council might not always be able to articulate exit strategies when necessary. The long-term fitness of the Council for those ever expanding tasks, therefore, must be examined. He looked forward to the recommendations of the high-level panel on ways to reform the Council. Also worthy of consideration was the Finnish-German-Jordanian joint proposal to create a unit within the Secretariat to coordinate the rule of law components of peace building efforts.

BRUNO STAGNO UGARTE (Costa Rica) said that peace, justice and democracy were the fundamental prerequisites, which reinforced each other. There could be no peace without democracy, no democracy without legal certainty, and no justice absent peace or a legitimate and responsible government. In that context, justice and the strengthened rule of law were the essential elements in the promotion of international peace and security, in the domestic stability of countries emerging from armed conflict, and for development worldwide. The rule of law was a critical aspect of democratic government. Rule of law meant that all persons must accept the primacy of a body of clear, precise and pre-existing law, which provided legal clarity as to what type of actions were prohibited. The rule of law also provided guarantees for victims, should such actions occur. Governments must similarly be subjected to boundaries, to avoid corruption and power abuses.

He highlighted three different aspects of the rule of law: legislative; administrative; and judicial. From the legislative perspective, the rule of law demanded transparency and moderation in the promulgation of law and it must protect the fundamental rights of individuals. Administratively, the rule of law required a concentrated effort to curb abuse of power or corruption by public administrators. From the judicial standpoint, the rule of law must provide remedies in protection of individuals fundamental rights. The rule of law in transitional and post-conflict societies required action in all three dimensions. The United Nations must assist in such a countrys adoption of a legal framework. It must also help to promote responsible governance and a fair judiciary. The international community must lend assistance and support to the national courts and policies to increase their effectiveness, legitimacy and independence, while protecting human rights.

The administration of justice in transitional societies was of particular importance in cases where grave violations of international humanitarian law had occurred, he said. Such situations required both justice and reconciliation. He fully agreed with the Secretary-General that amnesty should never be extended to the perpetrators of such crimes. The Organization must promote any mechanisms for reconciliation and social integration, and make it possible to overcome the trauma of armed conflict. Every society, to the extent possible, should design its own reconciliation mechanisms. When States were unwilling or unable to try the perpetrators, the international community must have recourse to the International Criminal Court. He rejected any further establishment of mixed or special tribunals, because the International Criminal Court was a viable alternative. While such tribunals had had a salutary effect at the outset, their costs had snowballed and they had fallen victim to several problems. Inclusion of an item on the rule

of law on the General Assembly's agenda was also worth considering.

KOICHI HARAGUCHI (Japan) said that during transitional periods, instilling the rule of law until peace was consolidated was of the utmost importance. But no one must forget that societies were most fragile during post-conflict transitions. Therefore, it was necessary then to search for the best ways to achieve the rule of law and ensure justice, while maintaining the respective peoples' ownership in the overall process. In the long run, capacity-building would be the most important issue, he said, adding that, in the short-term, various elements needed to be considered, particularly since problems might arise in cases where transitional initiatives were not flexible enough to deal with variable conditions.

Turning to some specifics regarding the Secretary-General's report, he said it was important for Member States to exert efforts to establish justice and the rule of law within their own borders, in parallel with assistance provided by the United Nations to help restore conflict and post-conflict societies. Because of the United Nations was a universal body, any framework on ensuring rule of law and justice negotiated and agreed upon by its members would, of necessity, enjoy the cooperation of the wider international community towards its implementation.

Furthermore, when the United Nations was conducting operations in failed States, or when it became temporarily responsible for local administration during the transitional period, its activities sometimes played a direct role in the establishment of the rule of law, he said. Such cases should be regarded as exceptional, and the Organization should make every possible effort to transfer primary responsibility to the administrative organization in the region as soon as possible. When and where the Organization helped with the establishment of the rule of law, it was essential to give due respect to the support of the people in the recipient States.

Noting the situation in Timor-Leste, where serious crimes were being prosecuted by the courts, an effective national reconciliation process was underway within the Commission for Reception, Truth and Reconciliation. Establishing the rule of law served not only to punish criminals but to discourage the commission of such crimes in the future, and thereby preventing conflict from returning. Finally, he stressed that while the recent establishment of the International Criminal Court should not be overlooked, that body was not the panacea for all the humanitarian tragedies of the past, particularly those that fell outside its mandate -- those atrocities occurring before 2002. Those earlier incidents still needed to be addressed, either at the national level or through international cooperation. And in the immediate aftermath of conflict where States and societies had been incapable of reacting appropriately, bodies such as the international criminal tribunals for the Former Yugoslavia and Rwanda could help.

He went on to say that Japan had been working on the early establishment of the Cambodian extraordinary chambers for the prosecution of Khmer Rouge leaders and welcomed the Cambodian National Assembly's approval of the agreement between the Cambodian Government and the United Nations. Japan expected further steps to be taken that would prompt ratification of the agreement and strongly requested Member States to cooperate, according to their ability, to ensure the success of those trials.

OSWALDO DE RIVERO (Peru) noted that, ultimately, the rule of law could not be respected without respect for the Charter. Empirical experience had shown that justice and the rule of law were not easy to achieve. In many cases, bringing about the rule of law was a deep cultural problem. It was a complex, long-ranging and sometimes historic endeavour requiring the international community's support. Cultural change was also required. That was why the challenge was so great. Any proposal to re-establish the rule of law must keep in mind the specificities of each fractured society.

He said that not all situations were the same. In the case of Peru, the truth and reconciliation commission had been created to allocate responsibility for massive human rights violations from 1980 to 2000. The commission had presented a comprehensive plan for reparations. In re-establishing justice and the rule of law it was important for the United Nations to draft a preliminary diagnosis that took into account actual national realities in the post-conflict countries. That methodology should also be applied during the implementation and evaluation of the goals defined in the strategy. He hoped that the Council would adopt the Secretary-Generals recommendations, which emphasized the need for prior assessment of national needs. Peru welcomed the Secretary-Generals intention to ask the Executive Committee on Peace and Security to propose concrete measures on justice and the rule of law in post-conflict societies. He also stressed the need to study the issue of social marginalization, which was one of the main sources of civil war.

ISIKIA R. SAVUA (Fiji) said his nation, like many others, had experienced its own breakdown of law and order. His country and its people had suffered and were still recovering. Involvement in conflict and post-conflict reconciliation and transitional justice was an execution of the Organizations obligations enshrined in the Charter. However, given the complexity of todays world, a lot remained to be done and the United Nations required total commitment to achieve its role with success. Fiji was aware that the challenges faced by the Organization were often compounded by the fact that it was frequently called on to plan the restoration of the rule of law in peacekeeping operations at extremely short notice, with minimal human and financial resources to form the basis of the plan. Fijis respectful assessment concluded that there was a pressing need to address those impediments, and it would, therefore, support any suggestions for the strengthening of capacities in that regard.

Early identification and close monitoring of countries or regions with the potential for conflict was necessary, he said, adding that measures to address root causes for differences could and would assist in the prevention of further escalation of violence. Given his nations geographical isolation, some of its people saw the role of the United Nations as a restorative one in the field of the rule of law and transitional justice. With regard to the Organizations return to Iraq, he said the envisioned security structure would consist of four elements: international security staff, protection coordination officers, personnel security details, and guard units. Responding to the call by the Secretary-General for the participation of Members States, Fiji was preparing soldiers for deployment this month to Iraq.

JOE ROBERT PEMAGBI (Sierra Leone) said he particularly welcomed the opportunity to participate in the debate because of his countrys bitter experience with maladministration of justice and abuse of the rule of law, before and during its civil war. The experience of his

country clearly demonstrated that the absence of the rule of law created an atmosphere in which egregious crimes under international law could be perpetrated with impunity. The observations and recommendations of the Secretary-Generals report were consistent with the views of Sierra Leone, which were that the rule of law was a necessary prerequisite and, furthermore, an essential ingredient for justice and accountability.

He believed that the International Criminal Court was the instrument for bringing to justice alleged war criminals, as well as for reinforcing individual criminal responsibility for crimes against humanity, war crimes and genocide. However, he said, it must be recognized that much remained to be done to establish a fully effective international criminal justice system, with the Court at the helm. Promotion of the rule of law and reform of justice systems, especially within States emerging from conflict, such as Sierra Leone, was very expensive. Respect for the rule of law could not be separated from the problem of the availability of resources. He also renewed his countrys appeal for continued voluntary contributions, as well as the requested subventions from the regular budget of the United Nations, for the Special Court for Sierra Leone.

GLYN BERRY (Canada) said that the rule of law was a profoundly practical idea -- one that provided security and structure in a volatile world. While accessible and just laws were at the foundation of the rule of law, it was in the consistent and just application of those laws that the rule of law attained its highest expression. To fail to apply the law to grave international crimes such as genocide, crimes against humanity and war crimes was the very negation of the rule of law. For that reason, his country urged all States to strengthen the institutions at the forefront of the campaign against impunity. The International Criminal Court was the embodiment of the hopes and aspirations of the victims of the most serious international crimes. It offered the best hope for ending impunity. It was not surprising, therefore, that it had so rapidly gained the support of the majority of Member States. He called on all those States that had not already done so to ratify and implement the Rome Statute.

He praised the work being done by the two tribunals as a major contribution to efforts to combat impunity, but their operation costs money. Thus, the timely payment of assessed contributions by all States was especially critical as those courts embarked on the final stages of their work, with a view to completing their mandates by 2010. Implementation of the Rome Statute offered States the opportunity to enhance their domestic legal systems and to ensure that criminal trials were conducted in a manner consistent with internationally agreed standards. Some States required assistance in adapting their legal systems to prosecute war crimes, crimes against humanity and genocide. Canada had participated in preliminary discussions with several interested States about the means of doing so and would continue to work with others towards that goal. The crimes discussed today would not immobilize the world; rather, they would galvanize it to ensure that the rule of law was not relegated to the status of an abstract concept, but instead served as a guiding principle that animated its work.

ENRIQUE BERRUGA (Mexico) agreed that consensus was needed for key concepts such as rule of law or transitional justice. The rule of law indicated a principle of governance in which all persons were accountable to laws that must be consistent with international norms and standards. In todays world, the reconstruction of civil society was fuelled by respect for

international law. Building civil society was not limited to peace-building and must extend beyond the formal cessation of hostilities. The concept of transitional justice implied efforts to solve the legal and institutional challenges arising from regime change, including compensation for victims. While Mexico was not in a post-conflict situation, it was undergoing a system for a more complete democracy. Mexico's experience in building an institutional architecture had been available to the United Nations.

Transitional justice had become a key presence in the Organization's work, he said. The Council work must involve a commitment to ensuring adequate stability in post-conflict situations. Stressing the need to better coordinate United Nations interventions in post-conflict situations, he agreed with the proposal to establish a specialized unit at the United Nations. The establishment of special tribunals was the Organization's boldest response to the need to sanction those responsible for crimes. He also stressed the need to strengthen the International Criminal Court, which must come to be seen as the mechanism with which the international community could ensure that the most serious crimes did not go unpunished. He welcomed the firm commitment of the Secretary-General to strengthen the foundations within the United Nations system.

MARGARET HUGHES FERRARI (Saint Vincent and the Grenadines) said there was no doubt that the ad hoc criminal tribunals had contributed in some measure to conveying to the victims a sense that their persecutors would be made accountable for their crimes. Indeed, those courts had gone a long way towards destroying the notion that perpetrators of serious crimes against humanity in any part of the world would enjoy impunity. Those courts had also served up a rich diet of new jurisprudence, which could only enhance and enrich the future practice of international law. It was troubling, however, that there was a public perception that the tribunals took a disproportionate amount of time to prosecute and bring finality and closure to criminal trials. She would not speculate about the myriad causes of the delays, but only note that the two ad hoc tribunals now had a combined annual budget exceeding a quarter of a billion dollars, equivalent, as the Secretary-General pointed out in his report, to 15 per cent of the United Nations total budget. She could not help but wonder what that amount of money could do for post-conflict development in the very same countries.

She said she remained a strong and determined supporter of the International Criminal Court. That support had come with a heavy price, but she had never wavered in her commitment. She had been pleased at the Secretary-General's endorsement of the Court. She recognized that the Court was not a panacea for all the ills of the world and it would not be free of some of the same problems that had afflicted the ad hoc tribunals. Yet, collective efforts had led to the establishment of a permanent forum for prosecuting the most serious crimes of which humankind was capable. At the same time, the Court's credibility depended largely on proving its worth as a functioning institution. He hoped that the lessons of the tribunals would be heeded. Also welcome had been the signing of the agreement between the United Nations and the Court, as it, in its infancy, needed the collaboration of the United Nations. He hoped that collaboration would be forthcoming from all quarters of the Organization, especially the Security Council. He echoed the Secretary-General's call for the universalization of the Rome Statute.

AMINU BASHIR WALI (Nigeria) welcomed the efforts of the United Nations in ensuring that

peacekeeping missions were no longer limited to disarmament, demobilization and reintegration, but were expanded to include the strengthening of democratic governance, building the capacity of local institutions, reform of the internal security system, as well as the restoration of the rule of law and basic human rights. He also welcomed that approach because it allowed the building of durable peace, which would facilitate sustainable development in countries emerging from conflict. Reaffirming his countrys support for the Security Council resolutions that established the International Tribunals in Rwanda and the former Yugoslavia, as well as the establishment of the Special Court for Sierra Leone, he said such actions were indicative of the collective rejection of impunity by the civilized world.

The ad hoc nature of the two tribunals and the Special Court, he continued, could hardly enhance their usefulness. The fact that the Special Court was funded through voluntary contributions had posed serious financial problems to its integrity. Nigeria would, therefore, call for the funding of the court from the regular budget of the United Nations to preserve its integrity and dignity. Also, given the need to ensure justice and the rule of law, particularly in developing countries and especially in those countries emerging from conflict, there existed a need for the United Nations to increase its assistance to such countries.

REZLAN ISHAR JENIE (Indonesia) said that the most important contribution that the international community could make to the rebuilding of justice and the rule of law in transitional society must begin with the recognition of differences in the national context. If a peacekeeping mission was to succeed, its justice and rule of law must relate to, and be grounded in, the national situation. As the Secretary-General had aptly stated, the role of the United Nations and the international community should be olidarity, not substitution. He cautioned against importing foreign models that might not be of any help to the local situation. The international community and the United Nations, meanwhile, should redouble their efforts to assist Member States in fulfilling the objectives of justice and the rule of law. Overall, the United Nations could play a more active role in enhancing general awareness and understanding of internationally agreed principles essential to the realization of justice and the rule of law.

He said that such an initiative could be realized by, among other things, making them widely available to legal practitioners. At the same time, it was important for the Organization to bear in mind the objective to strengthen, and not undermine, the national legal process. Any proposals for strengthening United Nations support for transitional justice and the rule of law in any society must be with a view to promoting and fulfilling the Charters principles and those of international law. Truth and reconciliation commissions had also been helpful to recovery in some post-conflict societies. Although they were no substitute for the judicial process, their contributions should not be undervalued. Noting the Secretary-Generals intention to instruct the Executive Committee on Peace and Security for a proposal for further action with regard to the issues he had identified, the Ambassador said that the issues might require a higher level of executive attention than that body could provide.

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